

**Application for Transfer of
Physical Assets
Section 232**

**U.S. Department of Housing
and Urban Development
Office of Residential
Care Facilities**

OMB Approval No. 9999-9999
(exp. mm/dd/yyyy)

Public reporting burden for this collection of information is estimated to average 1 hour. This includes the time for collecting, reviewing, and reporting the data. The information is being collected to obtain the supportive documentation that must be submitted to HUD for approval, and is necessary to ensure that viable projects are developed and maintained. The Department will use this information to determine if properties meet HUD requirements with respect to development, operation and/or asset management, as well as ensuring the continued marketability of the properties. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Warning: Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions.

Project Number:		Date (mm/dd/yyyy):
Project Name:	Seller:	
Project Purchaser (includes form of ownership, e.g., individual, partnership, corporation, trust):		
Mortgagee of Record (name and address):		Servicing Agent (name and address):
Mortgage Recorded:	State:	County:
Date (mm/dd/yyyy):	Book:	Page:

To the Secretary, Department of Housing and Urban Development (HUD):

The above-named seller and the project purchaser submit herewith the required fee of \$ _____ and apply to HUD for permission to transfer the project from the borrower to purchaser and, in support of said request represent to the Secretary as follows:

1. All real and personal property of the seller will be conveyed to the purchaser.
2. After the transfer, purchase will own said real and personal property free and clear of all liens, encumbrances, or project obligations except the insured security instrument and those expressly approved by you in writing as to form, content, terms, and amount.

In further support of this request, the documents enumerated in the instructions on this form are attached for preliminary approval. It is understood and agreed that within 45 working days of the issuance of preliminary approval the final approval documents enumerated in the instructions on this form will, with

such changes as you may require and no others, be delivered to you. Unless said documentation is delivered to HUD within the specified time (45 working days) or unless further time for completing the transaction is granted in writing by you, the application for approval of the transfer will be denied and any interest already conveyed in the property shall be reconveyed to the above-named borrower. It is understood and agreed that within 45 working days of the issuance of written authorization to record the documentation previously submitted in connection with this transfer, such documentation will be recorded and the original and copies of the documentation will be returned to you as appropriate. In addition, all of the attachments listed here as required for final approval, some of which have not been submitted previously, must be submitted to you within the same 45 working day period. It is understood that unless appropriate documentation is recorded and returned to you within the prescribed time or unless further time for completing the transaction is granted in writing by you, final approval of the application to transfer the property will be denied and all property transferred will be reconveyed to the borrower.

Lender's Statement: If the above transfer is approved by the HUD Secretary, the lender agrees to execute a Release and Assumption Agreement or a Security Instrument Modification Agreement incorporating the Regulatory Agreement in the security instrument. It is understood that the lender's consent to this transfer will in no way prejudice its rights under its contract of insurance with HUD. In the event the consent of the lender to the transfer is not evidenced by endorsement of this application, please provide the following information. Lender hereby certifies that the statements and representations contained in this Agreement and all supporting documentation thereto are true, accurate, and complete and that each signatory has read and understands the terms of this Agreement. This instrument has been made, presented, and delivered for the purpose of influencing an official action of HUD in insuring the Loan, and may be relied upon by HUD as a true statement of the facts contained therein.

Date Consent Requested (mm/dd/yyyy)::	Party to Whom Request Directed:
Reason for Refusal to Consent:	
By (name/title):	Lender:
Executed This Date (mm/dd/yyyy):	By (authorized signature):

Lender's Consent to the Creation of a Subordinate Lien Against the Project: Lender hereby consents to the creation of a subordinate lien(s) against the real property known as <<insert project number>>, <<insert project name here>> in connection with this transfer. Lender waives its right to assign the security instrument and claim insurance benefits by the reason of the creation of such lien(s).

Executed This Date (mm/dd/yyyy)::	Lender:	
By (name/title):	By (authorized signature):	
Seller:	Date (mm/dd/yyyy):	By (authorized signature):
Purchaser:	Date (mm/dd/yyyy):	By (authorized signature):

General Information

Use these instructions for overview and checklist purposes. The Submission Checklist-Transfer of Physical Assets (TPA) and/or Change in Lessee/Operator/Management Agent (HUD-92119-ORCF), provides complete instructions.

