

[Final \(Hopefully!\) Revised FHA Condominium Lending Guidelines Issued](#)

After several revisions and delays, the Federal Housing Administration (FHA) has finally issued major changes to its revised guidelines on mortgage insurance requirements for condominium projects. FHA first proposed the revisions back in June (under Mortgagee Letter [2009-19](#)). The new guidelines are effective December 7, 2009; however, some of the requirements are phased in through January 31, 2010.

There has been a considerable amount of controversy involving HUD/FHA's proposed requirements for obtaining FHA mortgage insurance for condominiums. The newest guideline revisions are in response to the [strong reaction](#) from condominium associations and mortgage industry representatives who saw many of the FHA requirements as counter-productive and burdensome to condominium associations and owners.

The latest guidelines are described in two separate HUD/FHA documents:

- Mortgage Letter [2009-46B](#) (the revised guidelines for FHA approval of residential condominium projects)
- Mortgage Letter [2009-46A](#) (temporary guidance for condominium approvals).

Under the Temporary Guidance:

- The "Spot Loan" approval process will continue through February 1, 2010, after which it will be replaced by the new Direct Endorsement Lender Review & Approval Process (DELRAP); and
- The 30% cap on FHA loans per condo project will be expanded to 50% until December 31, 2010. Concentrations may be increased to 100% if certain additional conditions are met. After January 1, 2011, the cap reverts back to 30%.

The highlights of the New Guidelines are as follows:

- Condominium project approval is not required for condominiums comprised of single-family totally detached dwellings (no shared garages or any other attached buildings).
- Until December 31, 2010, at least 30% pre-sale level must be reached before any FHA mortgage can be granted on any unit. After 12/31/10, 50% pre-sale level must be reached.
- 50% owner occupancy rate for the entire project.
- No more than 15% of unit owners can be delinquent (over 30 days late) on their condominium fees.
- Capital reserve funding: The reserve study requirement has been eliminated, along with the requirement of at least 60% of the fully funded reserves. The new requirement



requires merely that at least 10% of the association's annual budget be set aside for reserves.

- Budget review: Lenders must review the condominium budget to determine that the budget is adequate and: (i) includes allocations/line items to ensure sufficient funds are available to maintain and preserve all amenities and features unique to the condominium project; (ii) provides for the funding of replacement reserves for capital expenditures and deferred maintenance in an account representing at least 10% of the budget; and (iii) provides adequate funding for insurance coverage and deductibles.
- No more than 25% of space allocated to commercial use.
- No more than 10% of units held by a single investor.
- The 1-year waiting period for conversion condominiums is eliminated.
- Unit owners must obtain individual HO-6 insurance policies if the master policy doesn't cover unit interiors.
- Fidelity insurance must be obtained for 20+ unit projects.
- Re-certification required every 2 years.



Transition Strategy:

- FHA will move all currently approved condominium projects to the new approval list and [FHA Connection database](#).
- Projects that received approval prior to October 1, 2008, will require recertification on or before December 7, 2009.
- Projects that received approval between October 1, 2008 and December 7, 2009, will be "grandfathered" and will have to follow the new guidelines' recertification process (recertification required every two years).

Analysis:

Although the condominium association and mortgage lobby were successful in watering down some the more onerous requirements, the new revised guidelines will still represent a major change in how lenders underwrite condominium mortgages. Lenders will have to perform much more extensive due diligence on condominium projects than before.

The new guidelines will also force existing condominium associations to really get their acts together, especially with their unpaid condominium fees, budgets, insurance and capital reserve accounts. FHA mortgage programs are becoming the first choice for first time home buyers, and condominium units are particularly suitable for first timers. I have already seen situations where condominium trustees feel no obligation to comply with FHA (and Fannie Mae) guidelines in connection with a proposal sale of a unit, and it is not a good situation. Condominium trustees and association can certainly open themselves up to liability if they don't cooperate and maintain

the marketability of the units which they govern. Trustees owe unit owners a fiduciary obligation to get their associations in compliance with all new FHA/FNMA guidelines, in my opinion.

For condominium associations, the Community Associations Institute has published this helpful [“Head’s Up”](#) and [FAQ](#).

As always, please [contact me](#) for further information and legal guidance.

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