

FHA SECTION 221(D)(4)

New Construction/Substantial Rehabilitation

PURPOSE

Provides mortgage insurance for the new construction and substantial rehabilitation of apartment projects, including independent living projects for seniors (age 62 years and older with no services). This program provides for both construction and permanent financing.

ELIGIBLE BORROWERS	Profit motivated single purpose entities (note: a non-profit can be the general partner of a profit motivated single purpose ownership entity).
ELIGIBLE ASSET TYPE	Market rate, affordable* or rental assisted** properties
MAXIMUM LOAN	For loans of less than \$120 million, the lesser of: <ol style="list-style-type: none"> 87% or 90% of replacement cost for market rate, affordable* or rental assisted** properties, respectively. The amount of debt that can be serviced by 87% or 90% of net operating income for market rate, affordable* or rental assisted** properties, respectively. Statutory per unit limits. 100% of mortgageable transactions cost less the portion of grants, public loans and tax credits applied to mortgageable costs.
MAXIMUM TERM	40 years plus a construction period.
OCCUPANCY	Maximum underwritten physical occupancy of 93% for market rate or affordable* properties that do not have an underwritten 10% discount to the market rate rent levels. Maximum underwriting physical occupancy of 95% for affordable* properties with 80%+ units set aside as LIHTC units and 97% for rental assisted** properties, or in-place rehab properties with a) occupancy at or above 90% and b) 90%+ units set aside as LIHTC units with underwritten tax credit rents at least 10% below market.
FUNDING	Qualifies for Ginnie Mae guaranteed mortgage-backed securities, direct placement or may be used to credit enhance tax-exempt bonds.
INTEREST RATE	Subject to market conditions. The construction and permanent financing interest rate is set at initial closing.
MORTGAGE INSURANCE PREMIUM	The annual MIP is 0.25% of the outstanding loan amount.
PREPAYMENT	Typically closed for 2 years then opened to prepayment at 108% in year 3, declining 1% per year. Other variations are possible based on market conditions and borrower preferences.
TIMING	Section 221(d)(4) processing usually takes about 5 to 7 months assuming a MAP one-stage application and about 8 to 10 months assuming a MAP two-stage application (subject to deal specifics).
FHA APPLICATION FEES	0.30% of the loan amount (non-refundable). Half of the fee is paid at pre-application and the other half at firm application. For affordable* transactions the full fee is paid at firm application.

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FHA INSPECTION FEES	0.50% of loan amount (new construction) 0.50% of costs associated with construction (substantial rehabilitation)
REPLACEMENT RESERVES	Annual deposits based on a 20-year repair and replacement analysis of the property with a minimum deposit of \$250 per unit.
PERSONAL LIABILITY	None. The FHA loan is non-recourse, however, identified principals) will be required to sign "Bad Boy" carveouts at closing.
ASSUMABLE	Yes, subject to HUD and lender approval (0.05% of the original loan amount).
SECONDARY FINANCING	Permitted in the form of a surplus cash note and only from a government source. The only exception to this is seller financed secondary debt. The seller financed secondary debt is allowed on market rate transactions that are less than 50% LTC and affordable transactions that are less than 80% LTC.
BUILDER/DEVELOPER'S PROFIT	A Builder's and Sponsor's Profit and Risk Allowance (BSPRA) equal to 10% of all costs other than land can be utilized for sponsors with an identity of interest general contractor. For affordable* and rental assisted** transactions a mortgageable Developer Fee in lieu of BSPRA is permitted.
TERRITORY	Nationwide
THE PROGRAM HAS THE FOLLOWING ADDITIONAL PARAMETERS	<ul style="list-style-type: none">• All transactions must participate in a concept meeting with HUD prior to application submittal.• Streamlined processing is available for loans involving Low Income Housing Tax Credits which are often used with properties that involve Section 202, Section 236 and Section 8 funding.• Davis-Bacon prevailing wage requirements apply.• A property generally qualifies as substantial rehabilitation when (i) the costs of repairs/improvements exceed \$19,923 per unit adjusted by the HUD high-cost factor for the geographic region; or (ii) two or more building systems/components are being replaced along with any components with an estimated remaining life of less than 5 years.• Properties must be able to demonstrate an ability to achieve stabilized occupancy within 18 months of construction completion (special exception may be given to high-rise buildings).• An initial operating deficit escrow (cash or letter of credit) may be required to cover projected operating shortfalls incurred prior to project stabilization. Typically, greater of (i) appraisal or underwriting conclusions, (ii) 4 months of debt service with MIP for garden apartments or 6 months of debt service with MIP for elevator buildings subject to single Certificate of Occupancy issuance; or (iii) 3% of the mortgage amount. Loans more than \$40 million have higher IOD requirements. For rehab projects the IOD may not be required.• A working capital deposit (cash or letter of credit) equivalent to 4% of the loan amount is required by HUD on all new construction projects to cover various costs; 2% of which will be a construction contingency for cost overruns and approved change orders. The working capital for substantial rehabilitation projects is only 2% of the loan amount as the development budget will have a separate construction contingency amount.<ul style="list-style-type: none">• Allowable commercial space is limited given the residential nature of the program.• A Project Capital Needs Assessment (PCNA) will be required every 10 years.• A schedule of real estate owned by principals is required and reviewed.• Loans more than \$120 million have slightly lower loan to cost limits and slightly higher debt service coverage requirements.

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Legacy Capital is a leading FHA-approved Mortgagee and MAP/LEAN lender and actively provides financing utilizing FHA insurance programs nationwide pursuant to Multifamily Accelerated Processing (MAP) and LEAN underwriting methods.

In its prequalifying review, Legacy will attempt to estimate both the loan amount, and the fees and costs associated with the transaction. Actual loan amounts and actual fees and expenses may vary from the prequalifying estimates. A prequalifying estimate is not a commitment to make a loan.

Terms outlined above reflect the Program Requirements as of 01/07/2026

** Affordable defined as: (a) properties that have a recorded regulatory agreement in effect for at least 15 years after final endorsement, and (b) properties that meet at least the minimum Low Income Housing Tax Credit (LIHTC) restrictions on 20% of units at 50% of the Area Median Income (AMI), or 40% of units at 60% of AMI, with economic rents (i.e., portion paid by tenants) on those units no greater than LIHTC rents (i.e., properties need not use LIHTCs to be considered affordable so long as they comply with (a) and (b).*

*** Rental assistance is defined as: properties that have at least 90% of their units supported by a project-based rental assistance contract. The contract or separate agreement must ensure affordability restrictions for at least 15 years.*