

## Section B. Property Ownership Requirements and Restrictions

### Overview

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## 1. General Information on Property Requirements and Restrictions

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**Introduction** This topic contains general information on property requirements and restrictions, including

- occupancy restrictions
  - description of a condominium
  - requirements for condominium eligibility
  - a reference for investor property limitations
  - locating additional information on property eligibility and valuation
  - manufactured housing condominium projects (MHCP), and
  - requirements for site condominiums.
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**4155.1 4.B.1.a  
Occupancy  
Restrictions** Except as otherwise stated in this handbook, FHA's single family programs are limited to owner-occupied principal residences only.

*Reference:* For more information on what FHA will and will not insure, see HUD 4155.2 1.A.1.b.

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**4155.1 4.B.1.b  
Description of a  
Condominium** A condominium is a multi-unit project that

- has individually-owned units, which may be either
  - attached in one or more structures, or
  - detached from each other, and
- is essentially residential in use (for FHA purposes).

A condominium regime is created by state or local law and is characterized by fee simple ownership of a unit which is defined in the condominium documents, together with common areas. The property interest in these areas is both common and undivided on the part of all unit owners, each of whom belongs to the Homeowners' Association (HOA) that typically maintains the property and collects assessments or dues from each unit owner.

*Reference:* For more information on condominiums, see [HUD 4910.1](#), *Minimum Property Standards for Housing*.

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## 1. General Information on Property Requirements and Restrictions, Continued

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**4155.1 4.B.1.c Requirements for Condominium Eligibility**      FHA must approve condominium projects before a mortgage on an individual condominium unit can be insured.

**Reference:** For more information on condominiums, including condominium project approval requirements, see

- [HUD 4150.2](#), *Valuation Analysis for Single Family One- to Four-Unit Dwellings*, and
  - [HUD 4265.1](#), *Section 234(c), Home Mortgage Insurance for Condominium Units*.
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**4155.1 4.B.1.d Investor Property Limitations (Reference)**      Entities purchasing investment properties are limited to a financial interest in seven rental dwelling units.

**References:** For additional information on

- investment property requirements, see HUD 4155.1 4.B.4, and
  - the dwelling unit limitation for investors, see HUD 4155.1 4.B.4.d.
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**4155.1 4.B.1.e Property Eligibility and Valuation (Reference)**      For more information on property eligibility and valuation, see

- [HUD 4155.2](#)
  - [HUD 4150.2](#) *Valuation Analysis for Single Family One- to Four-Unit Dwellings*
  - [HUD 4910.1](#), *Minimum Property Standards for Housing*
  - [HUD 4145.1](#), *Architectural Processing and Inspections for Home Mortgage Insurance*, and
  - Section 203(b) of the National Housing Act, [24 CFR 203](#).
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## 1. General Information on Property Requirements and Restrictions, Continued

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### 4155.1 4.B.1.f Manufactured Housing Condominium Projects (MHCP)

Individual manufactured housing units in condominium projects are eligible for FHA insurance, on both Home Equity Conversion Mortgages (HECM) and forward mortgages. All manufactured housing condominium project (MHCP) approval requests must be processed by the Homeownership Center (HOC) having authority over the area in which the property is located.

*References:* For more information on

- MHCP approval, see [HUD 4150.1](#), *Valuation Analysis for Home Mortgage Insurance*, and
  - site condominiums, see 4155.1 4.B.1.g.
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### 4155.1 4.B.1.g Site Condominiums Requirements

Site Condominiums are single family totally detached dwellings encumbered by a declaration of condominium covenants or condominium form of ownership. They have no shared garages or any other attached buildings. Project approval is not required for site condominiums unless they do not meet this definition.

Although processed as Section 203(b) loans, the applicable ADP codes for site condominiums are 731 for Adjustable Rate Mortgages (ARM) and 734 for fixed rate loans. Appraisal data is collected and reported on Fannie Mae form 1004, and the Condominium Rider must be included in the FHA case binder.

