



Fannie Mae®

---

# Multifamily Selling and Servicing Guide

Effective as of April 5, 2024

No portion of this Multifamily Selling and Servicing Guide may be reproduced in any form or by any means without Fannie Mae's prior written permission, except as may be provided herein or unless otherwise permitted by law. Limited permission to reproduce this Multifamily Selling and Servicing Guide in print, in whole or in part, and limited permission to distribute electronically parts of this Multifamily Selling and Servicing Guide, are granted to Fannie Mae-approved Lenders strictly for their own use in originating and selling multifamily Mortgage Loans to, and servicing multifamily Mortgage Loans for, Fannie Mae. Fannie Mae may revoke this limited permission by sending 60 days advance written notice to any or all Fannie Mae-approved Lenders.



TABLE OF CONTENTS

Part II Section 501.04 Liability Insurance ..... 3

    501.04A Commercial General Liability Insurance ..... 3

    501.04B Professional Liability Insurance ..... 4

    501.04C Risk Retention Groups and Captive Insurance ..... 5

    501.04D Workers’ Compensation Insurance ..... 7

    501.04E Directors’ and Officers’ Liability Insurance ..... 7

    501.04F Commercial Auto Liability Insurance ..... 7

GLOSSARY ..... 9



## 501.04 Liability Insurance

### ☒ Requirements

Each Property and Borrower must be covered by liability insurance for bodily injury, Property damage, and personal injury throughout the term of the Mortgage Loan.

### 501.04A Commercial General Liability Insurance

#### ☒ Requirements

The general liability insurance coverage amount must be at least

- \$1 million per occurrence/\$2 million general aggregate limit, plus
- excess/umbrella insurance as follows:

If the number of stories in the building is...	The minimum excess/umbrella insurance coverage is...
1 4	\$2 million
5 10	\$5 million
11 20	\$10 million
Over 20	\$25 million

The maximum deductible amount is based on the total insurable values of the Property insurance policy.

If the insurable value is...	The maximum deductible amount per occurrence is...
Less than \$5 million	\$40,000
Equal to or greater than \$5 million, but less than \$50 million	\$50,000
Equal to or greater than \$50 million, but less than \$100 million	\$125,000
Equal to or greater than \$100 million	\$275,000

You may satisfy the maximum deductible amounts by any combination of the deductibles on the primary liability insurance and excess/umbrella insurance



policies.

The maximum deductibles apply to all liability insurance.

### Guidance

You may satisfy the insurance coverage requirements with any combination of primary liability insurance and excess/umbrella insurance coverage, so long as they add up to the sum of the required minimum limits.

You may satisfy the insurance coverage requirements for excess/umbrella insurance when the coverage limit meets the requirement for the location with the most stories.

## **501.04B** Professional Liability Insurance

### Requirements

If any level of healthcare is provided at a Seniors Housing Property, it must have professional liability insurance covering professional errors and omissions, medical malpractice, and all types of abuse.

The coverage amount must be at least

- \$1 million per occurrence/\$2 million general aggregate limit, plus
- excess/umbrella insurance as follows:

If the number of licensed beds is...	The minimum excess/umbrella insurance coverage is...
1 100	\$2 million
101 500	\$5 million
501 1,000	\$10 million
Over 1,000	\$25 million

For a Property with Assisted Living beds, Independent Living beds are not counted when determining the minimum coverage limit.

When general liability insurance and professional liability insurance coverages are combined under an excess/umbrella insurance policy, the required coverage is the higher minimum limit of the 2 underlying coverages.

The maximum deductible for professional liability insurance must not exceed the applicable maximum amount in [Part II, Chapter 5: Property and Liability Insurance, Section 501.04A: Commercial General Liability Insurance](#).



## → Guidance

When using a claims-made policy, you should consider whether an adequate “retroactive date” is in place. A retroactive date provides coverage for acts that took place before a specified date – usually before the effective date of the current policy. A retroactive date of 3 - 5 years before the current policy’s effective date is common.

If the Borrower changes carriers during the term of the Mortgage Loan, the addition of tail coverage or an extended reporting period endorsement, which extends coverage after the cancellation or termination of a claims-made policy, is important. These provisions help ensure that there is no lapse in coverage.

You may satisfy the insurance coverage requirements with any combination of primary liability insurance and excess/umbrella insurance coverage, as long as they add up to the sum of the required minimum limits.

You may satisfy the insurance coverage requirements for excess/umbrella insurance when the limit meets the requirement for the covered location with the most beds.

## 501.04C Risk Retention Groups and Captive Insurance

### ☑ Requirements

Only a Seniors Housing Property may use liability insurance from a Risk Retention Group or a Captive Insurer. Captive Insurance is only acceptable for

- professional liability insurance, and
- general liability insurance when combined with professional liability insurance.

