



Montana Board of Housing (Montana Housing)

**TERMS AND CONDITIONS OF THE
COMMUNITY LAND TRUST PROGRAM**

(3/21/19)

PURPOSE

The purpose of the Montana Housing Community Land Trust Mortgage Program (CLT) is to provide purchase money loans secured by a leasehold estate on property owned by a Community Land Trust. Community land trusts are created to preserve long-term affordable housing by building or purchasing homes in their communities, then leasing the land using a long-term ground lease to low- and moderate-income families at affordable monthly ground rents. By removing the cost of land associated with a home purchase, borrowers can purchase homes they can afford in high cost areas. Eligible community land trusts must be nonprofit organizations or public entities, such as state or local governments, counties, school districts, universities or colleges.

- 1.) Each Montana Housing loan shall be made at 80% LTV or less and be in first lien position in order to qualify for the Non-Insured option offered by Montana Housing. Loans made with an LTV higher than 80% or where the borrower does not qualify for approval in DU, may still be purchased by Montana Housing, but must be insured or guaranteed by FHA, VA, RD or HUD 184.
- 2.) Applications for the Non-Insured option require approval in DU. **Montana Housing will NOT accept “Refer with Caution” findings.** When using DU, the lender must enter “Affordable LTV” in the Product Description field in the Additional Data section on the online loan application, which will result in DU calculating the LTV ratio based solely on the appraised value for purchase transactions (and not the lesser of the sales price or appraised value).
- 3.) Families using the Non-Insured option are required to contribute \$1,000 from their own funds. **(cannot be gift funds). No cash back is allowed at closing.**
- 4.) The fixed rate of interest on the Mortgage Loans shall be the same as the Regular Bond Program unless special setaside rates have been established. All rates can be found on the Current Rates page on the Montana Housing website.
- 5.) All borrowers must complete homebuyer education and consent to early default counseling. Montana Housing partners with NeighborWorks Montana and a network of non-profit, governmental and private sector agencies that specialize in first-time homebuyer services and loan products. Classes can be found on the NeighborWorks website: <https://www.nwmt.org/homeownership/>
- 6.) Reservations for mortgage funds are on a first-come, first-serve basis. A lender desiring to reserve rate must submit the reservation electronically using the Lender-On-Line portal. In addition to this submission, the following documents* must be uploaded (1) the Borrower Stat Sheet; (2) Homebuyer education certificate (3) Letter from the CLT confirming the eligibility of the mortgagors for the program (4) a copy of the title commitment for the purchase, and (5) a copy of the proposed new Lease (the lease must be based upon either the National Community Land Trust Network (NCLTN) 2011 CLT Network Model Ground Lease or the Institute for Community Economics (ICE) Model Ground Lease and the term of the lease cannot exceed 75 years).

*Rate can be reserved without additional documents; however, actual funds commitment won't occur until these documents are received.

- 7.) All properties must be appraised according to Fannie Mae Community Land Trust Appraisal Requirements by an appraiser who is knowledgeable and experienced in the appraisal techniques, namely the direct capitalization and the market derivation of capitalization rates that are necessary to appraise a property subject to a leasehold estate held by a community land trust.
- 8.) The residence to be financed shall be occupied as the mortgagor's principal residence, with no more than 15% of the total area of the residence to be used in trade or business.
- 9.) The acquisition cost of a residence being financed by a mortgage loan (including the cost of completing the residence and unpaid SID assessments) must not exceed the Purchase Price Limits found on the Montana Housing website at:

<https://housing.mt.gov/Homeownership/Homebuyers/Current-Rates,-Income-and-Purchase-Price-Limits>

- 10.) Maximum household income limits for targeted and non-targeted areas have been established by the Board. Maximum income limits vary by county and can be found on the Montana Housing website at:

<https://housing.mt.gov/Homeownership/Homebuyers/Current-Rates,-Income-and-Purchase-Price-Limits>

For purposes of applying the federal income requirements, the "Actual Gross Annual Income" of a mortgagor is the mortgagor's annualized gross income. Annualized gross income includes any and all income of the mortgagors and any other person who is expected to live in the financed Residence and is 18 or more years of age. An Income Determination Guide can be found at:

https://housing.mt.gov/_shared/Homeownership/docs/IncomeDeterDef.pdf

- 11.) The Homebuyer must be a first-time homebuyer, defined as someone who has not owned a home within the previous 3 years. The 3-year prior homeownership requirement is not applicable in designated Targeted Areas or for qualified veterans as defined in the U.S. tax code.
- 12.) Refinancing of an existing Mortgage Loan is not eligible for purchase by Montana Housing. Refinancing of a construction period loan or other interim financing which has a term of 24 months or less is not considered refinancing of an existing mortgage loan.
- 13.) IRS Recapture tax provisions will apply.
- 14.) Assumptions of non-insured loans are not permitted.
- 15.) Non-occupying co-borrower not permitted.
- 16.) Servicing of Community Land Trust loans will be the same as the MBOH/Lender agreement on Regular Board Program.
- 17.) The leasehold estate created by the community land trust ground lease must constitute real property under applicable law. In all respects, the ground lease must be valid, enforceable, and in full force and effect. Lenders must ensure that any mortgage secured by a community land trust property and delivered to Montana Housing is supported by the appropriate leasehold interest documents, including the community land trust ground lease and the MBOH Community Land Trust Ground Lease Rider. The MBOH Community Land Trust Rider must be executed by the borrower and recorded along with the ground lease. This form removes resale restrictions as well as any other restrictions that may be included in the ground lease that could affect the value of the property from the community land trust's ground lease.

18.) Title Insurance Requirements:

The lender's title insurance policy or an endorsement to the policy must expressly confirm

- the recording of the complete community land trust ground lease or ground lease memorandum;
- the recording of the Permitted Mortgage Agreement (if a ground lease memorandum is used) and the MBOH Community Land Trust Rider, attached to the lease or memorandum;
- the community land trust mortgage loan is a first lien on the leasehold estate and the improvements;
- there are no existing mortgage loans or other liens on the fee estate, except as may be permitted under the MBOH Community Land Trust Rider;
- the ground lessor's reversionary interest is subordinate to the community land trust mortgage;
- there are no related community land trust ground lease occupancy and resale restrictions, covenants, or agreements that "run with the land," and that have been recorded apart from the ground lease, except as may be permitted under MBOH Community Land Trust Rider.

19.) Mortgage Loan will be submitted for purchase by lender utilizing Lender Online and following a submission voucher unique to the CLT program which is available on Lender Online.

OTHER PROVISIONS Except as outlined above, all terms, conditions, definitions and program criteria applicable to the set out in the Mortgage Purchase and Servicing Agreement https://housing.mt.gov/_shared/Homeownership/docs/PurchaseServicingGuide.pdf and the Current Terms and Conditions of the Homeownership Program https://housing.mt.gov/_shared/Homeownership/docs/RegProgTermAndConditions.pdf will apply to loans originated under the Community Land Trust Program.