

**Requirements for Assumption  
of Mortgage Loans**

**Preliminary Matters:**

The loan documents generally have a due-on-sale clause, therefore the lender has the right, in its sole discretion, to approve any prospective purchasing entity for a loan assumption. Therefore, please submit the following to enable the lender to evaluate the request for a loan assumption:

1. with respect to any entity assuming the loan **and** its key individual(s) or entities:
  - the most recent financial statement(s)
  - a resume or other background information regarding history and experience of the purchaser or its principals or development firm
  - current credit reports
  - previous year's tax returns
  - Borrower Questionnaire (complete one for each assuming entity) (See Forms)
  - Borrower/Principal Certification (complete one for each assuming individual or entity) (See Forms)
  - IRS Form W-9 for each assuming individual or entity
  
2. with respect to the property:
  - a copy of the contract of sale and purchase
  - a current rent roll
  - the most recent operating statement
  - a disclosure of any known or suspected problems or concerns with the property or any tenancies or leases

**The Assumption Process:**

If approved by the lender, the assumption of the loan will require the following documentation:

1. **Legal Documentation** [to be drafted by lender's counsel after approval of purchaser]:
  - Entity/organizational and good standing documentation for the purchasing entity
  - Assumption Agreement [drafted by lender after receipt of entity documentation]
  - Environmental Indemnification to be executed by the new borrower and its principals
  - Nonrecourse carveout guaranty (if applicable)
  - UCC Financing Statements for the Purchaser
  - Downdate Endorsement to the lender's title policy reflecting no adverse intervening liens and reflecting the purchaser as owner of the property.
  - Legal opinion of purchaser's counsel regarding due organization, authority, execution and enforceability of the above documents

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### **2. Other required documentation:**

- an acceptable property/liability insurance policy, together with evidence of payment of the first year's premium, or an endorsement to the existing policy naming the purchaser as the insured and naming lender as mortgagee
- a copy of any management agreement that the Purchaser executes and, if applicable, a subordination of management/leasing fees to the mortgage
- Furnish the name, address, and phone number of the individual(s) responsible for paying debt service on the loan, taxes and insurance of the project and for handling tenant complaints
- anchor tenant estoppel letters showing the anchor leases in full force and effect (may be required under some circumstances)
- other documentation required by the circumstances (e.g. evidence that any first right of refusal by a tenant has lapsed or been waived)

### **Fees:**

The standard assumption fee is one percent (1%) of the outstanding principal balance of the loan, unless the loan documents provide otherwise.

### **Release from liability:**

The approval of a purchaser and the release of the seller and any indemnitors are separate issues. The seller and any environmental indemnitors are **not** released with respect to conditions first occurring prior to the transfer of the property.

### **Assuming Entity and Principals' Identity/USA Patriot Act & OFAC:**

As a condition to the assumption of the loan, we must receive and approve our Borrower/Principal Certification form, completed and executed by the assuming entity, its principals and any guarantors of the loan, together with all other information and documentation concerning the identity of the assuming entity, its direct or indirect owners, the principals, any guarantors and all persons or entities related to the foregoing as we may require in connection with our compliance with the USA Patriot Act of 2001, the laws administered by the U.S. Treasury Department's Office of Foreign Assets Control or any similar or related law, rule or regulation.

## **IMPORTANT INFORMATION ABOUT PROCEDURES FOR OBTAINING OR ASSUMING A LOAN**

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who obtains or assumes a loan.

What this means for you: When you apply to assume a loan, we will ask you for your name, address, taxpayer identification numbers and other information that will allow us to identify you. We may also ask to see identifying documents.