

## **Impact of the new FHA rules for condominiums**

*By Joanne O'Mara-Mugavero*

Federal Housing Authority (FHA) mortgages for condominiums play an important role in making home ownership and refinancing affordable for low- to middle-income borrowers, including first-time home buyers.

Compared with a conventional loan program, an FHA loan program offers these advantages to eligible condo buyers and owners who wish to refinance by allowing:

- A low down payment or equity position;
- Lower credit scores;
- Higher debt-to-income ratios for borrowers; and
- Condo purchases using down payments of 100% gift money from family members

The FHA is currently one of the few insurers of reverse mortgages in the country. Reverse mortgages pay income to owners who are age 62 or older and have equity in their primary residences, including condominiums.

Demand for FHA loan programs soared when credit became hard to get during the economic downturn. In 2008, the FHA began a major shift in its loan underwriting requirements and procedures for condominiums.

In the past, when a borrower applied for an FHA loan to buy or refinance a condo unit, the condominium association filled out an FHA questionnaire that the lender used to approve the loan for that unit. This process, known as spot loan approval, was eliminated in February 2010.

Under the new rules, the entire condominium project must receive FHA recertification. This is a much more detailed and time-consuming process for condominium associations and management companies than spot loan approvals. Buyers and owners will not qualify for FHA loan programs until the project is recertified.

FHA approval of condominium projects is also required for Connecticut Housing Finance Authority (CHFA) condominium loans. The only exceptions are deed restricted affordable housing condominium developments which are subject to CHFA's approval process.

Condominium loans have been a significant percentage of all CHFA loans for the past decade, as high as 37% in 2006, according to Carol DeRosa, administrator, CHFA residential mortgage programs. While demand in 2010 declined to about 18%, this represented a return to the condo lending levels typical for CHFA in the 1990s.

Continued availability of a wide variety of financing options is especially critical for condominium projects where vacancy rates are high and owners struggle to keep up with association fees.

By meeting the new FHA requirements, condominium associations and management companies ensure that condominium units are attractive to the largest number of potential buyers and owners.

For all of these reasons, condominium associations and management companies need to be aware of the new requirements and take steps toward getting FHA recertification for their projects.

Removal from the FHA's list of approved condominiums has significant impact on condominium associations. "They are starting to see that units aren't selling, and mortgages and refinancing are not available," Orest Tomaselli, CEO of National Condo Advisors, LLC and National Condo Inspections, LLC, said. His firms provide FHA, FNMA, and VA project approval services that assist condominium associations, management companies, and lenders.

Around the country, about 26,000 condominium projects faced losing FHA approval unless they were recertified by December 7, 2010, according to Tomaselli. By allowing their recertification to lapse for longer than six months, they would no longer be on the FHA Condominium List Public Search site at <https://entp.hud.gov/idapp/html/condlook.cfm> that lenders and others use to check which condominium projects are FHA approved.

"Condominium associations and management companies need to make decisions about whether – and how – to get their projects FHA approved," he said. They have two options:

- Rely on others, such as lenders, a process known as Direct Endorsement Lender Review and Approval (DELRAP).
- Apply directly, a process known as the HUD Review and Approval Process (HRAP).

Condominiums with an initial approval date before January 1, 2000 must submit a full project approval package for recertification through HRAP. Condominiums whose initial approval date was after January 1, 2000 are eligible for a more streamlined recertification process using DELRAP or HRAP as long as the project approval has not been expired for more than six months.

Before undertaking the recertification process, associations of higher-priced condominium projects may want to check the maximum FHA mortgage limits by county at <https://entp.hud.gov/idapp/html/hicostlook.cfm>.

Here are suggestions for condominium associations to get started:

- Read the FHA guidance in the Mortgagee Letter ML 2009-46 B on the FHA website at <https://www.hud.gov/offices/adm/hudclips/letters/mortgagee/index.cfm>.
- Obtain the checklist of required information and forms for recertification at <http://www.hud.gov/offices/hsg/sfh/condo/recertification.doc>.
- Gather required documentation to see if any is missing and must be retrieved from public records and other sources.
- Review the association's bylaws, insurance, and budget to determine whether changes will be necessary.
- Hold a board of directors meeting to discuss how to proceed on project approval.

The condominium project approval requirements include major changes in the rules about insurance and budgets. Here is a partial list:

- The project must consist of two or more units.
- At least 50% of units must be owner-occupied.
- No more than 10% of units can be owned by one investor.
- No more than 25% of the property's total floor area can be used for commercial purposes.
- Right of first refusal is permitted in the condo association's bylaws unless it violates the Fair Housing Act.
- No more than 15% of units can be more than 30 days past due in paying their condominium association fees.
- The maximum number of FHA-insured loans allowed in an association is 30% of the project's total units.
- The project must be covered by hazard, flood, liability, fidelity bond, and H06 insurance.
- The association's budget will be reviewed. Reserves of 10% must be listed as a line item. As an alternative, a reserves study or the FNMA 1073A form can be submitted.

Projects may be recertified beginning six months prior to the approval expiration date or within six months after the approval expiration date. If a project is not recertified within six months after the approval expiration date, full project review is required for approval. A condominium project's FHA recertification is valid for two years. Every other year, the association must submit a recertification package to remain FHA approved.

The recertification package must include all documentation and information on the Condominium Recertification Cover Letter/Document and Checklist. Lenders, builder/developers, homeowners associations, management companies, or attorneys or project managers who represent associations may submit recertification packages, but borrowers, sellers, and real estate agents cannot.

Last year, the volume of recertification requests increased significantly, according to Tomaselli, and there are only four Housing and Urban Development (HUD) homeownership centers in the country to handle all of the requests.

Compared with the rest of the country, turnaround times have been fastest on the East Coast, Tomaselli observed. The Philadelphia Homeownership Center processes recertification for Connecticut condominium projects.

Questions can be directed to the FHA Resource Center at [info@fhaoutreach.com](mailto:info@fhaoutreach.com) or the FHA's toll-free number at 1-800-CALL-FHA (1-800-225-5342).

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*Jordan Arovas, Vice President & Manager Association/Legal Financial Services at Webster Bank facilitated this article coming together.*

*Joanne O'Mara-Mugavero, Carol De Rosa and Orest Tomaselli will be speaking at the CAI-CT Annual Conference on March 12, 2011.*