



**GROUND  
SOLUTIONS  
NETWORK**

## Fannie Mae CLT Rider Compliance Guidance

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This guidance applies to residential properties in community land trusts, where the homeowner's first mortgage loan was originated to be sold to Fannie Mae. These properties can be identified by those with an executed Fannie Mae Form 2100 "Community Land Trust Ground Lease Rider" (the Rider) between the CLT (the "Lessor") and homeowner (the "Lessee"). The Lender (the "Specified Mortgagee" or its successors or assignees) is defined as the entity that has an interest secured by a mortgage or deed of trust in the leased land and the improvements (the "Leased Premises").

This guidance intends to provide practitioners with easy-to-understand answers to common questions or events that may arise post-purchase in order to ensure compliance with the Rider. **NOTE:** This guidance does not comprehensively review the Rider, nor does it replace the potential need to seek legal assistance or interpretation of the Rider.

### Key of Terms:

Rider	Fannie Mae Form 2100: Community Land Trust Ground Lease Rider
CLT	Lessor
Homeowner	Lessee
Lender	Specified Mortgagee, its successors or assignees
Leased Land + Improvements	Leased Premises

### Glossary of Questions:

1. My CLT plans to increase the ground lease payment on the property. What do I need to do?
2. My CLT wants to modify the ground lease for an existing homeowner. What do I need to do?
3. Who needs to be listed on insurance policies?
4. The homeowner wants to sublet the home. What can the CLT allow?
5. The homeowner wants to make an addition or improvement to the property. What do I need to do?
6. The homeowner is in default of the ground lease. What can I do?
7. I just found out that a homeowner is in mortgage default. What can I do?
8. I found out that the lender has initiated foreclosure proceedings with a homeowner. What can I do?
9. The mortgage has been sold to a different entity. What do I need to do?

**1. My CLT plans to increase the ground lease payment on the property. What do I need to do?**

You do *not* need to notify the Lender if the adjustment to the ground lease payment:

- 1) was stipulated in a schedule within the ground lease that was signed at the time the mortgage was provided; or
- 2) reflects routine, periodic updates to variable expenses (e.g. property taxes, liability insurance premiums).

You *do* need to provide written notice to the Lender at least 60 days before the adjustment takes effect *if* the adjustment to the ground lease payment:

- 1) is not included in the ground lease,
- 2) deviates from the schedule set forth in the ground lease, or
- 3) the homeowner has signed a new ground lease since the time when the mortgage was provided.

**2. My CLT wants to modify the ground lease for an existing homeowner. What do I need to do?**

You must seek written consent from the Lender before a modified ground lease is executed.

**3. Who needs to be listed on insurance policies?**

On an ongoing basis, **all** insurance policies covering the Improvements (e.g. homeowner's, hazard, flood) must name the Lender as an additional insured or loss payee. Additionally, the Lender must be provided with any 30-day cancellation notices.

**4. The homeowner wants to sublet the home. What can the CLT allow?**

The Rider allows homeowners to sublet their homes, subject to any limitations and restrictions on subletting required in the ground lease and recognition of all provisions in the ground lease regarding occupancy of the home as the primary residence by the Lessee. This includes any subletting notification provisions contained in the ground lease. The homeowner must remain primarily responsible for mortgage payments to the Lender.

**5. The homeowner wants to make an addition or improvement to the property. What do I need to do?**

Additions or alternations to the home that are permissible according to the ground lease may be made, *if and only if*, the value of the Leased Land and Improvements is not diminished. However, the CLT must join in all easements, permits, and applications for these additions or alternations so long as the CLT has no liability or obligation under the easements, permits, and/or applications.

The CLT or the homeowner cannot subordinate the ground lease to any additional mortgages or liens placed on the Leased Land or Improvements.

**6. The homeowner is in default of the ground lease. What can I do?**

The Rider only allows the CLT to formally act upon certain Events of Default, which could result in termination or forfeiture of the ground lease. These "Permissible Events of Default" are more restrictively defined than those in the Model Ground Lease.

Per the Rider, the CLT may formally take action on the following Events of Default:

- 1) the nonpayment of amounts due under the ground lease,

- 2) a requirement that the homeowner occupy the Leased Land and Improvements as primary residence, or
- 3) restrictions on the sale or transfer of the homeowner's interest (Note: Non-sale transfers due to marriage, divorce, death of a spouse, or other transfers permitted by federal law may not be the basis for default; however, the CLT may require the transferee to agree to assume the original homeowner's obligations under the ground lease).

Consequently, the CLT cannot pursue termination or forfeiture of the ground lease based upon other terms in the ground lease, such as the condition of the property without the prior written consent of the Lender.

If the CLT opts to take action on a Permissible Event of Default, the CLT must provide a copy of the notification to the Lender of the default. A default by the homeowner under the ground lease constitutes a default under the Lender. Consequently, the CLT must allow the Lender the option to cure a Permissible Event of Default, to pursue foreclosure, or to take an assignment of the Improvements and Leasehold Estate in lieu of foreclosure.

If the homeowner's default is cured by the homeowner or CLT, the Lender must discontinue foreclosure or assignment in lieu of foreclosure proceedings.

#### **7. I just found out that a homeowner is in mortgage default. What can I do?**

Be aware that the Lender is not responsible for telling the CLT that the homeowner has had an Event of Default under the mortgage loan. However, the homeowner is legally required to immediately notify the CLT and submit copies of all related notices sent by the Lender.

The CLT does have the option to cure the Event of Default on the homeowner's behalf. The homeowner is responsible for all payment or expenses incurred by the CLT when curing the default.

#### **8. I found out that the lender has initiated foreclosure proceedings with a homeowner. What can I do?**

If foreclosure or assignment in lieu of foreclosure occurs, the CLT has the option to purchase the Lender's interest in the Improvements and Leasehold Estate for the full amount owed to the Lender on the date of closing for the purchase. The Lender must provide a "Mortgagee Option Notice" no later than 60 days following acquisition of the title to the Improvements and Leasehold Estate by foreclosure or assignment in lieu of foreclosure. If the CLT opts to exercise its right to purchase, the CLT must give written notice of CLT's intent to purchase the Improvements and Leasehold Estate within 45 days of receiving the "Mortgagee Option Notice."

The Lender may elect to provide written notice after an Event of Default prior to foreclosure proceedings. In this instance, the CLT has 45 days to provide written notice that they will delay giving its written notice of intent to purchase (giving the CLT more time to decide whether it will pursue purchase). The Lender must then provide written notice when it has acquired the title to the Improvements and Leasehold Estate.

#### **9. The mortgage has been sold to a different entity. What do I need to do?**

The CLT should take several steps:

- 1) You should notify the new mortgage holder of your ground lease interest and inform the mortgage holder of any notification addresses, phone numbers and names of contact persons.
- 2) You should determine if the mortgage servicer has also changed. If so, then CLT should notify, in writing, the new servicer with its notification information as well.
- 3) The CLT should request that the homeowner provide notification information to the new mortgage holder and/or servicer as well.

The CLT and homeowner do not want to be at risk of missing important notifications and the homeowner does not want to send mortgage payments to the wrong lender.