

# FHA Condominium Project Approval Rules

September 13, 2012

On September 13, HUD published [Mortgagee Letter 2018-12](#). This provides some temporary guidance on condominium sales while FHA completes some formal regulations. NAR had been working with HUD for years on these changes, and had worked with Congress to try and influence HUD to loosen condo regulations. These new rules do not solve all of the issues, but have addressed some of the issues related to delinquent dues, the condominium project certification statement, and limitations on commercial space.

## **Owner-Occupancy Requirement**

***Current Law*** – owner-occupancy requirement of 50%. Temporary waiver for REOs.

***NAR recommendation*** – we recommend FHA eliminate the occupancy ratio.

***Mortgagee Letter*** – no change.

## **FHA Concentration**

***Current Law*** – no more than 50% of units can be FHA insured.

***NAR recommendation*** – For new construction, we recommend expanding the concentration to 100%. Continue the temporary waiver.

***Mortgagee Letter***- no change.

## **Pre-Sale Requirement**

***Current Law*** – 30% of the units must be sold prior to FHA endorsement of any unit.

***NAR recommendation*** – reduce or eliminate the presale requirement.

***Mortgagee Letter*** - requirement can apply to each individual phase of a development, as opposed to the entire project.

## **Investor Ownership**

***Current Law*** – no one investor can own more than 10% of the units, including developers or builders.

***NAR recommendation*** – increase the number a single investor can own. Builders should be exempted when renting out units prior to completion.

***Mortgagee Letter*** - increased from 10% to 50% at time of project approval provided at least 50% of the units have been conveyed or are under contract as owner-occupied. In addition, unoccupied and unsold units owned by a builder/developer are no longer included in the calculation of investor ownership.

## **Delinquent HOA Dues**

***Current Law*** – no more than 15% of units can be more than 30 days past due.

***NAR recommendation*** – no more than 15% of units be more than 90 days due, and exceptions provided when association budget has sufficient funds.

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***Mortgagee Letter*** – no more than 15% of units can be more than 60 days past due.

## **Commercial Space**

***Current Law*** – no more than 25% of floor area can be commercial.

***NAR recommendation*** – increase allowable commercial space to 45%.

***Mortgagee Letter*** – exceptions to be provided up to 50%, with those up to 35% processed at local level, and higher with significant additional documentation at Philadelphia HOC. Exceptions may also be made over 50%, but must be approved by the FHA Commissioner or their designee.

## **Certification Requirements**

***Current Law*** – ongoing certification requirement, with penalty of false certification and failure to report up to 30 years in prison and \$1 million.

***NAR recommendation*** – ease restrictions to not to scare off volunteer-lead boards.

***Mortgagee Letter*** - Project certification language is softened by acknowledging reliance on attorney's advice for compliance with state and local condo laws and removing previous language that person certifying has no knowledge of circumstances or conditions that may cause a mortgage to become delinquent. Penalty the same.