

***Announcement 09-33***

***November 5, 2009***

***Amends these Guides: Servicing***

***New Deed-for-Lease<sup>TM</sup> Program***

## **Introduction**

Fannie Mae is introducing the Deed-for-Lease Program (D4L), a program designed to minimize family displacement, deterioration of neighborhoods caused by vandalism and theft to vacant homes, and the effect these have on families, communities and home price stabilization. D4L allows qualifying borrowers of properties transferred through deed-in-lieu of foreclosure (DIL) to remain in their home and community by executing a lease of up to 12 months in conjunction with a DIL. Investment properties that are tenant-occupied may also be considered as long as the borrower is cooperative in providing information from the tenant to facilitate the D4L.

With the D4L program, servicers are expected to follow their regular process in considering a borrower for a DIL in accordance with Fannie Mae's workout hierarchy. Once the servicer determines a borrower is eligible for a DIL through its normal course of business, the servicer will notify Fannie Mae that the borrower may also be eligible for D4L based on an initial screen of predetermined eligibility criteria. Fannie Mae, or its designee, will take the steps necessary to further verify property and borrower eligibility, determine the rental rate, and, if appropriate, execute the lease agreement. To qualify for D4L, the occupant of the property must have the ability to pay market rent not to exceed 31 percent of his or her monthly gross income. The lease agreement will be contingent on successful completion of the DIL.

## **Effective Date**

Servicers can begin offering D4L immediately.

## **Servicer's Responsibilities**

### ***Servicing Guide, Part VII, Section 506: Deeds-in-Lieu of Foreclosure***

In general, the servicer's responsibilities regarding D4L are as follows:

- When considering a DIL, the servicer will prescreen the borrower in accordance with the "Servicer's Prescreen Requirements" below.

- If the borrower passes this initial screening, the servicer will determine if there is an interest on the part of the borrower in being considered for a D4L.
- The servicer will notify Fannie Mae when there is an interest and provide the loan number, borrower name, address, and contact number. Fannie Mae, through its designee, will then contact the borrower, visit the property, and evaluate both for a lease.
- Fannie Mae will inform the servicer whether or not a lease was finalized.
- The servicer will then finalize the DIL accordingly. If a lease was finalized, the DIL will not be conditioned on the vacancy of the property.
- The servicer will notify Fannie Mae if a DIL is not successfully executed for any case that was approved for a lease.

## **Servicer's Prescreen Requirements**

Servicers may recommend D4L to Fannie Mae for any conventional mortgage loan held in Fannie Mae's portfolio, or for mortgage loans that are part of an MBS pool that has the special servicing option or a shared-risk MBS pool for which Fannie Mae markets the acquired property (referred to as Fannie Mae loans). The following program eligibility criteria must be met:

- The mortgage loan is a first lien mortgage loan secured by a one- to four-unit property. All property types are eligible. Second lien mortgage loans are not eligible.
- The mortgage loan is not guaranteed or insured by a federal agency (FHA, HUD, VA, or Rural Development).
- The borrower resides in the property as a primary residence or has leased the property to a tenant who uses the property as a primary residence. Second homes or vacation homes are not eligible.
- At least three payments have been made since origination or since the last modification.
- At the time of the referral to Fannie Mae for the D4L, the borrower is not 12 or more payments past due on the mortgage loan.
- The borrower is not involved in an active bankruptcy proceeding and is not a party to litigation involving the subject property or the mortgage loan.
- Marketable title is able to be conveyed (a title insurance policy is required).
- If there are subordinate liens secured against the subject, lien releases can be obtained.
- The occupant of the property (i.e., the borrower or the borrower's tenant) has verifiable income. Occupants with no source of income are not eligible.

## **Additional Eligibility Criteria to be Determined by Fannie Mae**

Fannie Mae, or its designee, will take the necessary steps to further verify property and borrower eligibility as follows.

### **Property Eligibility**

- There are no zoning or homeowner's association (HOA) rental limitations that would prohibit a D4L.
- Repairs required to make the property habitable are deemed to be in an acceptable amount based on the property value.

