

**ACTION:** Proposed rule.

**SUMMARY:** This rule would add provisions to the regulations governing Federal Housing Administration (FHA) mortgage insurance on condominium units to permit insurance of mortgages on individual units in condominium projects that have not received FHA approval in advance under existing regulatory requirements. These "spot loans" would be approved under less stringent requirements than the existing requirements for mortgage insurance for condominiums, but the revised rule would require satisfaction of standards that would assure FHA adequate protection of the reduced risk involved of mortgage insurance on only a few loans in any particular project.

**DATES:** Comments due date: August 22, 1995.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Faxed comments will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Richard Manuel, Acting Director, Single Family Development Division, Office of Insured Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. He may be reached at (202) 708-2700 (voice) or (202) 708-4594 (TDD). These telephone numbers are not toll-free.

**SUPPLEMENTARY INFORMATION:****Paperwork Reduction Act Statement**

The information collection requirements contained in § 234.26(i) of this proposed rule have been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980 (42 U.S.C. 3501-3520). The estimated public reporting burden is not expected to increase significantly over the burden previously estimated, since the Department does not expect more than 2,000 loans to be insured under this new provision.

The estimated public reporting burden of these collections is stated under the Preamble heading Findings and Certifications. Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for

reducing the burden, to the Department of Housing and Urban Development, Rules Docket Clerk at the above address; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for HUD, Washington, DC 20503.

**I. Background**

The impetus for this proposed rule came from forums conducted by the FHA Commissioner in the Northwest/Alaska region. Individuals have been unable to obtain FHA mortgage insurance because condominium units that were being purchased were not in projects that had received approval under existing requirements. Existing regulations and handbook provisions contain requirements that serve as obstacles to obtaining mortgage insurance for units in condominium projects that have not been approved during or after development.

For example, in order to conform with the policies expressed by FHA in Handbook 4265.1, Appendix 24, a high percentage of the unit owners must vote to approve certain changes in the common area, such as converting any part of it to units, or selling or mortgaging any part of the common areas. Such changes, while not a frequent occurrence—because they affect the common area that is an undivided part of each property—obviously impact on the interest of lenders and mortgage insurers who look to the property as security for the mortgage. When FHA's involvement in a project is sizeable, any such change to the common area must be supported by a substantial part of the membership.

For an existing project that has not been approved during development, it is often not possible to obtain the requisite majority to approve the change and amend the documents accordingly just for the benefit of a single association member wishing to apply for Section 234 mortgage insurance. FHA has determined that approval of a unit on a spot loan basis would represent a reasonable underwriting risk even where such document changes have not been made, provided that its involvement is limited.

**II. Action**

The Department has determined that it is possible to insure a few condominium units in a project that has not received project approval by reducing the paperwork involved in obtaining approval. To assure that this new provision would not be used as a way to avoid the greater protections afforded the Department under the

existing provisions for project approval, it would be limited to approvals of no more than 10 percent of the units in a condominium project.

The intent of this proposed rule, therefore, is to facilitate sales of units in well-managed condominium projects that are in good condition. To accomplish this end, this proposed rule would add a new paragraph to the section describing eligibility of condominium projects for mortgage insurance (§ 234.26) to deal with these unit-by-unit ("spot loan") approvals for mortgage insurance. It also would add, in the section dealing with reverse equity mortgages (§ 206.51), a cross-reference to the new provision authorizing spot loan approvals. To make clear that the requirements for assumability, such as no right of first refusal given in any governing document, would still apply, the condominium mortgage insurance provision would include a cross-reference to that section (§ 234.66).

**Findings and Certifications***Impact on the Environment*

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m.) in the Office of the Rules Docket Clerk, room 10276, 451 Seventh Street, SW, Washington, DC 20410-0500.

*Federalism Impact*

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this proposed rule do not have significant impact on States or their political subdivisions since the provisions of the proposed rule affect private purchasers and sellers of condominium units.

*Impact on the Family*

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this proposed rule does not have potential for significant impact on family formation, maintenance, and general well-being. Therefore, the proposed rule is not subject to review under the Order. The proposed rule merely broadens the coverage of condominium units for which mortgage insurance can be obtained.