

Lender Letter LL-2013-04

February 27, 2013

To: All Fannie Mae Single-Family Servicers

Transfers of Ownership and Mortgage Assumptions

Fannie Mae is clarifying the servicer's obligations in connection with a transfer of ownership of a property securing a mortgage loan when the due-on-sale (or due-on-transfer) provision is not enforceable because the property transfer is considered an exempt transaction in the *Servicing Guide*. An example of an exempt transaction is the transfer of ownership of a property to a widow or orphan of the deceased borrower.

This Lender Letter describes updates or clarifications to:

- Communicating with a New Property Owner when the Property Transfer is Exempt
- Delinquent Mortgage Loans and Exempt Transactions
- MBS Requirements

For all other transfers of ownership of a property securing a conventional mortgage loan with an enforceable due-on-sale (or due-on-transfer) provision, the servicer must follow the guidance in the *Servicing Guide*.

Communicating with a New Property Owner when the Property Transfer is Exempt

***Servicing Guide*, Part III, Section 408.02: Exempt Transactions**

Servicers must implement policies and procedures to promptly identify and communicate with the new property owner in connection with a property transfer that is an exempt transaction. These policies and procedures must allow the new owner to continue making mortgage payments and pursue an assumption of the mortgage loan as well as a foreclosure prevention alternative, if applicable. This includes a widow, executor, or administrator of the borrower's estate, or other authorized representative of the borrower upon notification of the borrower's death.

Delinquent Mortgage Loans and Exempt Transactions

***Servicing Guide*, Part III, Section 408.02: Exempt Transactions**

Fannie Mae is clarifying its policy with respect to a delinquent mortgage loan where the due-on-sale (or due-on-transfer) provision is not enforceable because the property transfer is considered an exempt transaction in the *Servicing Guide*. If the mortgage loan is delinquent and the new property owner is unable to bring the mortgage loan current but may be able to resolve the delinquency with a foreclosure prevention alternative (for example, HAMP, standard modification, Mortgage Release™, or short sale) and assume the mortgage loan, the servicer must collect a Borrower Response Package from the new property owner and evaluate the request as if they were a borrower. If the servicer determines that a foreclosure prevention alternative is appropriate, it must submit its recommendation to Fannie Mae for written approval. Fannie Mae will determine the terms of the foreclosure prevention alternative and any related assumption.

The servicer must submit the case into HomeSaver Solutions® Network (HSSN) under the recommended foreclosure prevention alternative (for example, HAMP, standard modification, Mortgage Release, or short

sale) and indicate that a transfer of ownership or an assumption is associated with the case in the comments section.

MBS Requirements

***Servicing Guide*, Part VI, Chapter 3: Reclassification of MBS Mortgage Loans; Part VII, Section 602.02.08: Reclassification or Removal of MBS Mortgage Loans Prior to Effective Date of the Mortgage Loan Modification and Section 609.03.09: Reclassification or Removal of MBS Mortgage Loans Prior to Effective Date of Mortgage Loan Modification**

As a reminder, in the case of an exempt transaction, before finalizing any permanent modification entered into in conjunction with an assumption for an MBS Pool mortgage loan, the mortgage loan must be:

- in a continuous state of delinquency for at least four consecutive monthly payment dates (or at least eight consecutive payment dates in the case of a biweekly mortgage loan) without a full cure of the delinquency, and
- removed from the MBS pool.

Servicers are also reminded to follow related *Servicing Guide* requirements pertaining to MBS Pool mortgage loans when considering any other foreclosure prevention alternative.

Servicers should contact their Servicing Consultant, Portfolio Manager, or Fannie Mae's National Servicing Organization's Servicer Support Center at 1-888-FANNIE5 (1-888-326-6435) with any questions regarding this Lender Letter

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