- The property is in compliance with local rules and laws or can be brought into compliance within 30 days.
- The property is not within a target area for any corporate, government or community neighborhood stabilization plan which may need the property as part of the plan for purposes other than residential.
- The rental income from the property is anticipated to cover ongoing maintenance and management costs.

### **Occupant Eligibility**

- The occupant's income is sufficient to cover rental payments of not more than 31 percent of gross income. If the rental payment is greater than 31 percent of the occupant's monthly gross income, a lease will not be offered.
- Inspection of the property indicates that the occupants have been keeping the property in good condition.
- The occupant agrees to be responsible for regular maintenance, to keep the property in good condition, and to permit marketing of the property for sale.
- The number of occupants is appropriate for the home and in compliance with local laws and homeowner association rules.
- If pets are present, renter's insurance is obtained if required.
- The occupants signing the lease must agree to a credit review and all occupants over the age of 18 must have an acceptable background check including receiving clearance from the Office of Foreign Assets Control ("OFAC").
- There are no signs or reports of illegal activities conducted at the property.
- The property is to be used as a primary residence.

### **Deed-For-Lease Process**

The D4L process includes numerous steps, communication and coordination on the part of the servicer, the borrower, Fannie Mae, and a property manager (designated by Fannie Mae). Fannie Mae has outlined an interim manual process that must be followed until an automated process is in place. Servicers must follow the interim process as outlined in the [Deed-for-Lease™ Interim Instructions for Servicer](#).

**Note:** Prior to acceptance of a DIL in connection with the D4L, the servicer must ensure that the borrowers execute in favor of Fannie Mae, the servicer, and their agents a general release of all claims arising prior to the acceptance of the DIL which relate in any way to the loan or the property.

### **Standard Documents**

Servicers must use the following documents, which are available on [eFannieMae.com](http://eFannieMae.com):

- *Deed-for-Lease™ Instructions for Borrowers*
- *Deed-for-Lease™ Program Referral Form (Form 187)*
- *Deed-for-Lease™ Program Cancellation Form (Form 188)*

A servicer may modify the *Deed-for-Lease Instructions for Borrowers* to include the servicer's logo (along with Fannie Mae's logo), to insert the servicer's name in instances where the "servicer" is referenced on the form, and as necessary to comply with federal, state, and local law.

## **Reporting Requirements**

### ***Servicing Guide, Part X, Section 302.02: "Scheduled/Scheduled" Remittance Types***

To ensure that a mortgage loan in an MBS pool is removed in a timely manner after acceptance of a DIL, servicers are reminded that they must report the acquisition of the property through a DIL by submitting an "REOgram" within 24 hours after acceptance of the DIL. The servicer must also reflect the purchase of the mortgage loan from the MBS pool in its pool security balance report for the reporting period by the second calendar day of the following month and include Action Code 70 (used to remove the mortgage from Fannie Mae's active accounting records or an MBS pool) in the next Transaction Type 96 (Loan Activity Record). The servicer must also deposit into the P&I custodial account its own corporate funds that are due for remittance to Fannie Mae before the next scheduled drafting date for the remittance cycle. Refer to the *Servicing Guide*, Part IX, Section 201.03: "Scheduled/Scheduled" Remittance Types, for a description of the different MBS remittance cycles.

## **Repurchase Requests**

### ***Servicing Guide, Part I, Section 208: Repurchase or Mortgage Substitution Requirements***

Pursuant to the contractual relationship between Fannie Mae and its servicers, servicers may be required to repurchase properties with tenants in place due to, among other things, violations of selling representations and warranties or improper servicing. Fannie Mae requires a servicer to promptly resolve any repurchase request(s), regardless of the presence of tenant(s) in the related property.

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Servicers should contact their Servicing Consultant, Portfolio Manager, or the National Servicing Organization's Servicer Support Center at 1-888-FANNIE5 (888-326-6435) with any questions regarding this Announcement.

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