



June 1, 2022

Hon. Julia Gordon
Commissioner
Federal Housing Administration
Department of Housing and Urban Development
451 7th Street SW
Washington, DC. 20410-8000

CHLA Recommendations – FHA Access to Credit

Dear Commissioner Gordon:

The Community Home Lenders Association (CHLA)¹ appreciates this opportunity to offer our recommendations for actions which FHA could take to promote access to mortgage credit by expanding affordable FHA loan opportunities for minority and other underserved borrowers.

This letter supplements the recent May 18 letter sent by 41 IMBs on FHA premiums, which CHLA helped spearhead - asking FHA to cut annual premiums and end its Life of Loan premium policy.

CHLA's three additional FHA access to credit recommendations are:

- 1. Streamline the condo approval process - by adopting the joint proposal made last year by CHLA, NAR, NAHB, ICBA, CAI, and CMLA to create a DE-like condo approval process.**
- 2. Increase the permissible lender fee for executing an assumption of an FYA loan - an option that will become increasing more attractive as mortgage rates rise.**
- 3. Eliminate disproportionate 100% loss of debenture interest penalties when a servicer misses a servicing deadline by even only one day – an initiative HUD initiated in 2016 but dropped.**

Streamline the FHA Condominium Approval Process

In March 2021, CHLA - along with the *National Association of REALTORS®*, the *National Association of Home Builders*, the *Independent Community Bankers of America*, the *Community Mortgage Lenders of America*, the *Community Associations Institute*, and the *Institute of Real Estate Management* - presented recommendations to HUD Secretary Fudge to streamline the process for approval of condominium projects, which is necessary to make units in those projects eligible for FHA loans.

¹ CHLA is the only national trade association that exclusively represents independent mortgage bankers (IMBs). Our members are small and mid-sized IMBs whose sole business is originating and servicing mortgage loans. [[See communitylender.org](http://Seecommunitylender.org)]

In August 2019, the previous Administration adopted a final rule making a number of constructive changes to FHA condo rules, including extending the certification time frame from two to three years, providing more flexibility with respect to owner occupancy ratios, and increasing the allowable number of FHA loans in a single project.

However, additional action is needed to streamline and improve the actual approval process for individual condominiums, in order to meet the full potential of condos as an affordable homeownership option. Such action does not require further rulemaking, but could be accomplished through operational and technology changes to make this process more efficient and effective. For example, FHA could use the Fannie Mae project approval process, as exercised through the “Fannie Mae Condo Project Manager.”

Enclosed at the end of this letter is our joint submission by all these groups for recommendations to streamline the FHA condo approval process. We would welcome a meeting of these groups to both discuss the challenges of the current approval process and how these recommendations could help.

Increase the Permissible Lender Fee for FHA Loan Assumptions

Over the last six months, mortgage rates have risen dramatically. This makes the home buyer’s assumption of an existing FHA mortgage loan held by the home seller an increasingly attractive option. In turn, this helps both the buyer and the seller.

Unfortunately, FHA’s arbitrary and wholly inadequate lender fee cap on FHA loan assumptions discourages lenders from carrying out a loan assumption on behalf of the buyer. Arguably, it also creates incentives for lenders to skimp on due diligence – in areas such as the important function of verifying that the buyer meets FHA personal financial credit guidelines.

In November 2016, the Obama Administration adjusted the previous permissible lender fee for FHA loan assumptions, which had not been increased in 20 years - raising the cap from \$500 to \$900. Unfortunately, this does not come close to covering the increase in inflation over this period.

Additionally federal regulations governing mortgage loans have grown significantly during that same period, due to adoption of Dodd-Frank and the creation of the CFPB. This increases lender compliance costs. In particular, LO Comp rules prohibit a lender from varying compensation it pays to its loan originators – so loan assumption LO compensation must be the same as for new loans.

Therefore, we suggest that FHA increase the permissible lender fee for an FHA loan assumption – to allow a lender fee of up to 2%, plus a \$500 underwriting fee.

Eliminate Disproportionate Debenture Interest Servicing Penalties

Current HFA policy is to curtail debenture interest on FHA loans for the entire period a loan is in default when a servicer misses a servicing deadline – even by only one day. Such 100% penalty is wildly disproportionate to the financial harm done to FHA by servicers missing a deadline for a short period. It also discourages timely compliance with servicing deadlines once a deadline has been missed (since the full penalty is already assessed).

In February 2018, the Urban Institute released an analysis of FHA’s foreclosure and conveyance provisions and came to a similar conclusion. That organization concluded that:

- FHA penalties for missing intermediate deadlines is onerous; the average cost of missing the first legal action is \$5,360 on \$175,000 loan amount.

- FHA’s approach differs from Fannie Mae and Freddie Mac, which use milestones to track progress and do not assess penalties until the total allotted time period.
- Servicing non-performing FHA loans is three times more costly than servicing non-performing GSE loans.

The Urban Institute recommendation – the same as CHLA’s – is for FHA to adopt foreclosure timelines with penalties and incentives aligned with actual extent of servicer delays.

At one point, FHA apparently agreed with this conclusion. In 2016, FHA initiated the process of developing a rule to make penalties proportionate with the extent of the missed deadlines. However, FHA allowed this rulemaking process to lapse.

Therefore, CHLA requests that HUD expeditiously initiate and complete a rulemaking process to eliminate disproportionate penalties for missed FHA servicing deadlines.

We thank you for the opportunity to present these recommendations.

Sincerely

COMMUNITY HOME LENDERS ASSOCIATION

NOTE: See Appendix on following page

Recommendations For Improved FHA Condo Approval Process.

[Excerpt from 3/11/21 Joint Industry Letter to Secretary Fudge]

Reform of Process

Lenders would be given authority to self-certify (as is permitted by Fannie Mae and Freddie Mac) compliance with condominium approval requirements, which should be harmonized among housing-related federal agencies:

- HUD/FHA would publish guidelines or a chart with the requirements for a Condo Project to be approved.
- The lender would review documents to determine and self-certify compliance with the Condo Project Eligibility.
- After closing, lender would send the following documents to HUD/FHA, so that can carry out appropriate Quality Control and oversight:
 - HUD Form 9991
 - Certificate of HOA Insurance
 - Current Year Budget
 - Project By-Laws and Covenants and Restrictions

HUD's review under the self-certification process above shall be considered a "Limited Review" - that the project meets the following criteria:

- Owner-occupied or HUD approved Second Home transactions only.
- Total number of units in the project 5-20.
- Less than 25% commercial/non-residential space.
- HOA turned over to the Association for at least one year, and the developer is no longer in control.
- Project is not subject to additional phasing.
- HOA retains a minimum of 10% of HOA dues as reserves.

Projects not meeting the above criteria would be considered a "Full Review" by HUD/FHA and all necessary documents would have to be submitted to HUD/FHA for review and approval.

Construction Projects

Review and consider lifting the prohibition of proposed and under construction condominium projects.

Benefits to HUD/FHA by adopting this policy:

- Fewer resources required to review Condo Projects for HUD/FHA.
- Expanded access to FHA-insured mortgages for condominium unit owners/purchasers.
- Foundation to build a more robust list of FHA Approved Condo Projects.
- Reallocation of HUD resources to review the "Full Review" Projects in a more timely manner.
- In the future, the ability to utilize funding to build out an automated Condo Project review system similar to the Fannie Mae Condo Project Manager.