



Fannie Mae®

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# Multifamily Selling and Servicing Guide

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## Section 304

## Title Insurance

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### Requirements

You must ensure that every Mortgage Loan is covered by an ALTA title policy or comparable title policy approved for use in the applicable jurisdiction.

The title policy must:

- be issued by a title company that is authorized to issue title policies where the Property is located;
- be in the original amount of the Mortgage Loan, including all advances held in escrow or reserves;
- be no less than the amount of the Mortgage Loan allocated to each Property, if the Mortgage Loan is secured by multiple properties;
- insure for the benefit of Fannie Mae;
- insure the first priority Lien of the Mortgage Loan, subject only to the Permitted Encumbrances, unless it is a Supplemental Mortgage Loan;
- be in full force and effect with
  - all premiums paid,
  - no claims made by you or another lender, and
  - no claims paid;
- insure the legal description of the insured property is identical to the legal description of the property shown on any required survey;
- contain:
  - a Comprehensive Endorsement (ALTA Form 9 or equivalent);
  - an Environmental Protection Lien Endorsement (ALTA Form 8 or equivalent) that only takes exception for a statute that could give an environmental protection Lien priority over the Mortgage Loan;
  - a Mortgage Tax Endorsement (ALTA Form 38.06 or equivalent) if the Mortgage Loan is secured by an amended and restated Security Instrument, such as a New York Consolidation, Extension, and Modification Agreement ([Form 6025.NY.CEMA](#)), or a Florida Consolidated, Amended, and Restated Mortgage ([Form 6025.FL.AR](#)); and
  - appropriate Endorsements such as:
    - Zoning (where available);



- Condominium;
- PUD;
- Variable Rate;
- Leasehold Mortgage;
- Location;
- Unlocated Easements; and/or
- Contiguity-Multiple Parcel;

- delete the standard survey exception;
- include a note on Schedule B, Part II listing you as the secured party and Fannie Mae as the assignee, for any financing statement filed in the recording office;
- not list any financing statement as an exception on Schedule B, Part I; and
- insure that any taxes, assessments, or other lienable items are not yet due and payable.

### 304.01 Title Insurance Company

#### Guidance

The title company should have a satisfactory rating and adequate reserves.

### 304.02 Policy Form

#### Guidance

If the policy form meets all requirements of this Section, Fannie Mae will accept the standard 2021 or 2006 ALTA forms of title insurance policies.

In those states where ALTA forms of coverage are not approved by the state insurance board or commission, you should get the closest equivalent alternative coverage.

### 304.03 Electronic Policies

#### Guidance

You may use electronically issued title policies if the coverage is enforceable against the insurer.



#### 304.04 Insured

##### ➔ Guidance

The title policy should

- name you as the insured, and
- insure Fannie Mae when the Mortgage Loan is delivered (either by reference to your “successors and assigns, as their interests may appear” or by direct reference to Fannie Mae).

#### 304.05 Effective Date

##### ☑ Requirements

You must have title coverage in effect (i.e., the date of the signed pro forma policy or marked-up commitment) when you fund the Mortgage Loan.

##### ➔ Guidance

The issued title policy should be later-dated to cover the Assignment of Security Instrument’s recording date.

#### 304.06 Survey Exception

##### ➔ Guidance

If the title policy includes exceptions to matters shown on a recorded map or plat, the exceptions should be specifically described.

#### 304.07 Exception for Taxes, Assessments, or Other Lienable Items

##### ➔ Guidance

If any taxes could become delinquent within 60 days after closing, you should require payment at closing.

#### 304.08 Financing Statements

##### ➔ Guidance

Any financing statement not filed in the recording office (such as a Uniform Commercial Code filing) may be shown as an informational note on Schedule B, Part II.



## 304.09 Endorsements

### 304.09A Generally

#### Guidance

You should get an appropriate ALTA form of endorsement that is incorporated into the “base” title policy. In jurisdictions where an ALTA form is not available, you may include in Schedule B an equivalent form of endorsement or affirmative coverage.

### 304.09B Environmental Protection Lien Endorsement

#### Guidance

Super Lien statutes that may be included in the ALTA Form 8.1 endorsement are listed in the Acceptable Super Lien Statutes ([Form 6506](#)).

### 304.09C Comprehensive Endorsement

#### Guidance

You should consider whether an adverse circumstance affecting the Property would be an acceptable exception on Schedule B, Part I. Examples include:

- encroachments onto the Property;
- easements or rights of way over the Property;
- encroachments by the Improvements onto adjoining land; and
- violations of existing covenants, conditions, and restrictions.

## 304.10 Document Retention

#### Guidance

You should keep copies of any restrictions shown as exceptions in the title policy (such as easements and encumbrances) in your Servicing File.



# Glossary

## A

ALTA American Land Title Association

## C

Condominium Statutorily established Property ownership regime where Condominium Documents designate:

- individual units for separate ownership; and
- common areas for shared use and joint ownership by the unit owners.

## I

Improvements Buildings, structures, improvements, and alterations, including the multifamily housing dwellings, now or hereafter constructed or placed on the Property, including all fixtures (as defined in the UCC).

## L

Leasehold Property held under a long-term lease or Ground Lease.

Lien Lien, mortgage, bond interest, pledge, security interest, charge, or encumbrance of any kind.

### **Synonyms**

- Liens

## M



## Mortgage Loan

Mortgage debt obligation evidenced, or when made will be evidenced, by

- the Loan Documents, or
- a mortgage debt obligation with a Fannie Mae credit enhancement.

### **Synonyms**

- Mortgage Loans
- Mortgage Loan's

## **P**

## Permitted Encumbrances

The following permitted title exceptions:

- lien of current real property taxes, water charges, sewer rents and assessments not yet due and payable;
- covenants, conditions and restrictions, rights of way, easements and other matters of public record acceptable to the Lender and specifically identified in the Title Policy;
- pre-printed exceptions (general and specific) and exclusions set forth in the Title Policy and acceptable to the Lender;
- rights of tenants (as tenants only) under leases (including subleases) pertaining to the Property;
- if the Mortgage Loan is cross-collateralized, the lien of the Mortgage for another Mortgage Loan contained in the same cross-collateralized group; and
- condominium declarations of record acceptable to the Lender and identified in the Title Policy, provided that none of items (a) through (f), individually or in the aggregate, materially interferes with the current marketability or principal use of the Property, the security intended to be provided by the Mortgage, or the current ability of the Property to generate net cash flow sufficient to service the Mortgage Loan or the Borrower's ability to pay its obligations when they become due.





## Property

Multifamily residential real estate securing the Mortgage Loan, including the

- fee simple or Leasehold interest,
- Improvements, and
- personal property (per the Uniform Commercial Code).

### **Synonyms**

- Properties
- Property's

## S

## Security Instrument

Instrument creating a lien or encumbrance on 1 or more Properties and securing the Loan Document obligations.

### **Synonyms**

- Security Instruments
- Security Instrument's

## Servicing File

Your file for each Mortgage Loan serviced.

### **Synonyms**

- Servicing Files

## Supplemental Mortgage Loan

Mortgage Loan purchased by Fannie Mae that is subordinated to, and has a Mortgage Loan Origination Date after, the Senior Mortgage Loan that is also owned by Fannie Mae.

### **Synonyms**

- Supplemental Mortgage Loans