



Homeownership Program Bulletin

February 03, 2012

Program Bulletin #2012-01

To: CalHFA Approved Servicers

Rental Policy and Procedures for CalHFA Financed Properties

Effective February 6, 2012, this bulletin replaces Program Bulletin #2010-10 dated October 5, 2010, updates the Rental Policy in Section 12 of the Servicer's Guide and replaces Exhibit D-1 with the attached Consent to Rent Agreement and CalHFA Lease Rider.

Policy

Rental permission may be granted if all borrowers with an ownership interest in the property ("Borrower") meet the following criteria:

1. As required by Internal Revenue Code section 143, the Borrower had a reasonable expectation that the home would be the Borrower's principal residence at loan origination.
2. CalHFA will permit the Borrower to rent the property financed with a CalHFA mortgage for an initial period of 12 months, with the potential for an extended period on a case-by-case basis. The initial 12 month period shall begin upon the execution of a rental agreement with the tenant.
3. The Borrower's current loan balance in relation to the home's current market value prevents the Borrower from either selling the home or refinancing the CalHFA loan.
4. The Borrower is current on the mortgage payment.
5. The Borrower lived in the home for at least one year after obtaining a mortgage.
6. The Borrower demonstrates through a standard set of income and expense questions supported by documentation, that the Borrower is capable of meeting the obligations of both the new housing expense and the pre-existing CalHFA mortgage payment.
7. The Borrower shall submit a list with complete addresses of all real property the Borrower owns.
8. The Borrower shall execute an affidavit stating that, when feasible, the Borrower will reoccupy the CalHFA-financed property as a primary residence, sell the property or retire the CalHFA loan with replacement financing. The Borrower shall also declare that the Borrower did not obtain the CalHFA-financed property for investment purposes. For the purpose of this policy, the term "feasible" means capable of being

accomplished in a successful manner within a reasonable period of time, taking into account economic, social and physical factors.

Procedures

Upon receiving a request for permission to rent, servicers must provide the Borrower with the attached Consent to Rent Agreement, CalHFA Lease Rider and the Borrower Financial Information statement. If any Borrower has been removed from ownership on the property, documentation showing the removal must be provided.

Rentals will only be permitted when both the Borrower and CalHFA have completed and executed the Consent to Rent Agreement. Additionally, if the property is already rented, the Borrower and tenant complete and execute the CalHFA Lease Rider at the time of requesting permission to rent, or if the property is not currently rented but will become rented within the permission period, the CalHFA Lease Rider along with the landlord/tenant agreement must be provided within five days of signing by both the Borrower and tenant(s). It is important that all Borrowers and all tenants acknowledge the terms under which CalHFA permits the rental.

Servicer shall collect and forward to CalHFA the following fully executed documentation from Borrower. Permission to rent is subject to the Borrower providing the following supporting documentation:

- Borrower must complete and sign the Consent to Rent Agreement.
- Borrower must provide copies of the most recent two years IRS Form-1040 Federal Tax Returns with all schedules that were filed with the IRS.
- A list complete with addresses of all real estate owned by the Borrower.
- The Borrower must demonstrate through supporting documentation the ability to meet the obligations of both new housing expenses and the preexisting CalHFA mortgage payment. Documentation is to include the two most recent paystubs and the Borrower Financial Information form (copy attached) outlining monthly expenses for the mortgaged property, all debt, and all income, including rent on the property and payment on their new property.
- If the property is currently rented, Borrower is to provide a copy of the landlord/tenant rental agreement along with the CalHFA Lease Rider. If applicable, a copy of the fully executed Property Management Agreement when Borrower uses a property management firm to manage the property and collect the rents. If the property is not yet rented, these documents will be required once the property is rented.
- An independent Broker's Price Opinion or automated valuation prepared within the 60 days of the rental request obtained by the servicer at Borrower expense. Borrower shall pay the actual cost of the BPO or valuation.
- The loan must be current at the time that rental permission is requested and the servicer must provide loan servicing documentation to show the interest paid to date.

