

MINIMUM INSURANCE REQUIREMENTS FOR CLOSING OF DHCD FINANCED DEVELOPMENTS

The Commitment issued by the Department of Housing and Community Development (“DHCD”) to finance housing developments contains certain insurance requirements. Please use the following instructions as a guide to ensure that all the requirements are met. Insurance certificates and corresponding endorsements must be submitted to the VHDA for approval at least ten days prior to Closing Date. Renewal policies/insurance certificates must be submitted to the Authority prior to the policy expiration date.

**TO SUBMIT INSURANCE CERTIFICATES AND ENDORSEMENTS FOR APPROVAL OR FOR
ANSWERS TO ANY QUESTIONS ABOUT THE REQUIREMENTS BELOW, PLEASE CONTACT:**

KAY DODSON AT: MFInsurance@virginiahousing.com

General Requirements

1. EACH policy therefor listed below must contain a notice of cancellation provision or endorsement in favor of the Authority providing thirty (30) days written notice to the Authority prior to any cancellation, non-renewal, or termination of the policy. Written notice of cancellation, non-renewal, expiration or termination of the policy shall be sent to:

Department of Housing and Community Development
C/o Multifamily Servicing
P. O. Box 5127
Richmond, VA 23220

The cancellation endorsement must be included in the policy and provided with any certificate of insurance provided to VHDA.

2. Insurance is to be placed with insurers with current A.M. Best ratings of not less than A- VII, unless otherwise approved by the Authority.
3. Flood insurance is required on any building located in a special flood hazard area (SFHA) designated by the Federal Emergency Management Agency (FEMA) as Zone A or V. Flood insurance must be maintained to a minimum amount of the replacement cost of the 100% replacement costs of first two floors above grade and any below grade to include structure and contents, unless otherwise approved by the Authority. If LoMR process is being pursued then only NFIP is required (500,000) for up to 12 months after closing. Replacement cost does not need to include non-improved portions of property or non-income producing improvements that do not support amenities.
4. All insurance policies must include terrorism coverage, where commercially insurable and available. Purchase of coverage through the Terrorism Risk Insurance Act (TRIA) is acceptable for the fulfillment of this requirement.

***Coinsurance policies are not allowed.

Specific Requirements

MORTGAGOR'S INSURANCE

1. COMMERCIAL PROPERTY INSURANCE. The original policy or certificate of insurance therefor must be submitted to the Authority at least ten days prior to closing.

- (a) The General Requirements above must be satisfied.
- (b) Blanket "All Risks / Special Forms" coverage must be provided. All single and blanket property policies must have All Risks/Special Forms coverage including coverage for the perils, as designated by the authority, of flood, earthquake, wind and hail, and equipment breakdown (boiler and machinery). If Blanket policy is provided, Statement of values that includes business income is required.
- (c) The policy must provide coverage for the replacement cost of the development. The coverage amount must be in an amount at least equal to the full replacement cost of the development. It is the responsibility of the mortgagor and the insurance company, not the Authority, to establish the replacement cost. An appraisal or equivalent must be made to determine the replacement cost, while coverage for the full mortgage loan amount is not usually required, significant deviations from the mortgage loan amount must be justified by the mortgagor.

Note: Upon issuance of the initial certificate of occupancy for the development, the mortgagor shall provide the Authority with commercial property insurance coverage as required in the Regulatory Agreement/Regulatory Deed of Trust. Such property insurance shall include "Automatic Coverage for Newly Acquired Locations" that will cover subsequently completed buildings in the development for a period of at least 30 days after such buildings are completed.

- (d) The maximum deductible shall not exceed
 - \$15,000 per occurrence for a property equal to or less than \$1 million in total insurable value.
 - \$25,000 per occurrence for a property between \$1 million and \$5 million total insurable value.
 - \$50,000 per occurrence for a property between \$5 million and \$100 million total insurable value.
 - \$75,000 per occurrence for a property with total insurable value equal to or in excess of \$100 million.

It is the responsibility of the mortgagor, not the Authority, to cover any loss for damage within the corresponding deductible.

- (e) The policy is to include a waiver of subrogation clause to read:

"This insurance shall not be invalidated should the insured waive in writing prior to loss any or all right of recovery against any party for loss occurring to the property described herein."

The mortgagor hereby waives its subrogation rights under this policy in favor of the DHCD.