*Note:* Manufactured housing condominium projects may not be processed as site condominiums.

*References:* For more information on

- MHCP approval, see [HUD 4150.1](#), *Valuation Analysis for Home Mortgage Insurance*, and
  - modular homes, see [HUD 4150.2, CHG-1, Appendix D-2](#).
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## 2. Eligibility Requirements for Principal Residences

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**Introduction** This topic contains information on eligibility requirements for principal residences, including

- a definition of principal residence
  - the FHA requirement for establishing owner occupancy
  - FHA-insured Mortgages on principal residences and investment properties, and
  - exceptions to the FHA policy limiting the number of mortgages per borrower.
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**4155.1 4.B.2.a  
Definition:  
Principal  
Residence** A *principal residence* is a property that will be occupied by the borrower for the majority of the calendar year.

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**4155.1 4.B.2.b  
FHA  
Requirement  
for Establishing  
Owner  
Occupancy** At least one borrower must occupy the property and sign the security instrument and the mortgage note in order for the property to be considered owner-occupied.

FHA security instruments require a borrower to establish bona fide occupancy in a home as the borrower's principal residence within 60 days of signing the security instrument, with continued occupancy for at least one year.

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## 2. Eligibility Requirements for Principal Residences, Continued

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### 4155.1 4.B.2.c FHA-Insured Mortgages on Principal Residences and Investment Properties

To prevent circumvention of the restrictions on making FHA-insured mortgages to investors, FHA *generally* will not insure more than one principal residence mortgage for any borrower. FHA will *not* insure a mortgage if it is determined that the transaction was designed to use FHA mortgage insurance as a vehicle for obtaining investment properties, even if the property to be insured will be the *only* one owned using FHA mortgage insurance.

Any person individually or jointly owning a home covered by an FHA-insured mortgage in which ownership is maintained may *not* purchase another principal residence with FHA insurance, *except* in certain situations as described in HUD 4155.1 4.B.2.d.

**Exception:** Properties previously acquired as investment properties are *not* subject to these restrictions.

**References:** For more information on

- exceptions to the above-stated policy, see HUD 4155.1 4.B.2.d
- investment property requirements, see HUD 4155.1 4.B.4, and
- the dwelling unit limitation for investors, see HUD 4155.1 4.B.4.d.

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## 2. Eligibility Requirements for Principal Residences, Continued

**4155.1 4.B.2.d  
Exceptions to  
the FHA Policy  
Limiting the  
Number of  
Mortgages Per  
Borrower**

The table below describes the exception situations in which FHA does *not* object to borrowers obtaining multiple FHA-insured mortgages.

*Note:* To determine the eligibility of a borrower for one of the exceptions in the table below, the underwriter must consider the

- length of time the previous property was owned by the borrower, and
- circumstances that compel the borrower to purchase another residence with an FHA-insured mortgage.

**Important:** In all cases other than those listed below, the borrower is **not** eligible to acquire another FHA-insured mortgage until he/she has either

- paid off the FHA-insured mortgage on the previous residence, or
- terminated ownership of that residence.

Policy Exception	Eligibility Requirements
Relocation	<p>A borrower may be eligible to obtain another FHA-insured mortgage without being required to sell an existing property covered by an FHA-insured mortgage <i>if</i> the borrower is</p> <ul style="list-style-type: none"> <li>• relocating, and</li> <li>• establishing residency in an area outside reasonable commuting distance from his/her current principal residence.</li> </ul> <p>If the borrower subsequently returns to the area where he/she owns a property with an FHA-insured mortgage, he/she is <i>not</i> required to re-establish primary residency in that property in order to be eligible for another FHA-insured mortgage.</p> <p><i>Note:</i> The relocation need not be employer-mandated to qualify for this exception.</p>

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## 2. Eligibility Requirements for Principal Residences, Continued

