

Community Trends[®]



LEGISLATIVE UPDATE

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A hot topic in the industry has been new underwriting requirements by the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"). Fannie and Freddie purchase the majority of residential home mortgages originated by banks. As such, they wield incredible influence in mortgage underwriting.

In the aftermath of the Champlain Towers disaster in Surfside, Florida, Fannie (See LL-2021-14) and Freddie (See Bulletin 2021-38) instituted new underwriting guidelines which came into effect on February 28, 2022. In essence, these underwriting guidelines require lenders to determine whether condominiums and cooperatives have "significant deferred maintenance," "unsafe conditions," "material deficiencies," violations issued by governmental authorities, and "adequate reserves." In the event that a property has any of those adverse conditions, loans for units at the property will not be eligible for purchase on the secondary market by Fannie and Freddie, which essentially means that purchasers will have great difficulty in obtaining traditional loans.

In addition, lenders are attempting to fulfill Fannie and Freddie's requirements through the use of mortgage loan questionnaires which essentially ask the common interest community ("CIC") whether it has any of the prohibited conditions in a "yes or no" manner, possibly creating legal exposure for the CICs, boards, and managers.

The Legislative Action Committee (LAC) believes that the new underwriting guidelines are misguided in as much as building safety should be addressed through mandatory inspection, reserve funding, and safety legislation as opposed to through mortgage questionnaires. Furthermore, the Fannie and Freddie standards are not well defined, open to interpretation, and demand that CIC boards and managers predict whether future governmental violations

will be issued. Finally, the impact on "banned" CICs could be devastating and may further worsen the conditions of those that are struggling structural and other issues.

Accordingly, CAI's Government and Public Affairs Committee has requested that Fannie and Freddie re-examine the issue and reverse the implementation of the guidelines until further study and discussion can occur, and to give states' an opportunity to pass appropriate safety

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legislation, and issued a letter on February 17, 2022, to Fannie and Freddie setting forth its position which can be found on CAI's website.

In addition, the CAI's NJ-LAC has made this issue a priority and its Fannie/Freddie task force is in the process of preparing similar letters for presentation to Fannie and Freddie. In addition, with the assistance of our lobbyists, the LAC will seek interaction with key state and federal officials to present the compelling case against these underwriting guidelines, especially in light of the comprehensive building safety legislation that our building safety task force has prepared and is in the process of discussing with lawmakers and stakeholders.

For more in-depth information on this important topic, please see the article by David Dockery, Esq. on page 16. ■