The Department of Housing and Urban Development (HUD) will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties (18 U.S.C. Sections 1001, 1010, 1012; 31 U.S.C. Sections 3729, 3802).

Use this form for transfers of properties encumbered by security instruments insured by HUD and for security instruments owned by the Secretary of HUD. It must be executed by the purchaser, the seller, and normally by the lender. It must be presented to the lender for execution. If the lender refuses, the reason must be given to HUD in writing. Copies of correspondence to or from the lender must be attached. If the security instrument has not been finally endorsed for insurance, the application will not be accepted without the lender's execution. **If the proposal to transfer involves the creation of a lien against the property, the lender must consent to the transfer.**

Avoid introducing amendments or deviating from the instructions unless absolutely necessary to make the transaction effective. Nonconforming documents and deficient information will delay the process.

When an Attorney's Opinion is required, do not use an attorney that has an identity of interest with either the purchaser or seller.

The final paragraph of this application must be signed by the lender in every instance where the transfer will result in the creation of a lien against the project.

HUD imposes a TPA fee of \$0.50 per \$1,000 of the original face amount of the security instrument to cover the cost of legal, administrative, and fiscal actions. Send the fee with the application.

Some transactions generally do not require a fee:

1. Substitution of individual general partners of a partnership/borrower; or
2. Assignment of 100% of the beneficial interest in a passive land trust that holds title to the project, if the assignment does not result in a change in the control of the project.

Some transactions involving multiple transfers may be subject to more than one TPA fee, such as transactions involving two transfers of title by deed. The ORCF Account Executive (after consulting with the Office of General Counsel) will make the determination.

If the Workload Manager determines that a transaction or series of transactions have been structured to avoid paying the TPA fee, the application will be rejected. New application(s) will not be accepted until the required fee(s) have been paid.

Preliminary Approval Process

HUD immediately gives the applicant a written acknowledgment of receipt and begins a completeness review. HUD shall determine if the application should be returned or if the missing pieces should be requested and processing delayed.

HUD then reviews other HUD reports to determine acceptability of transfer.

If the instruments are in order, HUD (with the Office of General Counsel's agreement) gives a written preliminary approval. If some changes are necessary, a conditional approval will be given that authorizes execution of documents not requiring changes.

Preliminary Approval

The preliminary approval binds the seller and purchaser to take any steps necessary to reconvey the property to the seller if the terms of the preliminary approval are not met within 45 working days, unless HUD gives a written extension. It also binds the seller and purchaser to meet all other conditions of the preliminary approval to include correcting any unsatisfactory matter revealed in the review of items received for final approval.

It requires that all Final Approval documentation must be recorded and submitted to HUD within this 45 working day period.

Required documents that are expected to accompany the application:

1. **TPA Application.** HUD- 92266-ORCF (this form).
2. **Consent by the Lender.**
3. **Application fee.** \$0.50 per \$1,000 of the original face amount.
4. **Purchaser's letter.** "Purchaser" is defined to include all general partners in a purchasing partnership, or any managing member of a limited liability company or any other individual or entity holding controlling interest in a partnership, limited liability company, or corporation, or any other form of ownership entity. The letter must:
 - Must be signed by an authorized principal of the purchasing entity and must describe in detail all financial consideration flowing to the project and the seller as a result of the transfer;
 - Detail all funds allocated to project operations as well as those funds designated for use in correcting the physical needs of the project;
 - State that if the project is HUD-insured the project security instrument is current or will be brought current as a result of the transfer approval;

All workout plans must comply with HUD workout policies in effect at the time the TPA application is

submitted for Preliminary Approval.

5. **Certificate of Previous Participation** (HUD-2530) for Purchaser, Lessee/Operator and Management Agent.

6. **Resumes of new principals.** If there has been no previous participation with HUD, resumes are required for each principal and should be in sufficient detail for HUD to understand the nature of their experience.

7. **Purchaser's principals personal financial and credit statements** (HUD-92417).

8. **Credit reports for new principals and parent entity.**

9. **Sources and uses of funds.** This shows all expected sources of funds and all expected uses of these funds. **All purchasers are required to include a sources and application of funds.**

10. **Pro forma balance sheet.** The pro forma balance sheet should show how the project accounts are expected to appear the day after the expected date of closing.

