



Fannie Mae®

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# Multifamily Selling and Servicing Guide

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## TABLE OF CONTENTS

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Part V Section 705.01 Funding Capital Repairs During Default Resolution .....	3
705.01A Generally .....	3
705.01B Health and Safety Repairs .....	3
GLOSSARY .....	5



## **705.01** Funding Capital Repairs During Default Resolution

### **705.01A** Generally

It is not unusual for a Property securing a Non-Performing Mortgage Loan to be in need of repairs during the default resolution process. Generally, a Payment Default or a Performance Default will result in a default under the Collateral Agreements for Replacement Reserves, Operating Deficit, Completion/Repairs, or other Collateral Agreements. When the Borrower is in default under a Collateral Agreement, the Special Servicer has discretion in applying the reserves or Letter of Credit proceeds either to repairs or replacements or to the payment of amounts due and owing to Fannie Mae under the Loan Documents.

#### **1. Primary Risk Mortgage Loans**

As part of its Asset Review for Primary Risk Mortgage Loans, as provided in this Chapter, the Servicer must advise Fannie Mae Special Asset Management of the type of repairs or replacements that are necessary and recommend whether the repairs should be funded from the Collateral Agreement funds. It is Fannie Mae's decision whether or not to accept the recommendation and use the funds for repairs or replacements for Primary Risk Mortgage Loans.

#### **2. Secondary Risk Mortgage Loans**

For Secondary Risk Mortgage Loans, the Lender must provide a SWAT describing the actions it intends to take to ensure the repair of the Property and to prevent further Property deterioration. The decision whether or not to use Collateral Agreement funds for repairs or replacements is the Special Servicer's. When making the decision whether to use the Collateral Agreement funds for repairs or replacements, the level of cooperation from the Borrower and remitting the monthly net operating income must be a factor to consider.

### **705.01B** Health and Safety Repairs

If in inspecting the Property securing the Non-Performing Mortgage Loan, it is apparent that the Borrower is not making repairs related to the health and safety of the tenants or is allowing the physical condition of the Property to deteriorate, then:

- for Primary Risk Mortgage Loans, the Servicer must immediately notify Fannie Mae Special Asset Management and, if the Mortgage Loan has been transferred to Fannie Mae Special Asset Management for special servicing, Fannie Mae may elect to engage outside counsel to pursue the court appointment of a receiver, as well as enforce other rights and



remedies; or

- for Secondary Risk Mortgage Loans, the Lender must provide a SWAT describing the actions it intends to take to ensure the repair of the Property and to prevent further Property deterioration.

**THE SERVICER MUST NOT ATTEMPT TO MAKE THE REPAIRS, HIRE CONTRACTORS TO MAKE THE REPAIRS, OR OTHERWISE TAKE ANY ACTION THAT COULD RESULT IN A MORTGAGEE-IN-POSSESSION STATUS.**



# Glossary

## B

**Borrower** Person who is the obligor per the Note.

**Synonyms**

- Borrowers
- Borrower's

## C

**Collateral Agreement** Agreement under which collateral (other than the Property) may be pledged, transferred, or otherwise provided to secure the Borrower's obligations under a Mortgage Loan.

**Synonyms**

- Collateral Agreements

**Completion/Repairs** Immediate Repairs identified by the Property Condition Assessment and required by the Lender to be included in the Completion/Repair Schedule or Completion/Repair Agreement (or a Certificate of Borrower, if applicable).

**Synonyms**

- Completion/Repair

## L

**Lender** Person Fannie Mae approved to sell or service Mortgage Loans.

**Synonyms**

- Lenders
- Lender's



## Letter of Credit

Letter of Credit approved by Fannie Mae per Part I, Chapter 2: Mortgage Loan, Section 204: Letters of Credit.

### **Synonyms**

- Letters of Credit
- Letter of Credit's
- LOC
- LOCs

## Loan Documents

All executed Fannie Mae-approved documents evidencing, securing, or guaranteeing the Mortgage Loan.

### **Synonyms**

- Loan Document
- Mortgage Loan Document
- Mortgage Loan Documents

## **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

## **N**

## Non-Performing Mortgage Loan

Mortgage Loan that is subject to an uncured default.

### **Synonyms**

- Non-Performing Mortgage Loans
- Non-Performing

## **P**



## Payment Default

Failure of a Borrower to pay when due and in full any payment required for the Mortgage Loan, including, but not limited to, principal, interest, late charges, default interest, fees, prepayment premium, escrows, or other collateral accounts for taxes, insurance premiums, and assessments, other collateral accounts, and the Replacement Reserve.

### **Synonyms**

- Payment Defaults

## Performance Default

Failure of a Borrower to perform any promise or covenant within any applicable grace periods under the related Mortgage Loan other than a failure that constitutes a Payment Default.

### **Synonyms**

- Performance Defaults

## 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**

## Servicer

Primary Person servicing the Mortgage Loan, including

- the originator,
- seller, or
- a third party.

### **Synonyms**

- Servicers
- Servicer's



## Special Asset Management

Team performing Fannie Mae's Special Servicing that can be contacted at [multifamily\\_sam@fanniemae.com](mailto:multifamily_sam@fanniemae.com).

### **Synonyms**

- SAM
- Multifamily Special Asset Management

## Special Servicer

Servicer (which may be Fannie Mae, the Servicer, or a third-party special servicer contracted by Fannie Mae) responsible for implementing the loss mitigation actions for a Non-Performing Mortgage Loan.