Fannie Mae®

Multifamily Selling and Servicing Guide

Effective as of October 26, 2026

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TABLE OF CONTENTS

Part III Section 705 Affordable Restriction Checklist and Subordination and Standstill Agreements 3
GLOSSARY 5

Section 705 Affordable Restriction Checklist and Subordination and Standstill Agreements

☑ Requirements

For all Affordable Regulatory Agreements and Private Affordability Agreements, you must submit an Affordability Restriction Checklist (Form 6419).

You must ensure any Affordable Regulatory Agreement or any Private Affordability Agreement:

- only encumbers the Property;
- is executed and, if a recorded document, is recorded against the MAH Property on or before the Mortgage Loan Origination Date; and
- does not contain any affordability restrictions that are unusual or material to the finances or operation of the Property, other than the restrictions contemplated by Part II of Form 6419.

Unless the Affordable Regulatory Agreement is a HUD Use Agreement, if you responded yes in Part III or Part IV of Form 6419, you must subordinate the Affordable Regulatory Agreement to the Security Instrument Lien using the applicable Subordination and Standstill Agreement.

If a Public Entity...	Use...
Provided Third-Party Financing	• Subordination and Standstill Agreement (Public Entity) (Form 6456); or • both the: - Subordination and Standstill Agreement (Public Entity) (Form 6456.REG), for the Affordable Regulatory Agreement; and - Subordination and Standstill Agreement (Public Entity) (Form 6456.SUB), for the Third-Party Financing.
Did not provide Third-Party Financing	Subordination and Standstill Agreement (Public Entity) (Form 6456.REG).

If a Non-Public Entity...	Use...
Provided Third-Party Financing	Subordination and Standstill Agreement (Non-Public Entity) (Form 6414).
Did not provide Third-Party Financing	A Fannie Mae-approved Subordination and Standstill Agreement.

Glossary

A

Affordable Regulatory Agreement	Recorded or unrecorded regulatory, land use, extended use, restrictive covenant, or similar agreement or restriction that is imposed by a Public Entity, placing rent, income, or other affordability restrictions on the use or occupancy of the Property, but which does not include a HAP Contract. **Synonyms** • Affordable Regulatory Agreements

H

HUD	U.S. Department of Housing and Urban Development **Synonyms** • HUD's
HUD Use Agreement	Contract between HUD and the Borrower identifying Property use restrictions and default remedies for HUD programs such as Housing Assistance Payments and Rental Assistance Demonstration.

L

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
Mortgage Loan Origination Date	Date you fund a Mortgage Loan to the Borrower. **Synonyms** • Mortgage Loan's Origination Date • Origination Date
Multifamily Affordable Housing Property	Property that: • complies with Part III, Chapter 7: Multifamily Affordable Housing Properties, Section 702: MAH Property Eligibility; and • is underwritten per Part III, Chapter 7: Multifamily Affordable Housing Properties. **Synonyms** • MAH • Multifamily Affordable Housing • MAH Property

P

Private Affordability Agreement	Recorded or unrecorded regulatory, land use, extended use, restrictive covenant, agreement, or restriction that is imposed by any non-Public Entity, placing rent, income, or other affordability restrictions on the use or occupancy of the Property. **Synonyms** • Private Affordability Agreements

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
Public Entity	A federal, state, or local government entity, or an entity that: • is created by - state statute, or - one or more governmental entities acting pursuant to applicable statutory authority; • has a governing body that is - elected by voters in the applicable jurisdiction, or - appointed by an official or body that has been elected by voters in the applicable jurisdiction; • is formed for a governmental purpose and performs a governmental function; • is required by law to - publicly post its meeting agendas and minutes, and - hold meetings that are open to the public to the same extent as state or local governmental entities in its state of domicile; • does not permit any part of its net revenues or earnings to inure to the benefit of any private Person; and • is not a community development financial institution.

S

Security	MBS, PFP MBS, or REMIC. **Synonyms** • Securities

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

T

Third-Party Financing	Any loan to, or indebtedness of, a Borrower that: • is not a Supplemental Mortgage Loan or Pre-Existing Mortgage Loan; and • either: - requires repayment by the Borrower; or - is forgiven (over time or at maturity) subject to Borrower compliance with certain covenants or conditions.