



## MASSHOUSING TITLE INSURANCE INSTRUCTIONS

### GENERAL REQUIREMENTS

A lender's title insurance policy is required for each MassHousing loan, insuring the lien of the mortgage in the amount of the loan secured thereby. The title company must be acceptable to MassHousing, and each such title insurance policy shall be in form and substance acceptable to MassHousing. The maximum single risk (i.e., the amount insured under any one policy) by a title insurer may not exceed 25% of that insurer's surplus and statutory reserves. Reinsurance must be obtained for any policy exceeding such amount, with evidence of such reinsurance provided by closing.

If MassHousing's first mortgage is, or will be, insured under any HUD/HFA Risk-Sharing Program, its title insurance policy must include HUD as an insured party and will be subject to HUD approval. Borrower is responsible for all costs and expenses of the lender's title insurance policies.

### SCHEDULE A

1. Effective Date and Time. The effective date of the title policy must be not later than the date and time of recording. Title rundowns must be current within twenty-four (24) hours of funding.

2. Insured Party.

- a. If MassHousing's first mortgage loan is (or will be) insured by Risk Sharing, please identify the named insured as follows:

Massachusetts Housing Finance Agency and/or the United States Department of Housing and Urban Development, and their respective successors and assigns, as their interests may appear

- b. If the MassHousing loan is not insured by Risk Sharing, please identify the named insured as follows:

Massachusetts Housing Finance Agency and its successors and assigns, as their interests may appear

3. Insured Mortgage.

- a. If MassHousing's first mortgage loan is (or will be) insured by Risk Sharing, HUD requires that the description of the insured mortgage include the Regulatory Agreement:

First Mortgage, Security Agreement, Financing Statement (Fixture Filing) and Assignment of Leases and Rents, dated as of \_\_\_\_\_, 201\_, from [*Borrower*] to the Massachusetts Housing Finance Agency, recorded on \_\_\_\_\_, 201\_ in Book \_\_\_\_\_, Page \_\_\_ [*if registered land*: and filed on \_\_\_\_\_, 201\_ as Document No. \_\_\_\_\_], which incorporates by reference that certain Regulatory

Agreement, dated as of \_\_\_\_\_, 201\_, between [Borrower] and the Massachusetts Housing Finance Agency, recorded on \_\_\_\_\_, 201\_ in Book \_\_\_\_\_, Page \_\_\_\_ [if registered land: and filed on \_\_\_\_\_, 201\_ as Document No. \_\_\_\_\_].

- b. For any MassHousing loan not insured by Risk Sharing, the description of the insured mortgage does not need to include the Regulatory Agreement. The Regulatory Agreement may therefore be listed either as part of the insured mortgage description or as a separate document in Schedule B, Part II.
4. Legal Description. The legal description of the insured property contained in the title policy must conform to the legal description in the insured mortgage instrument.
5. Appurtenant Easements. The title policy shall insure, as a separate parcel, (a) each appurtenant easement or other estate benefitting the property, and (b) each other right, title and interest of the borrower in real property under any reciprocal easement agreement, access agreement, operating agreement or other agreement containing covenants, conditions and/or restrictions relating to the insured property.

#### **SCHEDULE B-I**

1. Standard Exceptions.
- a. The standard exceptions for parties in possession should be deleted. If it cannot be deleted, a parties in possession exception along the lines of the following is acceptable:  
  
Rights or claims of current residential tenants in possession of residential units at the insured premises under unrecorded leases having a term of not more than one year (subject to extensions) and without any purchase options.
  - b. The standard survey exception should be deleted and an exception based on the current survey should be added. The exception for the current survey should itemize any encroachments or other matters for which exception is being taken.
  - c. The standard exception for mechanics' liens should be deleted. If a lien bond is being recorded, please reflect that in a note at the end of Schedule B-I.
  - d. The standard exception for real estate taxes and assessments will need to include a statement confirming the date through which taxes have been paid (which must be after the date of the policy and the loan closing), and confirming that subsequent taxes are a lien not yet due and payable. The following is an example:  
  
Taxes are paid through \_\_\_\_\_. Taxes subsequent to said date are a lien, but are not yet due and payable.
2. Senior MassHousing Documents. Either a Residential Compliance Agreement between MassHousing and the Borrower or a Disposition Agreement between MassHousing and the Borrower will be recorded immediately prior to MassHousing's new mortgage. This agreement should be listed on Schedule B, Part I.

3. Other Exceptions. Please provide copies of all recorded exceptions.

## **SCHEDULE B- II**

1. Junior MassHousing Documents. MassHousing will provide a list of subordinate MassHousing documents.
2. Other Subordinate Documents. The Borrower should supply the title agent with a list of any other subordinate financing document and restrictions.

## **NOTES**

Please add any references to zoning matters (e.g., variances, etc.) as notes at the end of Schedule B-I. Lien bond recording information should also be added as a note.

## **ENDORSEMENTS**

1. Standard Endorsements. Please include the following endorsements for all MassHousing loan policies:
  - a. ALTA 17-06. Access and Entry (physically open public street(s)).
  - b. ALTA 9.3-06. Covenants, Conditions and Restrictions – Loan Policy.
  - c. ALTA 18-06. Single Tax Parcel (*or 18.1-06, Multiple Tax Parcels*).
  - d. ALTA 26-06. Lawful Subdivision.
  - e. ALTA 22-06. Location
  - f. ALTA 25-06. Same as Survey.
  - g. ALTA 28-06. Easement (damage or forced removal), if applicable.
  - h. ALTA 28.1-06. Encroachments – Boundaries and Easements, if applicable.
  - i. ALTA 8.2-06. Commercial Environmental Protection Lien.
  - j. ALTA 24-06. Doing Business.
  - k. ALTA 17.2-06. Utility Access.
  - l. ALTA 9.6-06. Private Rights – Loan Policy.
  - m. ALTA 27-06. Usury
  - n. Waiver of Arbitration
2. Deal-Specific Endorsements. In addition, MassHousing may also require the following endorsements:

- a. ALTA 3.1-06. Zoning – Completed Structure (*or 3.2-06, Zoning – Land Under Development*).
- b. ALTA 19-06. Contiguity - Multiple Parcels.
- c. ALTA 20-06. First Loss – Multiple Parcel Transactions.
- d. ALTA 4-6. Condominium – Loan Policy.
- e. ALTA 13.1-06. Leasehold – Loan Policy.
- f. ALTA 6-06. Variable Rate Mortgage
- g. ALTA 17.1-06. Indirect Access and Entry (if public way access is non-locus)
- h. ALTA 39-06. Policy Authentication (Electronic Issuance)
- i. Pending Disbursements

*Last updated 4/19/2016*