Upon receipt of the documents for rental permission from Servicer, CalHFA will determine if the request meets the following rental eligibility conditions:

- The Borrower has executed and acknowledged the terms of the Consent to Rent Agreement, and where applicable, both the Borrower and tenant(s) have executed the CalHFA Lease Rider.

- A Broker's Price Opinion or automated valuation shows the current loan balance in relation to the home's current market value prevents the Borrower from either selling the home or refinancing their CalHFA loan.
- That the Borrower is current on the mortgage payment.
- Borrower is not in Bankruptcy
- CalHFA loan has not been modified.
- Borrower demonstrates through supporting documentation the ability to meet the obligations of both new housing expenses and the preexisting CalHFA mortgage payment.
- Properties in Rent Control areas are subject to further legal review which may prohibit CalHFA from allowing the property to be temporarily rented due to a potential material impact on the value or marketability of the property.

Properties found to be tenant-occupied without CalHFA's prior approval must immediately meet these criteria. If the servicer determines that a CalHFA-financed property is rented or leased without permission from CalHFA the following must occur:

- a. CalHFA servicer notifies Borrower of CalHFA's Rental Policy.
- b. Servicer forwards requested documents to CalHFA Portfolio Management following the process described above.
- c. If a. and b. can not be resolved, the servicer is to follow procedures as detailed in CalHFA's Servicer's Guide.

Permission to rent shall be granted at CalHFA's sole discretion. CalHFA may re-evaluate this entire policy and procedures from time-to-time and may modify or rescind the policy in whole or in part. The Borrower shall have the right to appeal the decisions of the staff to the CalHFA Executive Director.

For questions about this bulletin, contact CalHFA Portfolio Management Unit by phone 916.326.8678; by email at PortfolioManagement@calhfa.ca.gov or visit CalHFA's web site www.calhfa.ca.gov for additional information.

Attachments:

- Consent to Rent Agreement
- CalHFA Lease Rider
- Borrower Financial Information

CONSENT TO RENT AGREEMENT

This Consent to Rent Agreement (“Agreement”) is made by and between _____ is/are all of the borrowers (collectively “Borrower”) and the California Housing Finance Agency (“CalHFA”) in regard to a home loan made to Borrower by _____, and subsequently assigned to CalHFA. The home loan is CalHFA number _____ (the “Loan”).

1. Representations, Warranties and Acknowledgements.

Borrower hereby makes all of the following representations, warranties and acknowledgements:

- a. The address of the residence financed with the proceeds of the Loan is located in the State of California, County of _____, at _____ (“Residence”).
- b. Borrower acknowledges that Loan is financed with the proceeds of tax exempt housing bonds, and is subject to federal rules relating to the use of such bond proceeds, including rules relating to first time homebuyers. The terms of the Loan require the Borrower to occupy the Residence as their principal place of residence.
- c. Borrower occupied the Residence as Borrower’s principal place of residence for at least the first year after Borrower closed escrow on the home.
- d. Borrower acknowledges that converting a primary residence to a rental property may have tax implications. Borrower should address any concerns about tax implications to his/her Tax Professional.
- e. When Borrower purchased the Residence, Borrower did so with the intent to use the Residence as Borrower’s principal residence, and not as an investment property or as a means of receiving any income from the Residence.
- f. Borrower intends to re-occupy, sell, or refinance the Residence when feasible. For the purpose of this policy, the term “feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, social, and physical factors.
- g. Nothing in this Agreement relieves Borrower from paying on the Loan as agreed, and complying with all terms and conditions of the Loan, except as expressly provided in this Agreement.
- h. Borrower shall inform homeowner’s insurance policy carrier that property is now tenant-occupied. Borrower shall continue to maintain appropriate insurance coverage as required by the Deed of Trust.

