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New FHA condo rules cutting owners' loan options

By Kenneth R. Harney, Special to the Times

New rules cut condo owners' loan options

WASHINGTON - Condo industry leaders, from the 30,000-member Community Associations Institute to individual unit owners and realty agents, 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 condo buyers and refinancers, forcing them to pursue conventional bank loans requiring much higher down payments.

FHA says the rule changes - 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 recertifications under the new rules. Out of about 25,000 condo projects nationwide with expiration dates for FHA eligibility between December and Sept. 30, 2011, only 2,100 (8.4 percent) have been approved or recertified by the agency, according to Lemar Wooley, an agency spokesman.

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 the 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 the FHA did not consult adequately with the condo industry before changing its rules - a charge the 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 later. 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: 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.