

Bulletin

NUMBER: M2022-2

TO: Freddie Mac Multifamily Sellers and Servicers

April 14, 2022



SUBJECTS

In the April 14, 2022 Guide Bulletin, we are updating the Guide as follows:

Borrower requirements

- Updating our conventional and TAH underwriting checklists to include confirmation that the Seller has assigned the [Diverse Borrower Certification](#) to the Borrower or their authorized representative
- Clarifying and simplifying our [Preferred Equity](#) Guide Section
- Adding limited [liability limited partnership](#) (LLLP) as a generally acceptable Borrower entity
- Permitting [IRS Form W-9s](#) in lieu of updated Form 1115s for entities without TIN's at the time of submission

Tax Abatements

- Removing Freddie Mac's Approved [Tax Abatement Program](#) by State list from mf.freddiemac.com. For SBL Mortgages, there is a new analysis, as noted below.

Manufactured Housing Communities (MHC)

- Updating several [MHC requirements](#)

Seniors Housing

- Updating our [Seniors Housing](#) requirements

SBL Mortgages

- Updating our [Guarantor](#) requirements
- Creating a new [Interactive SBL Underwriting Checklist](#)
- Creating a new [Tax Abatement/Exemption Analysis](#)

Environmental requirements

- Clarifying our [environmental reporting](#) requirements for meeting industry standards
- Updating our requirements for [storage tanks](#)

EFFECTIVE DATES

All revisions announced by this Bulletin are effective immediately unless otherwise noted below.

GUIDE UPDATES SPREADSHEET

For a detailed list of the Guide updates associated with this Bulletin and the topics with which they correspond, access the Guide Updates Spreadsheet for this Bulletin posted at <https://mf.freddiemac.com/lenders/guide/bulletins.html>.

CONCLUSION

More details on these changes are provided on the pages that follow. Guide text additions made in this Bulletin are color-coded in green on AllRegs. If you have any questions about this Bulletin, please call your Freddie Mac representative.



Sincerely,

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Vice President
Multifamily Underwriting and Credit

Leanne C. Spies
Senior Vice President
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Borrower requirements

Diverse Borrower Certification

With the recent rollout of the new Diverse Borrower Certification process, we are updating Section 55.2 and the conventional and TAH underwriting checklists to include confirmation that the Seller has assigned the Diverse Borrower Certification to the Borrower or their authorized representative. This certification process is for all loan transactions subject to digital loan submission (DLS) within myOptigo, which includes conventional (including Student Housing and MHC), Supplemental and TAH Cash Mortgages.

Preferred Equity requirements

We are clarifying and simplifying our Preferred Equity Guide Section and moving the requirements from Section 11.6 to Section 9.9. We are also adding related terminology to the Glossary.

Acceptable Borrower entities

We are updating the Guide to add limited liability limited partnership (LLLP) as a generally acceptable Borrower type.

We are updating Section 9.2 to reflect this change.

Borrower/Borrower Principal Due Diligence

We are updating the Guide to permit an IRS Form W-9 for entities without TIN's at the time of the submission of Form 1115, *Borrower and Borrower Principal Certificate*. The Form W-9 may be submitted in lieu of resubmitting an updated Form 1115. The Form W-9 must be submitted as soon as it is available (ideally with submission of the full underwriting package) but no later than the Origination Date.

We are updating Sections 55.2, 55SBL.2, the Interactive Conventional and TAH Cash Underwriting Checklist and Interactive SBL Underwriting Checklist to reflect these changes.

Manufactured Housing Communities

Effective for Mortgages that have a Loan Agreement with an MHC Tenant Protections Rider having a revision date on or after April 25, 2022

We are updating our requirements for MHCs as follows:

- Including a defined term for “MHC Tenant Protection Document(s)” in Section 22.1(b)
- Adding a defined term for “Applicable MHC Resident(s),” to differentiate between the MHC Tenant Protections that apply solely to owners of manufactured homes at the Property and the MHC Tenant Protections that also apply to renters of manufactured homes at the Property, effective for all Mortgages that have a Loan Agreement with an MHC Tenant Protections Rider having a revision date on or after April 25, 2022
- Revising the MHC Tenant Protections for all Mortgages that have a Loan Agreement with an MHC Tenant Protections Rider with a revision date on or after April 25, 2022 to:
 - Clarify that the MHC Tenant Protections represent minimum protections and do not supersede more favorable protections granted by applicable law
 - Expand the applicability of the following three MHC Tenant Protections to renters of a manufactured home at the Property (vs. just owners of a Manufactured Home at the Property):
 - At least 30-days’ prior written notice of any increase in rent