2. Conditional Consent of CalHFA to Rent. Borrower has requested that CalHFA permit Borrower to rent the Residence to tenants. In considering Borrower's request, and granting its consent, CalHFA has relied on each of the representations, warranties and acknowledgements above, as well as all of Borrower's covenants in this Agreement, and the additional supporting documents required by the rental policy. CalHFA hereby grants its consent to Borrower to rent the Residence, subject to each of the terms of conditions contained in this Agreement. In the event that Borrower breaches the terms of this Agreement, the consent of CalHFA to permit Borrower's renting of the Residence shall be deemed withdrawn, and CalHFA may enforce all of the terms and conditions of the Loan as originally made. Borrower acknowledges that CalHFA is forbearing from enforcing, and not waiving, any of its rights under the Promissory Note and Deed of Trust.

3. Terms of Permitted Lease. CalHFA's consent to Borrower's renting of the Residence is further conditioned upon the lease or rental agreement meeting all of the following requirements:

a. The lease or rental agreement with a tenant must have the CalHFA Lease Rider, Attachment A hereto, fully signed by Borrower and all tenants of the Residence, and be attached to the lease or rental agreement.

b. Within five (5) days after entering into the lease or rental agreement, Borrower shall send CalHFA a fully signed copy of the lease or rental agreement, with the signed CalHFA Lease Rider attached, at the following address:

California Housing Finance Agency
Attn: Portfolio Management; MS 320
P.O Box 4034
Sacramento CA 95812-4034

c. The terms and conditions of this Agreement shall be fully disclosed to any tenant by providing a copy of this Agreement to all such tenants prior to the tenant's signing the lease or rental agreement.

d. The CalHFA Lease Rider uses the term "Landlord." For purposes of this Agreement and the Lease Rider, the terms Borrower and Landlord are synonymous.

4. Assignment of Rents. As additional security for the performance of Borrower's obligations under the Loan, including the obligation to make loan payments, Borrower grants CalHFA a security interest in all rents and profits and other proceeds derived from the Residence. Borrower hereby absolutely, unconditionally and irrevocably assigns to CalHFA all rents, royalties, issues, accounts and profits of or relating to the Residence and all interests under all leases, subleases, rental agreements

and other contracts and occupancy agreements relating to use and possession of the Residence. Notwithstanding the above, CalHFA confers upon the Borrower a license to collect and retain the rents, issues and profits of the Residence as they become due and payable. Upon the occurrence of any breach of this agreement or Borrower's underlying agreements with CalHFA, this license shall be automatically revoked and CalHFA may receive and collect all such rents and profits and other proceeds.

5. Commencement of Consent. CalHFA's consent to rent is granted upon execution of this Agreement by the Borrower and CalHFA. The twelve (12) month rental period between the Borrower/Landlord and Tenant commences upon the execution of a rental agreement between the Borrower/Landlord and Tenant.

6. Termination of Consent. If Borrower rents the Residence in accordance with this Agreement, the consent to rent shall expire on the earliest of: 1) twelve (12) months from the date specified in Paragraph five (5) of this Agreement; 2) the early termination of the lease or rental agreement; 3) if property has not been rented within twelve (12) months of execution of this Agreement, CalHFA's consent is rescinded; or 4) termination of the consent as provided in this Agreement.

<p>Date: _____ 20 __</p> <p>Date: _____ 20 __</p>	<p style="text-align: center;">Borrower</p> <p>_____</p> <p>Name: _____</p> <p>_____</p> <p>Name: _____</p>
<p>Date: _____ 20 __</p>	<p style="text-align: center;">California Housing Finance Agency</p> <p>By: _____</p> <p>Name: _____</p> <p>Its: _____</p>

Attachment A

CALHFA LEASE RIDER

This CalHFA Lease Rider (“Lease Rider”) shall be attached to any lease or rental agreement between _____, anyone with an ownership interest in the property (“Landlord”) of the residence located at _____, California (the “Property”), and _____ (“Tenants”), and shall become part of the lease or rental agreement. The terms and conditions of the Rider shall supersede and override any terms or conditions of the lease or rental agreement that are inconsistent with the terms of this Rider.

