



To: Members, U.S. Senate Committee on Banking, Housing, & Urban Affairs

From: Dawn M. Bauman, CAE
Senior Vice President, Government & Public Affairs
Community Associations Institute
dbauman@caionline.org | (703) 970-9224
www.condosafety.com

Date: July 26, 2022

RE: Fannie Mae & Freddie Mac Temporary Condominium and Housing Cooperatives Underwriting Guidelines

Summary

- Following the June 24, 2021, collapse of Champlain Towers South condominium in Surfside, Fla., Fannie Mae and Freddie Mac implemented temporary emergency underwriting guidelines requiring lenders to assess the safety of condominium and housing cooperative buildings. The temporary guidelines are having a negative impact on condominium and cooperative homeowners residing in safe buildings.
- Fannie Mae and Freddie Mac recognize the negative consequences of the temporary guidelines and in May 2022 submitted policy revisions to the Federal Housing Finance Agency (FHFA) for approval. FHFA has delayed implementation of the proposed revisions.
- CAI requests Senators contact FHFA and urge Director Thompson to expeditiously complete the agency's review of the enterprises' policy recommendations and to approve the revisions consistent with key policy principles outlined below.

Background

Following the tragic June 24, 2021, collapse of Champlain Towers South in Surfside, Florida, Fannie Mae and Freddie Mac adopted temporary emergency underwriting guidelines for condominium unit mortgages and housing cooperative share loans at the direction of FHFA. The Fannie Mae and Freddie Mac temporary condominium and housing cooperative guidelines became effective earlier this year.¹

The temporary guidelines require that mortgage originators verify the structural integrity of any condominium or housing cooperative building with more than 5 units. Unless a lender verifies a condominium or cooperative building is structurally sound, no loans secured by a unit in the building may be delivered to the GSEs.

The primary tool used by lenders to comply with the temporary underwriting guidance is a joint Fannie Mae-Freddie Mac questionnaire submitted to volunteer boards of directors of condominiums/housing cooperatives or their managing agent for completion.² Several of the questions pose problems and condominium/cooperative representatives are unable to provide answers.

¹ [Fannie Mae LL-2021-14](#); [Freddie Mac Bulletin 2021-38](#)

² [Fannie Mae/Freddie Mac Uniform Condominium/Cooperative Questionnaire with addendum](#)

An alternate methodology for a lender to assess the structural integrity of a condominium or cooperative building is to obtain and review no fewer than 6 months of condominium association or housing cooperative corporation board meetings, financial statements, and other operational records. The alternate methodology is time consuming, increases costs, contributes to delays, and exposes lenders to repurchase risk.

Guideline Implementation & Industry Feedback

The temporary condominium and cooperative policy guidelines are disrupting access to mortgage credit for homeowners in safe buildings. In a survey of the condominium industry, 72% of respondents were impacted by the new guidelines, 45% reported mortgage closing delays, and 28% indicated the guidelines caused loan denials in condominium projects with no identifiable structural or financial integrity issues.³ A recent *Washington Post* article documents and illustrates the unintended consequences of the Fannie Mae and Freddie Mac temporary guidelines.⁴ There is a clear need to revise the temporary guidelines to ensure an efficient and effective underwriting procedure to evaluate the safety of condominium and cooperative buildings and ensure mortgage access for creditworthy borrowers.

Other stakeholders agree. In addition to CAI⁵, the National Association of Realtors⁶, the Mortgage Bankers Association⁷, and the Community Home Lenders of America⁸ have requested that Fannie Mae and Freddie Mac suspend and revise the new guidelines.

FHFA Delays Release of Revised Guidelines

After receiving stakeholder and customer feedback, Fannie Mae and Freddie Mac proposed guidelines revisions to FHFA. Regrettably, FHFA has halted the release of any guideline revisions by the GSEs.

Policy Solutions for FHFA

Preserving the safety of condominium and cooperative housing is a key priority of CAI.⁹ CAI has submitted feedback on the temporary guidelines to FHFA. CAI's comments specify the following revisions—

- Elimination of forward looking, speculative questions that condominium association and housing cooperative boards and managers are unable to answer factually.
- Elimination of questions that exceed the core competencies of condominium association and cooperative boards and managers (e.g., questions that require board members or managers to render a legal opinion).
- Targeting risk management activities to condominium and cooperative projects most likely to benefit from scrutiny (e.g., larger projects aged beyond 20-years and located in areas at higher risk of salt-based corrosion).

