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## Real estate

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Nation's Housing

### New rule a major condo headache

Condo-industry leaders, from the 30,000-member Community Associations Institute to individual unit owners and realty agents, are emphatic that the answer is yes. They say a series of rule revisions by the Federal Housing Administration has caused thousands of condo projects to become ineligible for FHA mortgages.

By **Kenneth R. Harney**

Syndicated columnist

WASHINGTON — Is a little-publicized switch in federal mortgage policy causing huge problems for condominium sellers, buyers and homeowner-association boards across the country — even depressing prices and blocking refinancings?

Condo-industry leaders, from the 30,000-member Community Associations Institute to individual unit owners and realty agents, are emphatic that the answer is yes. They say a series of rule revisions by the Federal Housing Administration has caused thousands of condo projects to become ineligible for FHA mortgages.

This, in turn, has abruptly shut off loan money for would-be condo buyers and refinancers, forcing them to pursue conventional bank loans requiring much higher down payments — sometimes 20 percent and higher versus the FHA's 3.5 percent minimum — that they often cannot afford.

For its part, FHA says the rule changes it has adopted, which focus on project budgets, insurance and financial reserves, have been prudent and are designed to avert losses from delinquencies and foreclosures. But the agency confirms that thousands of condo projects have failed to obtain or apply for required recertifications under the new rules.

Out of approximately 25,000 condo projects nationwide with expiration dates for FHA eligibility between last December and Sept. 30 of this year, only 2,100 — just 8.4 percent — have been approved or recertified by the agency, according to Lemar Wooley, an agency spokesman.

"This has been a nightmare," said Ryan O'Quinn, a unit owner in a town-house community in

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Calabasas, Calif. O'Quinn, who is a member of the board of directors of the homeowners association, has been trying to sell his condo since May. He has had multiple offers and been in escrow four times — twice with the same purchaser — but because the community's eligibility has lapsed, buyers who need FHA financing have been rejected by lenders.

In the meantime, O'Quinn has cut his asking price several times for a total of \$81,000 — a value decline that his agent, Anna Nevares of Redfin, a realty brokerage, attributes directly to FHA's policy revisions. Not only did FHA fail to inform the condo board about the changes, according to O'Quinn, but every time the board submitted applications for recertification, they were rejected on technical grounds.

In one instance, he said, the agency turned down the application solely because the reserve-fund bank account for the condo project did not carry the words "reserve fund."

In the Maryland suburbs outside Washington, D.C., similar scenarios have been playing out. Nancy Jacobsen, executive vice president of Community Paperworks, a consulting firm that assists condo associations, says "there are entire ZIP code areas where not one condo can meet the new requirements." Unit owners in such projects find themselves unable to either refinance into today's 4 percent mortgage market or to sell.

Bernard Robinson, an owner of a unit in District Heights, Md., says that because of delinquencies on homeowner-association payments in his development that exceed FHA's limit, he and his wife have not been able to refinance.

"We are qualified to refinance personally," he said in an interview, but because the development is not certified, "our unit isn't. We've exhausted all our options. They're going to force us to walk away."

Critics say that FHA did not consult adequately with the condo industry before changing its rules — a charge FHA denies — and contend that the agency did not think through some of its policies. Andrew Fortin, government affairs director of the Community Associations Institute, says the rule that is hampering Robinson's refinancing — that no more than 15 percent of the unit owners in a project be 30 days or more delinquent on their association dues — is often impossible for volunteer boards of directors in large projects to keep track of, much less to certify to FHA.

Even worse, according to other critics, the new rules put board members into legal jeopardy by requiring them to sign certifications attesting that the condo documents comply with all local statutes and that they have no knowledge of situations that could cause any unit owner to become delinquent at some later date.

The mandatory certification carries a maximum penalty of \$1 million in fines and 30 years imprisonment if found to be incorrect. Large numbers of condo boards have balked at this requirement, critics say, leading to the drastic drop in certification requests and condo eligibility.

Bottom line for unit owners, sellers and buyers: If an FHA loan figures in your plans, first check with the association board. If the project isn't certified, you are cut off — at least for now — from some of the most favorable mortgage terms in the marketplace.

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