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### 4155.1 4.B.2.d Exceptions to the FHA Policy Limiting the Number of Mortgages Per Borrower (continued)

Policy Exception	Eligibility Requirements
Increase in family size	<p>A borrower may be eligible for another home with an FHA-insured mortgage if the number of his/her legal dependents increases to the point that the present house no longer meets the family's needs. The borrower must provide satisfactory evidence</p> <ul style="list-style-type: none"> <li>• of the increase in dependents and the property's failure to meet family needs, and</li> <li>• that the Loan-To-Value (LTV) ratio equals 75% or less, based on the outstanding mortgage balance and a current appraisal. If not, the borrower must pay the loan down to 75% LTV or less.</li> </ul> <p><i>Note:</i> A current residential appraisal <i>must</i> be used to determine LTV compliance. Tax assessments and market analyses by real estate brokers are <i>not</i> acceptable proof of LTV compliance.</p>
Vacating a jointly owned property	<p>A borrower may be eligible for another FHA-insured mortgage if he/she is vacating a residence that will remain occupied by a coborrower.</p> <p><i>Example:</i> A couple is divorcing and the vacating ex-spouse will purchase a new home.</p>
Non-occupying coborrower	<p>A borrower may be qualified for an FHA-insured mortgage on his/her own principal residence even if he/she is a non-occupying coborrower with a joint interest in a property being purchased by other family members as their principal residence with an FHA-insured mortgage.</p>

**Important:** Under *no* circumstances may investors use the exceptions described in the table above to circumvent FHA's ban on loans to private investors and acquire rental properties through purportedly purchasing "principal residences."

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### 3. Eligibility Requirements for Secondary Residences

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**Introduction** This topic contains information on eligibility requirements for secondary residences, including

- a definition of secondary residence
  - secondary residence restrictions
  - requesting a hardship exception
  - limitation on the number of secondary residences, and
  - secondary residence requirements.
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**4155.1 4.B.3.a  
Definition:  
Secondary  
Residence** A *secondary residence* is a property that a borrower occupies in addition to his/her principal residence.

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**4155.1 4.B.3.b  
Secondary  
Residence  
Restrictions** Secondary residences are *only* permitted when

- the appropriate HOC determines that an undue hardship exists, meaning that affordable rental housing that meets the needs of the family is not available for lease in the area or within reasonable commuting distance of work, and
- the maximum loan amount is 85% of the *lesser* of the appraised value or sales price.

**References:** For more information on

- requesting a hardship exception, see HUD 4155.1 4.B.3.c, and
  - other requirements for secondary residences, see HUD 4155.1 4.B.3.e.
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**4155.1 4.B.3.c  
Requesting a  
Hardship  
Exception** Direct Endorsement (DE) lenders are *not* authorized to grant hardship exceptions. Only the HOC may make the determination that an undue hardship exists. The lender must submit, in writing, any request for a hardship exception to the HOC having jurisdiction over the area in which the subject property is located.

**Reference:** For information on HOC jurisdictions, see HUD 4155.2 12.E.1.a.

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### 3. Eligibility Requirements for Secondary Residences,

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**4155.1 4.B.3.d  
Limitation on  
the Number of  
Secondary  
Residences**

A borrower may have only *one* secondary residence at any time.

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**4155.1 4.B.3.e  
Requirements  
for Secondary  
Residences**

Secondary residences must meet all of the following requirements:

- the secondary residence must *not* be a vacation home or be otherwise used primarily for recreational purposes
  - the borrower must obtain the secondary residence because of seasonal employment, employment relocation, or other circumstances not related to recreational use of the residence
  - there must be a demonstrated lack of affordable rental housing meeting the needs of the borrower in the area or within a reasonable commuting distance of the borrower's employment, and
  - the borrower must provide supporting documentation of the lack of affordable rental housing, including
    - a satisfactory explanation for the need of a secondary residence and the lack of available rental housing, and
    - written evidence from local real estate professionals who verify a lack of acceptable housing in the area.
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## 4. Investment Property Eligibility and Underwriting Requirements

