

MINIMUM INSURANCE REQUIREMENTS FOR CLOSING OF VHDA CONSTRUCTION FINANCING

The Commitment issued by the Virginia Housing Development Authority (the “Authority”) 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 Authority 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

To ensure your request is handled as quickly and efficiently as possible, please include development name and anticipated closing date in subject line.

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, or termination of the policy shall be sent to:

Virginia Housing Development Authority
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 no 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.

Specific Requirements

1. BUILDER’S RISK. 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 to insure against all risks of direct physical loss, damage, or destruction occurring during the policy period, except as excluded, but including coverage for the perils, as designated by the Authority, of flood, earthquake, wind and hail, and equipment breakdown (boiler and machinery) to the property described and insured in the policy. The builder’s risk policy shall be in an amount of the final Contract Sum. Such insurance shall be maintained, unless otherwise provided in the Contract Documents, or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the mortgagor has an insurable interest in the project. The Contractor shall be a named insured on the mortgagor’s builder’s risk insurance policy.

Upon issuance of the initial certificate of occupancy for the property, the mortgagor shall provide the Authority with property insurance coverage as required in the Regulatory Agreement. Such property insurance shall include “Automatic Cover 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.

(c) 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.

(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 Authority.

(e) The policy is to include the Authority as a lenders loss payee and mortgagee as its interests appear. In addition, the policy shall be endorsed with the following entity as lenders loss payee and mortgagee:

Virginia Housing Development Authority and/or assigns ATIMA
C/o Multifamily Servicing
P. O. Box 5127
Richmond VA 23220

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) The Authority is to be named as an additional insured.

Any insurance under which Virginia Housing Development Authority (“VHDA”) 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 VHDA 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 Authority.

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 owns, leases, borrows, uses or another use for property operations

(a) The General Requirements above must be satisfied.

(b) The Authority is to be named as an additional insured.

Any insurance under which Virginia Housing Development Authority (“VHDA”) 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 VHDA 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 Authority.

- (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 Authority.

GENERAL CONTRACTOR'S INSURANCE. At least ten days prior to closing, the mortgagor shall submit, or cause the general contractor to submit a certificate or certificate of insurance evidencing the following types of insurance covering the general contractor.

- (a) The General Requirements above must be satisfied.
- (b) The General Contractor must provide coverages in accordance with the above requirement for Commercial General Liability, Commercial Automobile, and Worker Compensation / Employer's Liability. It is the responsibility of the General Contractor and mortgagor to determine which entity will purchase the builder's risk coverage.
- (c) Other than standard exclusions applicable to pollution, asbestos, mold, employment practices, ERISA and professional liability, there shall be no limitations or exclusions beyond those contained in the standard policy forms which apply to property damage, products and completed operations, contractual liability or construction defects. Unacceptable exclusions include exclusions for damage to Work performed by Subcontractors on the General Contractor's behalf (e.g. CG22.94 or CG22.95) for contractual liability (e.g. CG 21.39), and for known loss. In addition to procuring and maintaining this insurance during the duration of the contract, Contractor agrees to continue to procure and maintain products and completed operations liability insurance coverage through the applicable statute of repose period.

Note: General Contractor shall give prompt written notice to Owner, Authority, and Architect of any design-build Subcontractors which are required if General Contractor's scope of services include architectural, engineering, professional consulting or construction management. Such

policy shall cover wrongful acts made by or on behalf of the professional. Claims-made coverage is permitted, provided the policy retroactive date is continuously maintained prior to the commencement of professional services rendered to the Owner through the applicable statute of repose period. The limits shall be no less than that required of the Architect's insurance below.

CONTRACTOR'S POLLUTION LIABILITY INSURANCE

The General Contactor shall be required to carry Contractor's Pollution Liability, unless otherwise approved by the Authority, in limits no less than \$2,000,000 for each wrongful act and in the annual aggregate if Phase 1 report (dated within 180 days of closing) shows no Recognized Environmental Conditions (REC), Controlled Recognized Environmental Conditions (CREC), or Other Environmental Conditions (OEC) findings. No less than 5,000,000 if Phase 1 report has any REC's, CREC's or OEC's. If a Phase 1 has not been performed than the 5,000,000 requirement will be enforced. Such coverage shall include bodily injury, sickness, disease, death, or mental anguish or shock sustained by any person; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof; cleanup costs, and the less of tangible property that has not been physically injured or destroyed; defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages; products and completed operations. Claims-made coverage is permitted, provided the policy retroactive date is continuously maintained prior to the commencement of Contract's operations through the applicable repose period.

ARCHITECT'S PROFESSIONAL LIABILITY INSURANCE

The Architect shall deliver Certificates confirming professional liability insurance coverage in an amount at least equal to One Million Dollars (\$1,000,000) Such Certificates shall be issued by the writing agent to the Owner (if so required by the Owner) and to the Authority. The Architect must keep such professional liability insurance covering its wrongful acts made by or on behalf of the professional in force for a period of at least six (6) years from the date of permanent loan closing of the Authority's Mortgage Loan as to the Development with a continuously maintained retroactive date prior to the commencement of the professional services rendered.

FIDELITY BOND / CRIME COVERAGE

A mortgagor and/or management agent must carry a fidelity bond or crime insurance, if property is occupied, 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 coverage acceptable to the Virginia Housing Development Authority (the "Authority").

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 with 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) The Authority is to be named as an additional insured, except the workers compensation.

Any insurance under which Virginia Housing Development Authority ("VHDA") 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 VHDA 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 Authority.

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 shown on the Certificate(s) as mortgagee, lenders loss payee, and additional insured.

Any insurance under which Virginia Housing Development Authority ("VHDA") 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 VHDA 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 Authority.