- A 5-day grace period for the failure to timely pay rent and the right to cure any default in the payment of rent
- The right to receive at least 60 days' notice of any planned sale or closure of the MHC
- Clarify that “good cause” for not renewing MH Home Owner’s one-year lease term under MHC Tenant Protection #1 includes: (1) violations of law by MH Home Owner, (2) an existing default in the payment of rent by MH Home Owner at the time of lease renewal (subject to any applicable grace period and cure rights), and (3) serious or repeated violations of the material terms and conditions of its lease by MH Home Owner
- Clarify that a resident’s right to cure any default in the payment of rent under MHC Tenant Protection #3 must occur within any applicable cure period set forth in its lease, and if no cure period for a default in the payment of rent exists in its lease, then within 10 days of the expiration of the 5-day grace period described above
- Clarify that an MH Home Owner’s right to sell its Manufactured Home in place within 30 days after eviction by the MHC owner under MHC Tenant Protection #5 is subject to the MHC owner’s right to prevent a dangerous condition or any threat or risk of bodily harm to tenants or visitors of the MHC, and this right does not prohibit the MHC owner from exercising any other right or remedy available against an MH Home Owner under law
- Clarify that under MHC Tenant Protection #6, an MH Home Owner must have the right to: (1) sublease, **and** (2) assign its pad site lease for the unexpired term, to a new buyer or sublessee of its home without any unreasonable restraint, subject to the new buyer or sublessee, qualifying as a new tenant within the MHC (including satisfying MHC owner’s applicable credit and background checks and any requirements in the MHC’s rules and regulations)
- Revising Section 40.16(e) to update the Servicer requirements for the annual audit of the MHC Tenant Protections

We are updating Sections 22.1, 22.2(p), 40.16(e), 55.2, Chief Servicing Officer (CSO) Certification (MHC Tenant Protections – Compliance), Exhibit 1.1, *Conventional Underwriting Checklist*, and the Interactive Conventional and TAH Cash Underwriting Checklist to reflect these changes.

Seniors Housing

To facilitate future streamlining of our Seniors Housing Commitments, we are updating the Guide as follows:

- Requiring the Borrower to provide a Certificate of [Operator][Property Manager] – Seniors Housing for each party other than the Borrower that holds any license required for operation of the Property. If any license is in the name of anyone other than the Borrower, that arrangement must be satisfactory to Freddie Mac in its discretion.
- Requiring that if any furniture, fixtures, equipment, and motor vehicles located on or used in connection with the Property (“FF&E”) is owned by a party other than the Borrower, such ownership must be acceptable to Freddie Mac in its discretion. If all FF&E is owned by the Borrower, the Seller must provide certification from the Borrower to that effect.
- Revising the list of Seniors Housing contracts that Sellers must provide a copy of to Freddie Mac to include, but not be limited to contracts: (i) for preparing and serving food (not including food supply contracts), (ii) for medical services or healthcare provider agreements (regardless of annual consideration or term), or (iii) of which the average annual consideration, directly or indirectly, is at least \$50,000. If there are no contracts that fall into the foregoing categories, the Seller must provide a certification from the Borrower to that effect.



- Requiring that for any operating lease at the Property that will be in place on the Origination Date, the Seller must provide a copy of the complete operating lease, and a completed [Operating Lease Analysis](#).

We are updating Sections 21.3, 55.2 and the Interactive Conventional and TAH Cash Underwriting Checklist to reflect these changes.

SBL Mortgages

Guarantor requirements

We are updating Section 9SBL.2(d) to clarify that at least one Guarantor must have Control of the Borrower (including through an entity).

SBL Dynamic Checklist

We are creating a new Interactive SBL Underwriting Checklist, which replaces Exhibit 1.2, Small Balance Loan Underwriting Checklist, (Dynamic Checklist). Effective immediately, this new checklist must be used for all SBL full underwriting packages at submission. The new Interactive SBL Underwriting Checklist incorporates more quantitative and qualitative analysis by adding a Borrower Principal Due Diligence section. We are also updating the check-in score to be consistent with the submitted full underwriting package.

Tax abatements

We are removing Freddie Mac's Approved Tax Abatement Program by State list from mf.freddiemac.com.

For SBL Mortgages, we are creating a [Tax Abatement/Exemption Analysis – SBL form](#). The Approved State and Local Tax Abatement Programs list and Tax Abatement/Exemption/PILOT Questionnaire is no longer needed for SBL Mortgages. The new form will be required for every SBL deal with a tax abatement/exemption effective with the submission of an underwriting package for an SBL Mortgage. The new form does not have to be used for Mortgages for which a fully completed underwriting package has already been submitted. For non-SBL Mortgages, the Tax Abatement/Exemption/PILOT Questionnaire must still be completed.

We are updating Sections 8.19, 8SBL.19, 55.2, 55SBL.2, the Interactive Conventional and TAH Cash Underwriting Checklist and the Interactive SBL Underwriting Checklist to reflect these changes.

Environmental requirements

Reporting standards

We are updating the Guide to clarify that environmental reports should comply with the latest American Society for Testing and Materials (ASTM) standard, E1527, that has been approved by the Environmental Protection Agency (EPA). The ASTM standard, E1527 was recently updated in 2021 but has not yet been approved by the EPA. Until the EPA approves the updated standard, environmental reports should follow the prior ASTM standard E1527-13.

We are updating Sections 61.2, 61.13, 62SBL.3 and 66.3 to reflect these changes.

Storage tanks

We are updating Section 61.8 to provide that, in lieu of tank tightness testing, the environmental consultant may recommend against subsurface boring for storage tanks with certain documented release detection systems. Seller/Service providers must work with the environmental consultant to determine whether a tank tightness test is required.