1. Requirement of Rider

Landlord has financed the purchase of the Property with a loan (“Loan”) held by the California Housing Finance Agency (“CalHFA”). The Loan was financed with the proceeds of tax exempt housing bonds for the benefit of first time homebuyers, and is subject to all federal rules and requirements related to the use of such tax exempt bond proceeds. The terms of the Loan prohibit Landlord from renting the Property to tenants. Landlord has requested that CalHFA grant permission to Landlord to rent the Property to Tenants. CalHFA and Landlord have entered in to a Consent to Rent Agreement (“Borrower Agreement”), a copy of which has been provided by Landlord to Tenant. The Borrower Agreement contains the terms and conditions upon which Landlord is given permission to rent the Property to Tenant, and further requires that Landlord and Tenant sign this Lease Rider. CalHFA does not grant permission to rent the Property unless this Lease Rider is signed. If permission to rent is not granted by CalHFA, Tenant’s rights to occupy the Property may be affected or terminated, as provided in Section 3, below.

2. Lease Terms

Notwithstanding any inconsistent provision in the lease or rental agreement between Landlord and Tenant concerning the Property, Landlord and Tenant agree that all of the following terms, for the benefit of CalHFA, shall be applicable:

- a. The term of the lease or rental agreement may not exceed 12 months from _____, 20__.
- b. The term of the lease or rental agreement may be terminated early by CalHFA upon foreclosure to the extent permitted by applicable law, including the Protecting Tenants At Foreclosure Act, as described in Section 3, below.
- c. The consent to rent the Property may be terminated upon a breach of the Borrower Agreement.

d. The Borrower Agreement contains an assignment of rents as additional security to CalHFA for the Loan. In the event that Landlord defaults on any provision of the Loan, upon written notice to Tenant by CalHFA, Tenant will make rental payments directly to CalHFA in accordance with the terms of the notice, and to the extent so made, shall be in satisfaction of Tenant's obligations to pay rent under the lease or rental agreement.

3. Protecting Tenants At Foreclosure Act

Federal law currently provides certain protections for Tenants when their landlord loses the rental property upon foreclosure, to the extent that the Landlord's loan is covered by that law. Those protections include certain notice provisions, as well as provisions that may require the lender to recognize the tenancy and not evict the Tenant. The law is entitled the "Protecting Tenants At Foreclosure Act of 2009" ("Act") However, the Act also contains certain exclusions and exceptions. One of the purposes of this Lease Rider is to insure that the Tenant understands that the lease or rental agreement is subject to those exclusions and exceptions provided by federal law. Tenant acknowledges the following:

a. The Act applies only to the extent that its terms legally apply to the Loan made to Landlord, or to the tenancy created between Landlord and Tenant.

b. The Act applies only to "bona fide leases or tenancies" entered into prior to the notice of foreclosure, as those are defined in the Act. Certain leases or rental agreements (i) which are between family members; or (ii) which are not "arm's length" transactions; or (iii) which contain rent terms which are substantially below fair market value; or (iv) which are subsidized due to a state, federal or local subsidy are not considered "bona fide leases or tenancies." The Act may not be applicable in the event the lease or rental agreement is determined not to be a bona fide lease or tenancy.

c. The Act applies only if the Loan is determined to be a "federally related mortgage loan". The Act may not apply in the event that the Loan for the Property is determined not to be such a federally related mortgage loan.

d. In the event that the Act does apply to the Loan or the tenancy, there are circumstances in which the tenancy may be terminated early after a foreclosure by a lender. The Act provides that the Tenant's lease or rental agreement may be terminated early in the event that a foreclosing lender sells their interest in the property to a purchaser who will occupy the property as their primary residence. A month to month rental agreement may also be terminated under the Act by giving the legally required notice.

