



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-8000

OFFICE OF HOUSING

NOV 7 2005

Mr. Wendell Chambliss  
Associate General Counsel  
Legislative and Regulatory Affairs  
Freddie Mac  
8200 Jones Branch Drive, MS 211  
McLean, VA 22102-3110

Dear Mr. Chambliss:

The Department recently completed a review of its counting rules as these relate to seniors housing units, including independent living, assisted living, and skilled nursing units. By letter to Freddie Mac dated September 23, 2005, the Department provided counting rule guidance on continuum of care residence communities (CCRCs) that offer independent living and assisted living units and include skilled nursing units as a component. By this letter, the Department is providing guidance related to skilled nursing units.

At the Department's request, Freddie Mac previously provided the Department<sup>1</sup> with its underwriting guidelines for financing senior CCRCs that include skilled nursing units as a component. Freddie Mac stated that its underwriting requirements "prohibit the purchase of mortgages on properties that receive more than 25 percent of operating income from such beds, or which include more than 25 percent skilled nursing units (the percentage can be increased to 30 in certain circumstances for experienced owner/operators)." Freddie Mac also expressed its belief that skilled nursing beds in CCRCs should be counted toward the housing goals.

The Department has evaluated the information previously provided by Freddie Mac and has concluded that skilled nursing units principally provide health care services to seniors, and as such, occupancy costs are usually paid or reimbursed by health care insurance. In these regards they differ from dwelling units, including independent living units and assisted living units, which are paid by monthly rent and where varying levels of assistance are provided to residents. Skilled nursing units, however, offer important support for senior residents in CCRCs. Accordingly, the Department has determined that some limited financing of CCRCs that include skilled nursing units is consistent with the Freddie Mac Act provided that the skilled nursing units are used for the benefit of senior residents in CCRCs and are minimal in the context of any CCRC that Freddie Mac will finance.

The Department has determined that, in order to be considered minimal in the context of a CCRC, the skilled nursing units may not generate more than 20 percent of the income derived from the whole CCRC project. Moreover, the project must maintain a minimum vacancy rate of 15 percent for skilled nursing units, and skilled nursing units may not be financed separately from a CCRC.

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<sup>1</sup> Letter dated November 13, 2003, from Danna Fischer, Director, Government Relations, Freddie Mac

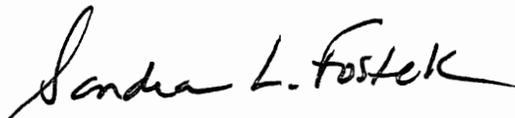
The underwriting guidelines for skilled nursing units as a component of CCRC projects that Freddie Mac described in its November 13, 2003, letter to HUD are not consistent with these limitations.

If the guidelines regarding CCRCs described in Freddie Mac's letter of November 13, 2003, have not been revised since that time to include all of the limitations described in the previous paragraph, then Freddie Mac must formally revise its guidelines to impose a 20 percent limitation on income derived from skilled nursing units as well as a 15 percent vacancy rate. Otherwise, Freddie Mac must submit any senior CCRC program that it finances or intends to finance that includes skilled nursing units as a component for the Department's new program review and approval pursuant to section 1322 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (FHEFSSA) codified at 12 U.S.C. 4501 *et seq.* and HUD's regulations at 24 CFR Part 81, Subpart D. The Department requests that Freddie Mac respond to this letter by providing either new underwriting guidelines for financing senior CCRCs that include skilled nursing units which comply with all of the limitations set forth in the previous paragraph or by requesting new program review and approval for any CCRCs that Freddie Mac is financing or intends to finance that do not meet such limitations. Freddie Mac's response is due no later than December 5, 2005.

With regard to counting skilled nursing units towards the housing goals, the Department has determined that skilled nursing units are not eligible for housing goals credit because they are not dwelling units. As previously described, skilled nursing units differ substantially from other types of housing units in that they are intended to be used for medical purposes, and housing is incidental to those purposes. In fact, skilled nursing units are more similar to hospital rooms because they provide medical care, which is usually constant and extensive, and is paid or reimbursed in large part by health insurance. For these reasons, skilled nursing units do not constitute dwelling units as defined in 24 CFR § 81.2 and may not be counted towards any of the housing goals under HUD's regulations, including 24 CFR § 81.15.

Please call me if you have any questions about the Department's determinations regarding skilled nursing units.

Sincerely,

A handwritten signature in black ink that reads "Sandra L. Fostek". The signature is written in a cursive style with a large, sweeping initial 'S'.

Sandra L. Fostek  
Director  
Office of Government Sponsored  
Enterprises Oversight