

NAR Issue Summary

Housing / FHA Condo Financing

NAR Committee:

Federal Financing and Housing Policy Committee

What is the fundamental issue?

While the Federal Housing Administration (FHA) has loosened its condominium approval requirements in recent years, many properties continue to struggle to meet overly stringent criteria and the majority of properties are being denied.

I am a real estate professional. What does this mean for my business?

Buyers and sellers of condominiums may find the property is ineligible for FHA financing, restricting the pool of buyers for that property.

NAR Policy:

Condominiums continue to be the most affordable homeownership option for many first time buyers, small families, single people, and older Americans. NAR believes that loosening FHA's condominium rules will ensure that more homeowners will be able to sell their units, and homebuyers will have more opportunities to buy affordable properties. Furthermore, FHA promotes high density, urban living in many of their Smart Growth initiatives; easing condo restrictions should be part of this effort.

Opposition Arguments:

Opponents of NAR policy believe that condominium properties are more inherently risky than other residential real estate, and that the federal government should not be involved in that market. They also believe that condo properties that include rental units are even more risky because the renters don't have the investment and may not treat the property as well as owners. Therefore, they think FHA's restriction on the number of rental units reduces the risk.

Legislative/Regulatory Status/Outlook

On February 2, 2016, the House of Representatives passed H.R. 3700, the "Housing Opportunity Through Modernization Act of 2015", introduced by Reps. Luetkemeyer (R-MO) and Cleaver (D-MO), by a unanimous vote of 427-0. On July 14, 2016, the bill passed the Senate by unanimous consent with the leadership of Senators Menendez (D-NJ) and Scott (R-SC).

On July 29, 2016, President Obama signed H.R. 3700 into law.

This legislation made four changes to FHA's current condo policy. H.R. 3700 will: 1) reduce owner-occupancy ratio to 35% unless HUD acts within 90 days of enactment of this law to otherwise lower the ratio; 2) allow lenders to approve condos with commercial space over 25%; 3) require HUD Secretary to "substantially reduce" burdens on condo recertification; and 4) require FHA to mirror the

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FHFA rules related to private transfer fees.

On September 27, 2016, the Federal Housing Administration (FHA) announced a proposed rule concerning single-family condominium project approval. The proposed changes include:

- FHA is asking for comment on an acceptable minimum percentage for owner-occupied condominiums between 25 and 75 percent.
- FHA is asking for comment on an acceptable minimum percentage for commercial/non-residential space limits between 25 and 60 percent.
- FHA proposes to allow single-unit, or spot, loan approval in non-FHA approved condominiums
- FHA proposes to extend the approval period for a project from 2 to 3 years;

NAR submitted formal comments on the proposed rule, asking FHA to:

- Remove the strict requirement on owner-occupancy levels, with a minimum of implementing HR 3700 standard of allowable 35% owner-occupancy without additional requirements;
- Allow 100% FHA loan concentration in buildings;
- Allow up to 45% commercial space without documentation and implement HR 3700 requirement allowing lenders to approve waivers and consider local conditions;
- Bring back spot-loan approval;
- Increase certification periods and allow for updates to information for re-certification purposes; and
- Support for new transfer fee requirement allowing beneficial transfer fees connected to condominiums.

In addition, in October, FHA published a mortgagee letter making changes to the Federal Housing Administration's (FHA) owner-occupancy requirement for condominiums in accordance with the requirements of H.R. 3700, the Housing Opportunity Through Modernization Act of 2016 (HOTMA). Under the new provisions, FHA will allow for the owner-occupancy requirement to be lowered down to 35% if:

- The project has replacement reserves of at least 20% of the budget,
- No more than 10% of the units are in arrears (more than 60 days past due), and
- The condo has three years of acceptable financial documents.

NAR continues to work with HUD and the new Administration to ensure that the final condo rules provide a real improvement in access to condominium financing.

Current Legislation/Regulation (bill number or regulation)

None at this time.

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NAR Issue Summary

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