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**Introduction** This topic contains information on investment property eligibility and underwriting requirements, including

- a definition of investment property
  - FHA-insured mortgages on investment properties
  - underwriting considerations on investment properties
  - dwelling unit limitation for investors, and
  - restriction on investment properties for hotel and transient use.
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**4155.1 4.B.4.a Definition: Investment Property** An *investment property* is a property that is *not* occupied by the borrower as a principal or secondary residence.

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**4155.1 4.B.4.b FHA-Insured Mortgages on Investment Properties** With permission from the appropriate Homeownership Center (HOC), private investors, including nonprofit organizations that do *not* meet the criteria described in HUD 4155.1 4.A.6.a, may obtain FHA-insured mortgages when

- purchasing HUD Real Estate Owned (REO) properties, or
- obtaining a streamline refinance without an appraisal.

**Note:** In HUD REO transactions, owner occupancy is not required when the jurisdictional HOC sells the property and permits the purchaser to obtain FHA-insured financing on the investment property.

**Reference:** For additional qualifying information on streamline refinances without an appraisal, see HUD 4155.1.3.C.2.

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## 4. Investment Property Eligibility and Underwriting Requirements, Continued

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### 4155.1 4.B.4.c Underwriting Considerations on Investment Properties

Underwriting considerations on investment properties are listed below.

- Individual investors who credit qualify may assume mortgages made on investment properties. This applies to the transactions described in HUD 4155.1 4.B.4.b, as well as to investment properties that were purchased before the 1989 ban on investors, which have subsequently been streamline refinanced.
- Underwriting considerations regarding qualifying ratios and the treatment of projected rental income are described in HUD 4155.1.4.E.4.
- Adjustable rate mortgages (ARMs) and graduated payment mortgages (GPMs) are *not* permitted on investment properties.
- For investment properties, FHA will not insure loans made solely in the name of a business entity (such as a corporation, partnership, or sole proprietorship), *except* for streamline refinances where the mortgage was originally insured in the name of a business. Additionally, FHA requires that
  - one or more individuals, along with the business entity or trust, must be analyzed for creditworthiness
  - the individual(s) and the business entity or trust must appear on the mortgage note, and
  - if all parties appear on the property deed or title, they must also appear on the security instrument.
- For purchases of HUD REO properties, owner occupancy is *not* required when the jurisdictional HOC sells the property and permits the purchaser to obtain FHA-insured financing on the investment property.
- Streamline refinancing without an appraisal is permitted on investment properties.
- Base mortgage calculation is 75% LTV, based on the lesser of the appraised value or the sales price.

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## 4. Investment Property Eligibility and Underwriting Requirements, Continued

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### 4155.1 4.B.4.d Dwelling Unit Limitation for Investors

Qualified investor entities are limited to a financial interest (that is, any type of ownership, regardless of the type of financing) in seven rental dwelling units, when the subject property is part of, adjacent to, or contiguous to, a property, subdivision or group of properties owned by the investor.

The units that count toward this limitation include

- *each* dwelling unit in a two, three, and four family property, and
- the rental units in an owner-occupied two, three, or four unit property.

Notes:

- The lender is responsible for ensuring compliance with this regulation.
  - Waivers to the seven unit limitation can only be initiated by the jurisdictional HOC for good cause.
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### 4155.1 4.B.4.e Restriction on Investment Properties for Hotel and Transient Use

Investors must assure FHA that investment properties they purchase will not be used for hotel or transient purposes, or otherwise rented for periods of less than 30 days, by completing Form [HUD-92561](#), *Hotel and Transient Use Certification*.

This form is required on every application for a

- two, three, or four family dwelling, or
  - single family dwelling that is one of a group of five or more dwellings owned by the same borrower.
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