11. **Executed purchase and sale agreement.**

12. **Interim unaudited financial statements.**

13. **Lender's statement of escrow and reserve account.**

14. **Capital needs assessment.**

15. **Current state life safety inspection surveys** for facilities listed as owned, leased or managed that have open "G" level or higher citations outstanding should include any and all Plans of Correction. If facility has recently (within the last two years), resolved "G" or higher citations/deficiencies, include information detailing the resolution of these citations/deficiencies.

16. **Management Improvement and Operating (MIO) Plan** (if needed).

17. **Proposed management agent** (if applicable), including management entity profile, management certification, management agent resume, management agreement, and regulatory agreement, if applicable.

18. **Draft release, assumption and/or modification.**

19. **Draft Regulatory Agreement - Borrower, Riders.**

20. **Draft Regulatory Agreement(s) - Operator, Riders** (if applicable).

21. **Draft Secondary Financing Documents** (if applicable).

22. **Proposed deed** (and ground lease, if applicable).

23. **Security Instruments and Security Agreements**, as

applicable, with legal description and description of collateral and Financing Statements (State and County) with legal description and description of collateral.

24. **Healthcare Facility Note.**

25. **Proposed Bill of Sale and Assignment** (HUD-92228).

26. **Title policy pro forma or endorsement** (as applicable).

27. **Executed organizational documents of purchaser** (and lessee/operator and/or management agent, if applicable). For example, ownership hierarchy/organizational charts, bylaws, articles of incorporation/ organization, operating/partnership agreements, resolutions, incumbency certificates).

28. **Evidence of registration in the Business Partner Registration System.**

29. **Evidence of application for user ID with Secure Systems.**

30. **Draft Purchaser's attorney opinion.**

31. **Draft lessee/operator attorney opinion** (if applicable).

32. **Attorney's certification.**

33. **Byrd Amendment certifications.**

34. **Draft Deposit Account Control Agreement (DACA) and Deposit Account Instructions Service Agreement (DAISA)** (for government receivables, if applicable).

35. **List of all facilities managed by lessee/operator or management agent.**

36. **Three years of audited and year-to-date financial statements** for Purchaser and/or lessee/operator.

37. **Six years loss history.** Six years of all claims against the Purchaser and principals; proposed lessee/operator and principals; and proposed management agent. Include all facilities in claims reporting.

38. **Accounts receivable financing.**

39. **Master lease and sublease** (if applicable).

40. **Accounts payable schedule** (if applicable).

41. **Operating lease**, with HUD Addendum, SNDA, Estoppel Letter and Memorandum of Lease (as applicable).

42. **Operating license.** License for owner, lessee/operator or management agent.

43. **Evidence of Professional Liability Insurance coverage** (Notice H04-15).

Final Approval Process

If HUD required any changes to the documents submitted during the Preliminary Approval review, the applicant's attorney must certify to HUD that the required changes have been made.

The applicant has 45 working days from the date of preliminary approval to submit all executed and recorded documentation to HUD. The preliminary approval shall be the date on the letter. Where the applicant finds that he/she is unable to submit the appropriate documentation within the required time period, a written request for an extension of time must be submitted to HUD. This request must explain the reason for the delay. The applicant must provide the following for final approval:

1. **Recorded release, assumption and/or modification.**
2. **Recorded Regulatory Agreement - Borrower; Riders.**
3. **Recorded Regulatory Agreement(s) - Operator; Riders** (if applicable).
4. **Recorded Memorandum of Lease and copy of executed lease** (if applicable).
5. **Recorded secondary financing documents** (if applicable).
6. **Recorded deed** (if applicable).
7. **Recorded Uniform Commercial Code (UCC)** (state and county).
8. **Title Policy or Endorsement**, as applicable.
9. **Executed Deposit Control Agreements and Deposit Account Instructions Service Agreement** (for government receivables, if applicable).
10. **Executed accounts receivable loan documents: note, loan agreement, security agreement, intercreditor agreement, rider, lockbox agreement** (if applicable).
11. **Final Purchaser and/or lessee/operator attorney's opinion.**
12. **Executed security instrument and security agreements.**
13. **Executed Bill of Sale and Assignment.**

If everything is acceptable, HUD sends a letter approving the transfer.

If recording or other deficiencies are discovered, HUD will immediately tell the purchaser to correct them and to resubmit.