



Understanding Recent Freddie Mac Multifamily Loan Guidelines

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Introduction & Background

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What are Fannie Mae & Freddie Mac ?

Fannie Mae –

Federal National Mortgage Association (FNMA)



Freddie Mac –

Federal Home Loan Mortgage Corporation (FHLMC)



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What are Freddie Mac & Fannie Mae?



- Government Sponsored Enterprise (GSE)
 - A type of financial services corporation created by Congress
- Created a secondary market in loans through guarantees, bonding and securitization

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- Fannie & Freddie buy mortgages from lenders
 - Held in portfolios
 - Packaged into mortgage-backed securities (MBS) – attracting investors by guaranteeing the timely payment of principal and interest
- Secondary mortgage market is more liquid and helps lower interest rates paid by borrowers



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Multifamily Properties

5 or more individual units

- Student housing
- Senior housing
- Military housing
- Apartment buildings
- Manufactured housing communities
- Co-operatives



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Multifamily Loan Programs

Fannie Mae

- Delegated Underwriting & Servicing (DUS) Lender Partners
- DUS Lender Partners are approved to underwrite, close and sell multifamily loans

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Multifamily Loan Programs

Fannie Mae Loans

- Small Loans - \$1M to \$9M
 - Lower interest rates
 - Higher LTV allowances
 - Relatively fast approvals
- Larger Multifamily loans >\$9M



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Multifamily Loan Programs



Freddie Mac

- Small Balance Loans (SBL)
 - loans of 1 to 7.5 million
- Other multifamily property loans > 7.5 million

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Affordable Housing

Freddie Mac

- Mission-driven affordable housing target of 500,000 for 2024
- Supported 507,191 affordable rental units in the U.S.
- 65% qualified as mission-driven affordable housing in 2024



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Affordable Housing

Fannie Mae

- Also focused on affordable housing
- Sponsor Initiated Affordability (SIA) loan programs – minimum of 20% of units to tenants earning 80% or less of Area Median Income (AMI)
- Rent & Income restrictions



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New Requirements

- Title Insurance Underwriter is required to perform all “funding functions”
- Title/Closing Agents may no longer receive or disburse funds but can continue to conduct the closings, record documents and issue title insurance



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Why?



COMBAT FRAUD

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PRESS RELEASE

Three Real Estate Investors Plead Guilty to \$119M Mortgage Fraud Conspiracy



PRESS RELEASE

Real Estate Investor Pleads Guilty to \$165M Mortgage Fraud Conspiracy

- Fannie Mae's 3rd Qtr. 2024 SEC reported instances of mortgage fraud in multifamily lending transactions
- New Guidelines intended to reduce the risk of fraudulent practices

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Types of Fraud



- Inflated property valuations allowed borrowers to qualify for larger loans
- Fictitious contracts with inflated purchase prices used to support higher loan amounts

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False Settlement Statements



- One true settlement statement used for the legitimate transaction
- A second fake settlement statement used in the fraudulent transaction

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Deep Dive into the New Guidelines

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Freddie Mac

- April 2024 – implemented new policies designed to detect and deter fraud
 - Increased unit inspections
 - Additional documentation confirming tenant payments
 - First time borrowers will require additional due diligence
 - Additional appraisal review
 - Appraiser independence requirements
- August 2024 – new settlement requirements

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Freddie Mac

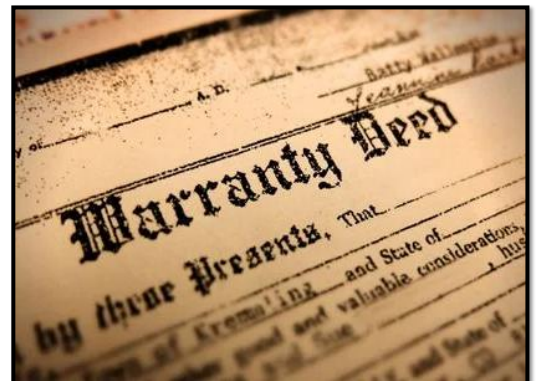
August 15, 2024 – Multifamily Seller/Service Guide

