



# Multifamily Mortgage Business Lender Letter 23-03

November 28, 2023

To: Multifamily Lenders

From: Deborah Arnold, Senior Director & Deputy  
General Counsel

Subject: Lender Letter 23-03 – Loan Document Update

## HIGHLIGHTS

Fannie Mae is announcing updates to the Loan Documents which may be used immediately and must be used for all Mortgage Loans with a confirmed Commitment Date on or after December 27, 2023.

### New Loan Documents:

- We have created 6442.TIC and 6232.Single Cap Purchaser which are to be used in lieu of 6442 and 6232 when there is a co-tenant structure, and the Fannie Mae deal team has approved a single co-tenant as the cap purchaser (rather than requiring that all co-tenants purchase the cap).
- We have created 6308.ALT which is an alternative Joinder and Consent to be used if the Ground Lessor is a municipality or governmental authority that owns fee title to the land and the improvements and has leased back the improvements to the Ground Lessee. We have also created 6426 to be used if the Ground Lease does not satisfy all, or is silent as to any, of the Ground Lease checklist requirements, and the Ground Lessor is not otherwise entering into the Joinder and Consent via 6308.
- We have created 6415.Affiliate to be used in lieu of 6415 when there is a Commercial Lease with a Tenant that is a Borrower Affiliate.

### Revised Loan Documents

- We have revised 6085 to conform with the changes to Governing Law, Consent to Jurisdiction and Venue made in the December 2022 publication.
- We have revised a number of security instruments based on comments received from local counsel in those States.
- We have made non-substantive changes to 6442 and 6495 and added a drafting note to 6235.
- We have revised 6460.Borrower, 6460.Guarantor and 6460.Key Principal to include, If applicable, a schedule of the terms of any investment(s) in a cannabis business that is legal under any relevant laws governing cannabis production and distribution in the state(s) in which the cannabis business is located. The certificate also provides that none of the proceeds of such investment(s) are being used or will be used in any manner to fund equity or any other investment in the Mortgaged Property, including reserves and escrows.
- We have revised 6206 to include a non-recourse carveout for failure to apply all insurance proceeds, or all awards or proceeds (from a Condemnation Action or otherwise), received by any party in connection with the Mortgaged Property, as required by the Loan Documents.

- We have revised 6253 and 6102.23 to clarify that the Rent Restriction Agreement may restrict all or a portion of the residential units for occupancy by tenants with limited income, or rents that can be charged for those units, or both income and rents.
- We have revised 6308 to change an inadvertent reference from Ground Lessor to Borrower.

**Effective Date**

The Loan Documents may be used immediately and must be used for all Mortgage Loans with a confirmed Commitment Date on or after December 27, 2023.

**Contact Us**

If you have questions regarding this Lender Letter or the Loan Documents, please contact your Deal Team, or Deborah Arnold at [deborah\\_arnold@fanniemae.com](mailto:deborah_arnold@fanniemae.com).



## EXHIBIT A: MULTIFAMILY MORTGAGE BUSINESS 6000 SERIES FORM LOAN DOCUMENTS

The Loan Documents are available on the [Multifamily Loan Documents](#) page on FannieMae.com. Please refer to the marked copies for complete details. New 6232.Single Cap Purchaser is marked to show changes from 6232; new 6308.ALT is marked to show changes from 6308; new 6415.Affiliate is marked to show changes from 6415; and new 6442.TIC is marked to show changes from 6442.

### **REVISED Documents:**

#### **Loan Document Requirements:**

6000	Loan Documentation Requirements	<a href="#">marked copy</a>
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#### **Delivery Documents:**

6502.Folders I and III	Multifamily Mortgage Loan Delivery Package Table of Contents (Folders I and III)	<a href="#">marked copy</a>
6502.Folder II	Multifamily Mortgage Loan Delivery Package Table of Contents (Folder II)	<a href="#">marked copy</a>

#### **Core Loan Documents:**

6085	Environmental Indemnity Agreement	<a href="#">marked copy</a>
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#### **Security Instruments by State:**

6025.GA	Multifamily Security Instrument (Georgia Deed to Secure Debt)	<a href="#">marked copy</a>
6025.LA	Multifamily Security Instrument (Louisiana Mortgage)	<a href="#">marked copy</a>
6025.SC	Multifamily Security Instrument (South Carolina Mortgage)	<a href="#">marked copy</a>
6025.WI	Multifamily Security Instrument (Wisconsin Mortgage)	<a href="#">marked copy</a>

#### **Loan Agreement Schedules:**

6102.23	Modifications to Multifamily Loan and Security Agreement -- Schedule 2 Addenda -- Summary of Loan Terms (Agreement Restricting Rent, Income, or Both) (formerly Rent Restriction Agreement - Scorecard Exclusions for Affordable Housing)	<a href="#">marked copy</a>
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#### **Loan Agreement Modifications:**

6206	Modifications to Multifamily Loan and Security Agreement (Ground Lease Defaults)	<a href="#">marked copy</a>
6235	Modifications to Multifamily Loan and Security Agreement (Employee Benefit Plan - ERISA or Governmental Plan)	<a href="#">marked copy</a>
6253	Modifications to Multifamily Loan and Security Agreement (Agreement Restricting Rent, Income, or Both) (formerly Rent Restriction Agreement - Scorecard Exclusions for Affordable Housing)	<a href="#">marked copy</a>

#### **Security Instrument Modifications:**

6308	Modifications to Multifamily Security Instrument (Ground Lease Provisions)	<a href="#">marked copy</a>
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**Miscellaneous Documents:**

6442	Interest Rate Cap Reserve and Security Agreement	<a href="#">marked copy</a>
6460.Borrower	Multifamily Underwriting Certificate (Borrower)	<a href="#">marked copy</a>
6460.Guarantor	Multifamily Underwriting Certificate (Guarantor)	<a href="#">marked copy</a>
6460.Key Principal	Multifamily Underwriting Certificate (Key Principal)	<a href="#">marked copy</a>
6495	Ground Lessor Estoppel Certificate	<a href="#">marked copy</a>

**NEW Documents:****New Loan Agreement Modification:**

6232.Single Cap Purchaser	Modifications to Multifamily Loan and Security Agreement (Co-Tenants - Single Cap Purchaser)	<a href="#">marked copy</a>
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**New Security Instrument Modification:**

6308.ALT	Modifications to Security Instrument (Joinder and Consent of Ground Lessor - Unaffiliated Ground Lessor)	<a href="#">marked copy</a>
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**New Miscellaneous Documents:**

6415.Affiliate	Subordination and Attornment Agreement (Commercial Lease - Affiliated Tenant)	<a href="#">marked copy</a>
6426	Ground Lease Recognition and Attornment Agreement	
6442.TIC	Interest Rate Cap Reserve and Security Agreement (Co-Tenants - Single Cap Purchaser)	<a href="#">marked copy</a>