- (f) The policy is to include the Authority as a loss payee and mortgagee as its interests appear. The policy shall be endorsed with the following entity as loss payee and mortgagee:

Department of Housing and Community Development and/or assigns ATIMA
c/o Multifamily Servicing
P. O. Box 5127
Richmond VA 23220

- (g) Business personal property coverage for personal property located onsite (office equipment, community room/building furnishings, laundry facilities, lawn and maintenance equipment, etc.) is required with limits equal to the full replacement cost
- (h) Business Income coverage equal to the total potential loss for 12 months of Earned Gross Income for this location. This figure must be updated as rent increases are applied and as needed to adjust for changes in operation. 12/18 months Actual Loss Sustained is also acceptable.
- (i) The following coverages, if applicable, are required: earthquake, wind and hail, boiler/machinery, elevator, plate glass, outdoor sign, commercial space, plus any other coverages unique to the development. Any special deductible for wind coverages shall be limited to “named” storms.
- (j) If required by the Commitment, the insurer or its agent shall submit a letter from the insurer or its agent to DHCD stating that the policy includes “Improvements and Betterments” coverage for the rehabilitation of the development to be financed by the DHCD mortgage loan.
- (k) If the DHCD mortgage loan is to finance the construction or rehabilitation of the development by a general contractor, such general contractor shall be named as an additional insured.
- (l) Ordinance or Law Coverages is required on any development that does not conform to current code. Such coverage is required on any property that contains any type of non-conformance under current land use laws or ordinances (building, Zoning, energy management, “green”, etc.) and cannot be rebuilt “as is.” Minimum coverage amount for Type A is replacement cost or 100% of building value, Type B is 10% of building value, and Type C is 10% of building value.
- (m) Escrows for insurance coverages are required by DHCD in sufficient amount to cover one year of coverage. Premiums for all required policies must be paid in full with no monthly premium financing.

2. COMMERCIAL GENERAL LIABILITY. The mortgagor must submit original policy or certificate of insurance therefor at least ten days prior to closing.

- (a) The General Requirements above must be satisfied.
- (b) Department of Housing and Community Development is to be named as an additional insured.

Any insurance under which the Department of Housing and Community Development (“DHCD”) and/or its assigns is named as an additional insured as required herein shall be primary and non-contributory with respect to any other insurance or self-insurance which may be maintained by DHCD in its own right.
- (c) Except with respect to the limits of insurance, mortgagors required insurance shall apply separately to each insured or additional insured.
- (d) Mortgagor must carry Commercial General Liability coverage with a minimum limit of \$1,000,000 per occurrence / \$2,000,000 aggregate per location for loans less than 50,000,000. Loans 50,000,000 and over must carry Commercial General Liability coverage with a minimum limit of \$2,000,000 per occurrence / \$4,000,000 aggregate per location. Coverage shall include third party bodily injury and third party property damage.
- (e) The policy is to include a waiver of subrogation clause to read:

“This insurance shall not be invalidated should the insured waive in writing prior to loss any or all right of recovery against any party for loss occurring to the property described herein.”

The mortgagor hereby waives its subrogation rights under this policy in favor of the DHCD.

UMBRELLA LIABILITY OR EXCESS LIABILITY.

If the policy's liability coverage is less than the above amounts, the mortgagor shall submit a certificate evidencing excess/umbrella liability coverage in the amount necessary to comply with the required limits. Excess/umbrella coverage is recommended.

COMMERCIAL AUTOMOBILE LIABILITY. The mortgagor must submit original policy or certificate of insurance therefor at least ten days prior to closing if owned, leased, borrows, uses or another use for property operations.

- (a) The General Requirements above must be satisfied.
- (b) DHCD is to be named as an additional insured.

Any insurance under which Department of Housing and Community Development ("DHCD") and/or its assigns is named as an additional insured as required herein shall be primary and non-contributory with respect to any other insurance or self-insurance which may be maintained by DHCD in its own right.

- (c) Except with respect to the limits of insurance, mortgagors required insurance shall apply separately to each insured or additional insured.
- (d) The policy is to include a waiver of subrogation clause to read:

"This insurance shall not be invalidated should the insured waive in writing prior to loss any or all right of recovery against any party for loss occurring to the property described herein."

The mortgagor hereby waives its subrogation rights under this policy in favor of the DHCD.

- (e) The insurance shall cover liability arising from the use or operation of any auto, including those owned, hired, or otherwise operated or used by or on behalf of the mortgagor (including non-owned automobiles). The coverage shall be at least as broad as the *Insurance Services Office Business Automobile Policy form CA 0001* ©, current edition.