³ [CAI Condominium & Cooperatives Snap Member Survey](#)

⁴ Kathy Orton, "Surfside tragedy makes condo buying challenging nationwide," *The Washington Post*, July 14, 2022. Available at <https://www.washingtonpost.com/business/2022/07/14/new-condo-lending-rules-surfside/>.

⁵ [CAI Letter to FHFA](#)

⁶ [National Association of Realtors Letter to FHFA, Fannie Mae, and Freddie Mac](#)

⁷ [Mortgage Bankers Association Letter to FHFA, Fannie Mae, and Freddie Mac](#)

⁸ [Community Home Lenders of America Letter to FHFA, Fannie Mae, and Freddie Mac](#)

⁹ [CAI Condominium Safety Public Policy Report and Recommendations \(September 2021\)](#)

- Streamlining questionnaires implementing the temporary guidance to effectively collect relevant information and reduce burdens on condominium association and cooperative boards and managers.

CAI members stand ready to continue to work with Fannie Mae, Freddie Mac, and FHFA to develop practical condominium and cooperative underwriting standards that promote building and safety, protect human life, mitigate risk for Fannie Mae and Freddie Mac, and ensure access to capital and market liquidity for condominium and housing cooperative homeowners and homebuyers. Condominiums and housing cooperatives are often an affordable housing option for low- and middle-income households—including seniors and people of color.

CAI's Commitment to Condo Safety

Immediately following the Surfside tragedy, CAI convened three expert task forces to develop policy proposals and best practices to prevent future building collapses. Over a three-month period, more than 600 people participated in CAI's process through conversations, surveys, research, interviews, and identifying clear recommendations. Reserve specialists, attorneys, insurance and risk management professionals, developers, engineers, architects, community association managers, and homeowner leaders contributed. The task forces also engaged stakeholders across the globe and across a wide range of disciplines, expertise, interests, and organizations.

Public policy recommendations in the areas of reserve studies and funding, building maintenance, and structural integrity are detailed in CAI's [*Condominium Safety Public Policy Report*](#), which was released in October, 2021. CAI is working closely with state legislatures across the country to enact these recommendations into law.

State laws requiring structural inspections and financial reserves will lead to condominium safety. States have the core general government responsibility to ensure building safety. To date, almost 20 state legislatures have considered legislation to improve condominium and cooperative building safety. An important leader in this effort has been the state of Florida.

The [Florida legislature](#) ***unanimously*** passed [SB 4D, the Building Safety Act for Condominium and Cooperative Associations](#), which was signed into law by Gov. Ron DeSantis on May 26, 2022. The statute includes a framework largely based on CAI's recommendations, including:

- Building inspections as structures reach 30 years old and every 10 years thereafter.
- Mandatory reserve study and funding for structural integrity components (building, floors, windows, plumbing, electrical, etc.).
- Removal of opt-out funding of reserves for structural integrity components.
- Mandating transparency—providing all owners and residents access to building safety information.
- Clear developer requirements for building inspections, structural integrity reserve study, and funding requirements prior to transition to the residents.

Other states took the following actions in their 2022 legislative sessions:

- **Illinois** passed legislation which clarifies that if an association obtains a reserve study, the study is considered part of the association's books and records and owners have a right to

examine and copy the reserve study. The bill does not mandate that an association have a reserve study.

- **Maryland** enacted legislation mandating reserve studies and funding beginning Oct. 1, 2022.
- **Virginia** passed legislation creating a study program under the Department of Professional and Occupational Regulation to analyze the adequacy of existing law to address structural integrity and reserves in common interest communities.

Colorado, Connecticut, Georgia, Hawaii, and Tennessee also saw legislation to regulate condominium and cooperative financial reserve studies and funding. CAI is working with lawmakers in these and other states to ensure the highest quality condominium safety public policy is enacted across the nation.