



## CONDOMINIUM FHA LOAN APPROVAL FOR SINGLE FAMILY HOUSING

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In accordance with the passage of the Housing and Economic Recovery Act of 2008 (HERA), the Federal Housing Administration (FHA) has implemented a new approval process for condominium projects and insurance requirements for mortgages on individual units. The requirements went into effect for all case numbers assigned on or after December 7, 2009.

FHA will now allow lenders to determine project eligibility, review project documentation, and certify to compliance with FHA's regulations. FHA will continue to maintain a list of approved condominium projects. Lenders will be required to retain all the project legal documents, contracts, conveyances, plats, plans, insurance coverage, presale and owner occupancy conditions and other documentation in connection with their review and approval of the condominium project.

### THE FOLLOWING REQUIREMENTS ARE FOR FHA LOAN APPROVAL

1. **Mortgage insurance for individual unit financing:** All FHA Mortgage insurance requirements must be satisfied.
2. **Recordation of Documents:** No loan can be insured until all required documents have been properly recorded and submitted.
3. **Insurance Requirements:**
  - a. Hazard Insurance:
    - i. Forward Mortgages where the master policy does not include interior unit coverage the borrower must obtain a "walls-in" coverage policy.
    - ii. Reverse Mortgages/Equity Conversion, the borrower must obtain hazard insurance equal to the value of insurable property improvements.
  - b. Flood Insurance:
    - i. The Homeowners Association is responsible for obtaining and maintaining flood insurance if located within the Special Flood Hazard Area. This coverage must protect the borrowers who hold title to both individual units and common areas.
4. **Certifications:** For projects that have already been approved (see "Project Eligibility Requirements"), the lender must certify that it reviewed and verified the condominium projects continued compliance regarding:
  - a. investor ownership;
  - b. percentage of owners in arrears for assessments;
  - c. owner-occupied rate;
  - d. FHA loan concentration rate; and
  - e. FHA requirements.

## **PROJECT ELIGIBILITY REQUIREMENTS**

The following are project eligibility requirements; these requirements represent a portion of what must be met in order to obtain Project Approval:

1. **Minimum number of units.**
2. **Insurance Coverage:** Hazard insurance; liability insurance; flood insurance (when applicable); and fidelity insurance (when applicable).
3. **Right of First Refusal:** Unless discriminatory, right of first refusal is permitted.
4. **Commercial Space:** No more than 25 percent of the property's total floor area may be for commercial purposes.
5. **Investor Ownership:** No more than 10 percent of the units may be owned by one investor (including developers/builders). For condominium projects with ten or fewer units, no single entity may own more than one unit within the project; all units, common elements, and facilities within the project must be 100 percent complete.
6. **Delinquent Home Owners Association (HOA) Dues:** No more than 15 percent of the total units can be in arrears (more than 30 days past due) of their condominium association fee payments.
7. **Pre-sales:** (temporarily) At least 30 percent of the total units must be sold. Valid presales include:
  - Copies of sales agreements and evidence that a mortgagee will make the loan;
  - Evidence that units have closed and are occupied; **OR**
  - Information from a developer/builder that lists all of the units already sold, under contract, or closed, accompanied by a signed certification from the developer
8. **Owner-occupancy Ratios:** At least 50 percent of the units of a project must be owner-occupied or sold to owners who intend to occupy the units. Vacant or tenant occupied REO (property which is in the possession of a lender as a result of foreclosure or forfeiture), including bank owned, may be excluded from the calculation.
9. **Legal Phasing:** Legal phasing is permitted for condominium processing.
10. **FHA Concentration:** FHA concentration is temporarily increased to 50%. Exceptions (permitting FHA concentration to be up to 100%) are permitted if the project meets the basic condominium standards plus the following:
  - a. project is 100% complete and complete for over one year;
  - b. 100% of Units have been sold and no entity owns more than 10% of the units;
  - c. the project budget provides funding of replacement reserves for capital expenditures and deferred maintenance in an account representing 10% of the budget;
  - d. Owner controlled; **AND**
  - e. Owner-occupancy ratio is at least 50/50.
11. **Budget Review:** Mortgagees *must* review the homeowners' association budget in order to determine that the budget is adequate and that it:
  - a. make allocations to ensure sufficient funds to maintain and preserve all amenities and features unique to the condominium project;
  - b. funds replacement reserves for capital expenditures and deferred maintenance in an account representing at least 10% of the budget; and
  - c. funds for insurance coverage and deductibles.

If the budget doesn't meet said standards, the mortgagee may request a reserve study (which may not be more than 12 months old) to assess the financial stability of the project. Alternatively, mortgagees may request and rely on Fannie Mae form 1073a, Analysis of Annual Income and Expenses – Operating Budget, executed by an authorized representative of the seller/servicer, owners association, or management agent.

### **INSURANCE REQUIREMENTS**

The condominium project must be covered by hazard, flood, liability and other insurance required by state or local condominium laws or acceptable to FHA.

*Hazard Insurance:* The homeowners association must maintain adequate “master” or “blanket” property insurance in an amount equal to 100% of current replacement cost of the condominium exclusive of land, foundation, excavation and other items normally excluded from coverage. If the association does not maintain 100% coverage, the unit owner may not obtain “gap” coverage to meet this requirement.

*HO-6 Coverage:* If the master policy does not include interior unit coverage, the borrower must obtain a “walls-in” coverage policy (HO-6 policy).

*Liability Insurance:* The association is required to maintain comprehensive general liability insurance covering all of the common elements, commercial space owned and leased by the owner's association, and public ways of the condominium project.

*Fidelity Bond/Fidelity Insurance:* Fidelity Bond/Fidelity Insurance is required for new and established condominium projects with 20 or more units. The association must maintain this insurance for all officers, directors, and employees of the association and all other persons handling or responsible for funds administered by the association. The coverage must be no less than a sum equal to three months aggregate assessments on all units plus reserve funds.

*Flood Insurance:* the Association (not the borrower) must obtain insurance coverage equal to the replacement cost of the project less land costs or up to the National Flood Insurance Program (NFIP) standard of \$250,000 per unit, whichever is less. The Mortgagee is the party to determine whether flood insurance must be obtained.

5. **FHA to FHA Transactions:** Project approval is not required for FHA to FHA streamline refinance transactions or FHA/HUD Real Estate Owned
6. **Spot Loan:** Spot Loan shall be eliminated effective on or after February 1, 2010.

\*\* *Mortgage Letter 2009-46A and Mortgage Letter 2009-46B, issued by the U.S. Department of Housing and Urban Development were referenced and cited in the drafting of this material.*