Any Risk Retention Group or Captive Insurer must have a rating of at least

- A- / VI from A.M. Best Company, or
- A from Demotech, Inc., with policyholder surplus of at least \$40 million.

You must get an annual report on the Captive Insurer from an independent firm that is:

- familiar with captive domiciles, operations, and insurance structures;
- experienced analyzing captive actuarial studies and audited financial statements; and
- unrelated to the Captive Insurer, you, the Borrower, Guarantor, or any of its sponsors or Principals.



The firm's report must include:

- an analysis of the Captive Insurer's annual independent actuarial study;
- an actuarial memorandum/reserve analysis provided by the Captive Insurer;
- a review of the annual independent audited financial statements for the Captive Insurer; and
- a conclusion regarding the Captive Insurer's operations and financial viability.

### ➔ Guidance

Captive Insurance and similar arrangements have lower capitalization requirements than traditional insurance companies, and are usually not rated by a recognized rating agency.

In order to be rated, a Captive Insurer will typically provide the following to a rating provider:

- detailed updated accrual runs;
- updated loss history (minimum 5 years, brief summary, and detailed list);
- current updated audited financial statements for the past 2 years:
  - for the captive, audited financials typically are on a stand-alone basis (if audited are not available, then unaudited financials are acceptable); and
  - for the parent company's, the financials should be on a consolidated basis;
- financials, audited or unaudited, from the captive and parent company for the most recent quarter;
- description of any changes from previous years with applicable updated resumes of all officers;
- description of any reinsurance and/or fronting company, if applicable;
- description of internal claims management procedures;
- status of market update;
- description of funding sources;
- business plan;
- projected volume over the next year;
- actuarial memorandum/reserve analysis as provided by the Captive Insurer;



- state insurance examination report or, if a report is not available,
  - date of examination,
  - description of any adverse findings, and
  - steps taken to remediate; and
- exposure to the Captive Insurer or Risk Retention Group, based on the UPB of loans made to date.

#### **501.04D**    Workers' Compensation Insurance

##### **Requirements**

The Property must have workers' compensation and employer's liability insurance (including terrorism coverage), if required in the state where the Property is located.

The coverage amount must equal or exceed:

- the statutory limits for injured employees; plus
- the greater of
  - employer's liability limits of \$1 million per occurrence for bodily injury, \$1 million per occurrence and \$1 million aggregate for employee disease, or
  - any underlying limit required by the excess/umbrella insurance carrier.

#### **501.04E**    Directors' and Officers' Liability Insurance

##### **Requirements**

Each Property owned by a Cooperative Organization must have directors' and officers' liability insurance.

The coverage amount must be at least \$1 million per occurrence.

#### **501.04F**    Commercial Auto Liability Insurance

##### **Requirements**

The Borrower must have commercial auto liability insurance for any motor vehicles that are

- owned or hired by the Borrower, or
- used by anyone for business on behalf of the Borrower or the Property.



The coverage must include personal injury protection required by the state where the Property is located.

The coverage amount must be the greater of

- \$1 million per occurrence, or
- any underlying limit required by the excess/umbrella insurance carrier.





## Glossary

### A

#### Assisted Living

Seniors Housing Property offering services limited to non-medical personal care, including ADL assistance, which are typically licensed and regulated by a state or local governmental authority.

##### **Synonyms**

- AL

### B

#### Borrower

Person who is the obligor per the Note.

##### **Synonyms**

- Borrowers
- Borrower's

### C

#### Captive Insurer

Insurance company wholly owned and controlled by its insureds, whose primary purpose is to insure the risks of its owners, and its insureds benefit from the captive insurer's underwriting profits.

#### Cooperative Organization

Corporation or legal entity where each shareholder or equity owner is granted the right to occupy a unit in a multifamily residential property under a proprietary lease or occupancy agreement.

### G

#### Guarantor

Key Principal or other Person executing a

- Payment Guaranty,
- Non-Recourse Guaranty, or
- any other Mortgage Loan guaranty.

##### **Synonyms**

- Guarantors



## I

### Independent Living

Seniors Housing providing limited programs of assistance for domestic activities (e.g. meals, housekeeping, activities, transportation, etc.), and typically resembles market rate units.

#### **Synonyms**

- IL

## 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

### 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

## R



## Risk Retention Group

State-chartered insurance company created by the 1986 federal Liability Risk Retention Act, insuring commercial businesses and government entities against liability risks.

### **Synonyms**

- RRG

## S

## Seniors Housing Property

Multifamily residential rental property with any combination of Independent Living, Assisted Living, Alzheimer's/Dementia Care, or Skilled Nursing units.

### **Synonyms**

- Seniors Housing

## U

## UPB

Unpaid Principal Balance

### **Synonyms**

- UPBs