

Servicing Guide Announcement SVC-2012-05

April 11, 2012

Payment of Homeowners' Association Dues and Condo Assessments

Fannie Mae requires servicers to protect the priority of the mortgage lien and to clear all liens for delinquent homeowners' association (HOA) dues and condo assessments on properties acquired through foreclosure or deed-in-lieu of foreclosure.

Servicers must follow the policies outlined herein for all conventional mortgage loans held in Fannie Mae's portfolio, those purchased for Fannie Mae's portfolio but subsequently securitized into MBS pools (known as Pooled from Portfolio or PFP mortgage loans), those originally delivered as part of an MBS pool that have either a special or regular servicing option or a shared-risk MBS pool for which Fannie Mae or the servicer markets the acquired property, or other mortgage loans sold to Fannie Mae under a recourse or other credit enhancement arrangement.

Effective Date

Unless otherwise indicated, all policy changes specified in this Announcement are effective July 1, 2012; however, Fannie Mae encourages servicers to implement them as soon as possible. All other requirements provided in the associated sections of the *Servicing Guide* remain unchanged.

Property Assessments

Servicing Guide, Part III, Section 202: Special Assessments

Currently, Fannie Mae requires servicers to advance funds when the servicer is notified by an HOA for a PUD or condo project that the borrower is 60 days delinquent in the payment of assessments or charges levied by the association if necessary to protect the priority of Fannie Mae's mortgage lien. Fannie Mae provides for reimbursement to the servicer for up to six months of such advances in certain states.

In addition, Fannie Mae currently requires servicers to ensure any priority liens for delinquent HOA dues and assessments on acquired properties are cleared immediately, but no later than 30 days, after the foreclosure sale or acceptance of a deed-in-lieu of foreclosure.

For properties located in states providing priority for assessment liens over a previously-recorded mortgage document, servicers must take steps to protect the priority of the mortgage lien. When pursuing foreclosure, the servicer must determine the amount to be paid in order to clear the association's claim of lien and preserve the priority of the mortgage lien. The amount is generally the lowest of:

- the actual delinquent assessment balance and allowed costs,
- the maximum amount due from the foreclosing first mortgage entity based on the provisions in the project's declaration, or
- the maximum amount due from a foreclosing first mortgage entity under the relevant state statute.

The servicer must pay that amount immediately following, but no later than 30 days after, the foreclosure sale date or acceptance of a deed-in-lieu of foreclosure. Clearing the priority lien within this time frame will ensure that Fannie Mae's lien position is preserved and costly delays are avoided when selling the property.

If an association refuses to release its claim of lien against a property for the amount determined to be the obligated amount after reasonable efforts to reach agreement, the servicer or its foreclosure attorney must contact the Fannie Mae legal department at nonroutine_litigation@fanniemae.com to seek further guidance.

Revision of Reimbursable Limits

Servicing Guide, Part III, Section 202: Special Assessments and Part VIII, Section 110: Expenses During Foreclosure Process

Fannie Mae is revising the reimbursement policy to servicers to align with the amount the servicer must pay to protect Fannie Mae's mortgage lien position and ensure acquired properties are clear of any liens for HOA dues and assessments. After completion of the foreclosure sale or acceptance of the deed in lieu of foreclosure, Fannie Mae will reimburse the servicer for the advances made up to the lowest of:

- the actual advances paid,
- the maximum limit provided in the project declaration, or
- the state statutory maximums.

Servicer Responsibility on Acquired Properties

Servicing Guide, Part VIII, Section 302.01: Servicer's Responsibilities


Servicers are reminded of their responsibility to continue advancing funds to pay for HOA dues and property taxes as they come due following a foreclosure sale as required under applicable state law. A servicer must also perform the following property management duties until notified by Fannie Mae that the property has been sold and that the final settlement has occurred:

- Request that the tax rolls be changed to reflect Fannie Mae's ownership of the property (specifying that the tax bills should continue to be directed to the servicer), and pay the appropriate taxes and assessments as they come due; and
- Contact the management company if the acquired property was part of a condominium, PUD, or cooperative project to ensure that all future bills for homeowners' association (or cooperative corporation) assessments or fees are sent to the servicer, and pay the bills as they come due.

Noncompliance

Servicing Guide, Part I, Section 201.10.02: Alternatives to Contract Termination

Fannie Mae reminds servicers that it may pursue any of its available remedies, which may include, but are not limited to, repurchase, "make whole," or indemnification for failure to comply with Fannie Mae's policies regarding delinquent homeowners' association dues and assessments.



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

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