4. Other Provisions

a. This Lease Rider is not intended to constitute legal advice, but is simply a disclosure to Tenant that the terms of the lease or rental agreement may be terminated

upon foreclosure in certain circumstances, and further reflects the agreement by Tenant that the lease or rental agreement is subject to such permitted termination. In the event that Tenant wants advice or additional information, Tenant should consult Tenant's legal adviser.

b. CalHFA shall be a third party beneficiary of this Lease Rider between Landlord and Tenant. A copy of the fully signed lease or rental agreement, as well this fully signed Lease Rider, must be provided to CalHFA at the following address:

California Housing Finance Agency
Attn: Portfolio Management; MS 320
P.O. Box 4034
Sacramento, CA 95812-4034

Dated: _____
_____ Landlord

Dated: _____
_____ Tenant

Dated: _____
_____ Tenant

BORROWER FINANCIAL INFORMATION

LOAN # _____ **email address:** _____

BORROWER			CO-BORROWER		
BORROWER'S NAME		DATE OF BIRTH	CO-BORROWER'S NAME		DATE OF BIRTH
SOCIAL SECURITY #	HOME PHONE #	WORK PHONE #	SOCIAL SECURITY #	HOME PHONE #	WORK PHONE #
MAILING ADDRESS			PROPERTY ADDRESS		
Do you occupy the property? <input type="checkbox"/> Yes <input type="checkbox"/> No		Is it a rental? <input type="checkbox"/> Yes <input type="checkbox"/> No	If so, what is monthly rental income?		
Is the property listed for sale? <input type="checkbox"/> Yes <input type="checkbox"/> No			Agents Name:		
If so, with whom:			Agent's Phone:		
Have you contacted your credit counseling services for help? <input type="checkbox"/> Yes <input type="checkbox"/> No			Counseling Representative:		
			Counseling Rep's Phone:		
Do you pay Real Estate Taxes? (outside of mortgage payments) <input type="checkbox"/> Yes <input type="checkbox"/> No			Are the taxes current? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Have you filed bankruptcy? <input type="checkbox"/> Yes <input type="checkbox"/> No		Filing Date:	Attorney's Name:		Are there other liens on the property? <input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 13			Attorney's Phone:		

EMPLOYMENT

EMPLOYER: BORROWER	HOW LONG?	EMPLOYER: CO-BORROWER	HOW LONG?
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Monthly Income - Borrower		Monthly Income Co-Borrower	
Wages	\$	Wages	\$
Unemployment Income	\$	Unemployment Income	\$
Child Support / Alimony	\$	Child Support / Alimony	\$
Disability Income	\$	Disability Income	\$
Rents Received	\$	Rents Received	\$
Other (Please Specify)	\$	Other (Please specify)	\$
Less Federal and State Tax, FICA	\$	Less Federal and State Tax, FICA	\$
Less Other Deductions (401K, etc.)	\$	Less Other Deductions (401K, etc.)	\$
Total	\$	Total	\$

Monthly Expenses		Assets	
Other Mortgages / Liens	\$	Type	
HOA Dues (If any)	\$	Home	
Auto Loan(s)	\$	Other Real Estate	#
Auto Expenses / Insurance	\$	Checking Account(s)	
Credit Cards / Installment Loan(s)	\$	Savings	
Health Insurance	\$	Money Market	
Medical	\$	Cars	#
Child Care / Support / Alimony	\$	IRA / Keogh Accounts	
Food / Spending Money	\$	401K /ESPO Accounts	
Water / Sewer / Utilities / Phone	\$	Stocks / Bonds / CDs	
Other (Please Specify)	\$	Other (Please specify)	
Total	\$	Total	\$

* Please briefly explain your hardship or reason for being delinquent: _____

"I agree as follows: My lender may discuss, obtain and share information about my mortgage and personal financial situation with third parties such as purchasers, real estate brokers, insurers, financial institutions, creditors and credit bureaus. Discussions and negotiations of a possible foreclosure alternative will not constitute a waiver of or a defense to my lender's right to commence or continue any foreclosure or other collection action, and an alternative to foreclosure will be provided only if an agreement has been approved in writing by my lender. The information herein is an accurate statement of my financial status."

Submitted this _____ day of _____

By _____ Date _____
 Signature of Borrower

By _____ Date _____
 Signature of Borrower

Before mailing, make sure you have signed and dated the form and attach a copy of your most recent paystubs and bank statement(s) of your checking and/or savings account to it.