WORKERS COMPENSATION AND EMPLOYER'S LIABILITY. The mortgagor must submit original policy or certificate of insurance therefor at least ten days prior to closing. This coverage is not required if mortgagor does not have employees.

- (a) The General Requirements above must be satisfied.
- (b) The coverage must apply as is required by statute or law in the Commonwealth of Virginia, or as may be available on a voluntary basis. Statutory coverage must apply in the state in which the work is being performed.
- (c) Employer's liability applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death. The coverage shall be at least as broad as the Insurance Services Office Workers Compensation & Employers Liability Insurance Policy form WC 00 00 00, current edition. The mortgagor shall carry limits of not less than \$1,000,000 by disease, \$1,000,000 each accident, \$1,000,000 each employee.

- (d) The policy is to include a waiver of subrogation clause to read:

“This insurance shall not be invalidated should the insured waive in writing prior to loss any or all right of recovery against any party for loss occurring to the property described herein.”

The mortgagor hereby waives its subrogation rights under this policy in favor of the DHCD.

FIDELITY BOND / CRIME COVERAGE

A mortgagor and/or management agent must carry a fidelity bond or crime insurance covering any employee, officer or board member in an amount not less than two (2) month's gross rental potential throughout the life of the mortgage loan.

COMMERCIAL SPACE

For a mixed-use development containing commercial space, at least ten days prior to closing, the commercial tenant(s) must submit evidence of Comprehensive coverage acceptable to the Department of Housing and Community Development (“DHCD”).

The tenant(s) must submit evidence of the following:

Commercial General Liability coverage with a minimum limit of \$1,000,000 per occurrence / \$2,000,000 aggregate per location for loans less than 50,000,000. Loans 50,000,000 and over must carry Commercial General Liability coverage with a minimum limit of \$2,000,000 per occurrence / \$4,000,000 aggregate per location. Coverage shall include third party bodily injury and third party property damage, insuring Tenant, Landlord, Landlord's agents and their respective affiliates against all liability for injury to or death of a person or persons or damage to property arising from the use and occupancy of the Premises,

Insurance covering the full value of Tenant's property and improvements, and other property (including property of others) in the Premises, and

Worker's compensation insurance, containing waiver of subrogation endorsement acceptable to Landlord.

If the policy's liability coverage is less than the above amounts, the tenant shall submit a certificate evidencing excess/umbrella liability coverage in the amount necessary to comply the required limits. Excess/umbrella coverage is recommended.

If the tenant serves alcoholic beverages in the leased space, the tenant must maintain liquor liability insurance.

The certificates and any required endorsements must also evidence the following:

- (a) The General Requirements above must be satisfied.
- (b) DHCD is to be named as an additional insured, except the workers compensation.

Any insurance under which the Department of Housing and Community Development (“DHCD”) and/or its assigns is named as an additional insured as required herein shall be primary and non-contributory with respect to any other insurance or self-insurance which may be maintained by DHCD in its own right.

- (c) Except with respect to the limits of insurance, mortgagors required insurance shall apply separately to each insured or additional insured.
- (d) The policy is to include a waiver of subrogation clause to read:

“This insurance shall not be invalidated should the insured waive in writing prior to loss any or all right of recovery against any party for loss occurring to the property described herein.”

The mortgagor hereby waives its subrogation rights under this policy in favor of DHCD.

CONDOMINIUMS

If the security for the loan is a condominium, the following is required from the condo association: Evidence of building coverage and evidence of liability coverage. VHDA must be shown as a certificate holder and must be an additional insured on the liability coverage. The insured must provide evidence of building personal property coverage for the full replacement cost of the property, business income coverage with appropriate limits, and general liability coverage in amounts not less than \$1,000,000 per occurrence / \$2,000,000 aggregate per location for loans less than 50,000,000. Loans 50,000,000 and over must carry Commercial General Liability coverage with a minimum limit of \$2,000,000 per occurrence / \$4,000,000 aggregate per location. VHDA must be on shown on the Certificate(s) as mortgagee, lenders loss payee, and additional insured.

Any insurance under which Department of Housing and Community Development (“DHCD”) and/or its assigns is named as an additional insured as required herein shall be primary and non-contributory with respect to any other insurance or self-insurance which may be maintained by DHCD in its own right.

All policies are required include a waiver of subrogation clause to read:

“This insurance shall not be invalidated should the insured waive in writing prior to loss any or all right of recovery against any party for loss occurring to the property described herein.”

The mortgagor hereby waives its subrogation rights under this policy in favor of the DHCD.