- Title Insurance Underwriter is REQUIRED to perform all “escrow and settlement functions”:
 - ✓ Prepare settlement statement
 - ✓ Deliver settlement statement to lender or lender’s counsel
 - ✓ Receive and disburse all funds related to acquisition and loan
- Title Agents can continue to:
 - ✓ Conduct the closings
 - ✓ Prepare conveyancing documents
 - ✓ Record documents
 - ✓ Issue title insurance

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Freddie Mac

- Title Commitment and all supporting documents must be sent to lender for review and approval
- Settlement statement sent to lender by underwriter for review and approval
- Lender review and approval of conveyancing documents



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Freddie Mac

Audits

- Increased audits
- Lender/Servicer must respond in 5 days with detailed remediation plan (180 days to remediate)
- If no response (or inadequate remediation), Freddie Mac may impose probation, suspension or termination
- Freddie maintains a restricted vendor list and will not approve a loan if any party involved is on the list



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Fannie Mae

- September 2024 revised document delivery requirements for their DUS lender partners
- January 2025 proposed new settlement requirements similar to Freddie Mac
- “Blacklisted” Riverside Abstract and Madison Title – 2 companies linked to an investor who pleaded guilty to mortgage fraud conspiracy

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Fannie Mae

September 24, 2024

- Additional documents the DUS lender partners must send to Fannie Mae when submitting their loans
 - Underwriting Certificates (and attachments) for borrowers, guarantors and key principals
 - Receipts and disbursements ledger showing the source of all funds and the flow of all funds
 - Site inspection form with additional supplemental materials



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Fannie Mae

January 2025 – New Requirements - Form 4650



Title Insurance Underwriter is required to perform all “funding functions”

- ✓ Receive and disburse all funds
- ✓ Prepare settlement statement (SS)
- ✓ Maintain a receipts and disbursements ledger
- ✓ Provide copies of SS, ledger and all wires or checks to lender

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Fannie Mae

- Title/Closing Agents may perform “escrow functions”
 - ✓ Prepare conveyancing documents
 - ✓ Record documents
 - ✓ Issue title policies & related endorsements



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Fannie Mae

- Title Commitment and all supporting documents must be sent to lender for review and approval
- Settlement statement sent to lender by underwriter for review and approval
- Lender approval of conveyancing documents



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Fannie Mae

Chain of Title

- Informational schedule identifying recorded documents within past 3 years
- Deeds, tax certificates, mortgages and liens
- Identify any transfers that were not arm's length
- Look for affiliation or common identities between Seller and Buyer (check signature blocks)



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Fannie Mae

Title Underwriter must send to Lender:

- Buyer/Borrower organizational documents with signed resolutions
- Final signed Settlement Statement, including any separate Seller's Settlement Statement
- Marked-up Title Commitment



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Impact on Commercial Real Estate Transactions

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Confusion



- Initial deposit under contract – where does it go? If sent to an attorney, then when does it need to be sent to underwriter?
- Additional deposits under the PSA – who acts as escrow agent under the PSA prior to closing?

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Increased Costs

- Two entities now charging for services
- Additional time sending information, explaining certain settlement charges, etc.
- Closing agent will still need to prepare draft settlement statements and coordinate with underwriter
- Increased staff time = increased fees to borrower

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Delays

- Time spent gathering information for settlement statement and sending to underwriter
- Delays finalizing the settlement statement, explaining line items and adjustment calculations
- Closing attorneys understand local closing customs and requirements – title underwriters likely do not have local operations, and this may cause delays and errors due to lack of local knowledge

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Loss of Control

- Attorneys are typically involved in all aspects of the commercial closing – the new rules remove the funding functions and settlement statement from the attorney's control
- Creates uncertainty in the transaction



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Impacts Relationships



- Commercial transactional attorneys have established relationships with their clients as well as with other professionals on their “team”
- Title underwriter does not have relationship with team

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What to do?



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Fund Commercial Services

- Florida Underwriting Counsel & Commercial Examiners
- Escrow Services & Support
- Construction Loan Services
- 1031 Exchange Program
- Multi-Jurisdictional Support
- Comprehensive Closing Assistance



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Thank you

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