

Virginia Housing Ground Lease Policy February, 2026

Please note that meeting the requirements below does not guarantee that Virginia Housing will finance or issue a leasehold mortgage to any particular project. Leasehold mortgage lending carries heightened risk, which can only be fully evaluated within the context of each deal. Accordingly, Virginia Housing may impose additional requirements, and the information provided below should be viewed merely as threshold requirements that must be met for a leasehold mortgage proposal to merit serious consideration by the rental housing lending team. Such consideration is only a part of Virginia Housing's comprehensive underwriting process.

Leasehold Mortgage Requirements

A. Generally:

- (1) To comply with statutory requirements, all ground leases must have a term that is at least twice the length of the term of Virginia Housing's mortgage loan.
- (2) If a leasehold mortgage will be secured by a leasehold interest in a condominium, the condominium must be formed before the ground lease becomes effective (i.e., Virginia Housing will not accept as collateral a single leasehold estate that has been "condoed" into multiple tax parcels—each parcel serving as collateral must be subject to its own ground lease).
- (3) Virginia Housing will not lend against an unsubordinated ground lease unless both:
 - a. the lessor (landlord) is a local government or an agency, authority, or instrumentality thereof, or a wholly owned subsidiary of any of the foregoing; and
 - b. Virginia Housing determines that the locality has made a substantial financial contribution to the project (e.g., funding, financing, below market ground lease rent) commensurate with any additional lending risks Virginia Housing believes the lease structure may present.
- (4) All ground leases must be reviewed and approved by Virginia Housing from both an underwriting perspective (including, but not limited to, a determination of the expected net proceeds from selling the collateral) and a legal perspective. Virginia Housing maintains a form ground lease that meets its standard legal ground lease requirements, and while parties are not strictly required to use this form, note that those who do use it without material modification should expect to eliminate possible delays associated with the legal aspect of review.

B. The following apply to subordinated ground Leases:

- (1) A ground lease is considered 'subordinated' when the lessor joins the deed of trust securing Virginia Housing's mortgage loan for the purpose of pledging the lessor's fee simple ownership interest in the property in the event of a Mortgagor default under the loan.
- (2) Lessors under subordinated ground leases may be either private parties or governmental entities.

- (3) If the lessor under the subordinated ground lease is a private (non-governmental) organization, please specifically note:
- a. Rent charged under the lease may not exceed the fair market value of the property, as determined by Virginia Housing.
 - b. If any part of the development will be utilized by the lessor, the lessor must pay the development fair market value for that use, as determined by Virginia Housing.
 - c. After entering into a ground lease, the lessor will not have the right to govern, control, or regulate the use of the land except as expressly stated within the lease.
 - d. Housing units in the development must be made available to the general public, and occupancy within the development may not be conditioned upon membership in, support of, or subscription to the beliefs of the lessor or any affiliated organization.

C. The following apply to unsubordinated ground leases:

- (1) Leasehold mortgages may not be secured by a sublease of a ground lease.
- (2) Any base rent for the premises, for the entire term of the lease, must be due and payable in full upon commencement of the lease (i.e., on or before closing of Virginia Housing's mortgage loan) or any obligation to pay any base rent must terminate in the event Virginia Housing initiates a foreclosure upon the leasehold mortgage (which literally means the purchaser of the property at the foreclosure / trustee's sale will purchase the leasehold interest free and clear of any obligation to pay any base rent). Base rent does not include payments for applicable taxes, utilities, betterment assessments, insurance, maintenance, repairs, or similar costs/expenses.
- (3) The lease may contain provisions imposing income and rent restrictions upon the development, provided that such restrictions terminate in the event Virginia Housing, as first lien holder, is the successful bidder at foreclosure and becomes the successor in interest. Subject to underwriting, Virginia Housing may permit inclusion of language imposing income and rent set-asides that survive foreclosure with respect to twenty percent (20%) or fewer of the units within development, provided that such set-asides target families and individuals with incomes of 60% Area Median Income or higher, adjusted for family size, and that remaining affordability restrictions terminate upon foreclosure. Parties seeking to include such restrictions should incorporate one of the following example provisions:
 - "If Virginia Housing Development Authority ("Virginia Housing"), as lienholder, is the successful bidder at foreclosure, the Affordability Requirements shall terminate."
 - "If Virginia Housing Development Authority ("Virginia Housing"), as lienholder, is the successful bidder at foreclosure, the Affordability Requirements shall terminate except with respect to [insert percentage from 1% - 20%] of the dwelling units in the development, which shall remain restricted at [insert AMI

from 60% - 150%] of the Area Median Income, adjusted for family size, ("AMI") following such foreclosure."

- "If Virginia Housing Development Authority ("Virginia Housing"), as lienholder, is the successful bidder at foreclosure, the Affordability Requirements shall terminate except with respect to [insert percentage from 1% - 20%] of the dwelling units in the development, which shall remain restricted at [insert AMI from 60% - 150%] of the Area Median Income, adjusted for family size, ("AMI") following such foreclosure. Virginia Housing [may/will/shall] work with the [locality/governmental entity] to amend this proffer to reinstate Affordability Requirements or impose additional affordability requirements, provided that Virginia Housing projects that the development will achieve a targeted Debt Service Coverage Ratio of at least the greater of 1.25 or Virginia Housing's standard programmatic lending requirements as of the date of foreclosure, while subject to such additional affordability requirements. This determination to reinstate or add affordability requirements will be made by Virginia Housing in its sole discretion."
- (4) With the possible exception of income and rent set-asides as described above, any covenants of the lessee as to use and operation of the development should be limited to covenants (a) to keep the improvements fully insured, (b) to pay real estate taxes, and (c) to construct or rehabilitate (as applicable), maintain, repair, and improve the property in accordance with local housing codes.
 - (5) The lease must contain Virginia Housing's standard lease provisions, including but not limited to those which relate to notice and cure rights, condemnation and casualty loss, and prohibition on voluntary lease termination and lease modifications without lender consent.
 - (6) Virginia Housing will not issue a mortgage loan commitment for a deal until the lease has been fully reviewed and approved by Virginia Housing's outside legal counsel. Virginia Housing may require the applicant to reimburse it for the costs associated with such review.
 - (7) Ground leases in which the landlord and tenant share an identity of interest present heightened lending risk; accordingly, any applicant contemplating such an ownership structure is strongly encouraged to engage with Virginia Housing early to determine the extent to which such risk factors may impact underwriting for that particular deal.