Flood Insurance Regulations:

Wading through the Tide of Change

Presented by

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About Our Presenter

As president of AdvisX, Mr. Agle brings over 28 years of regulatory and FI experience covering numerous facets of compliance and related operations. Mr. Agle specializes in strategic regulatory response and in developing and implementing both proactive and reactive tools and systems to preempt and resolve issues affecting today's financial institution.

Prior to his consulting experience, Mr. Agle had been a financial institution examiner with the FDIC. As a commissioned examiner, Mr. Agle was principally involved in numerous examinations, including Safety and Soundness, Compliance, BSA, IT and Trust.

Flood Insurance: Why this Topic?

$260 Billion in Flood Related Damages—1980 to 2013

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Elements of Presentation

- 2014 Changes and Impact
- 2015 Changes and Impact
- 2016 A Year of Transition
- Foundational Elements of the Basics
- Expanded Topics: Force Placement
- Selective Q&As

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One of My Favorite Flood Sites

- Key Years
  - 1968 The Act
  - 1973 Protection
  - 1994 Reform
  - 2004 Reform
  - 2012 Biggert Waters
  - 2014 Consolidation (aka C&D of BW)
  - 2014 HFIAA!!!

https://www.fema.gov/flood-insurance-reform-law#

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What Is The Write Your Own Program?

Flood Insurance Reform - The Law

A number of laws have been passed to strengthen the National Flood Insurance Program (NFIP), ensure its fiscal soundness and inform its mapping and rate-setting through expert consultation, reports and studies.

- **The National Flood Insurance Act of 1968**
  The National Flood Insurance Act of 1968 launched the National Flood Insurance Program.
- **The Flood Insurance Protection Act of 1973**
  The Flood Insurance Protection Act of 1973 mandated that lenders require flood insurance on loans secured by properties located within high-risk flood areas.
- **The National Flood Insurance Reform Act of 1994**
  The National Flood Insurance Reform Act of 1994 strengthened the NFIP with a number of reforms, that included, increasing the focus on lender compliance, creating mitigation insurance and developing a mitigation assistance program to further reduce the costly and devastating impacts of flood.
- **The Flood Insurance Reform Act of 2004**
  The Flood Insurance Reform Act of 2004 further strengthened the NFIP with a number of reforms, that included, reducing losses to properties for which repetitive flood insurance claim payments have been made, creating policyholder awareness about individual flood insurance policies, increasing policyholder information on guidance about the flood insurance claims process and establishing a minimum flood insurance training and education requirement for insurance professionals.
- **The Biggert-Waters Flood Insurance Reform Act of 2012**
  The Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert Waters) authorized and funded the national mapping program and certain rate increases to ensure the fiscal soundness of the program by transitioning the program from subsidized rates, also known as artificially low rates, to offer full actuarial rates reflective of risk
  - Questions about the Biggert-Waters Flood Insurance Reform Act of 2012
  - Timeline: Biggert-Waters Flood Insurance Reform Act of 2012
- **The Consolidated Appropriations Act of 2014**
  The Consolidated Appropriations Act of 2014 prohibited the implementation of certain sections of the previous law – Biggert-Waters, effectively stopping certain rate increases while new law was being developed to address raise rate concerns.
  - NFIP and the Consolidated Appropriations Act of 2014
- **Homeowner Flood Insurance Affordability Act of 2014**
  The Homeowner Flood Insurance Affordability Act of 2014 (HFIAA) repealed certain parts of previous law – Biggert-Waters, restoring grandfathering, putting limits on certain rate increases and updating the approach to ensuring the fiscal soundness of the fund by applying an annual surcharge to all policyholders.
  - Homeowner Flood Insurance Affordability Act Overview
  - WYO Company Bulletin W-14009

Today, the program is focused on implementing recent law by adjusting premium increases, issuing new rates and map updates, supporting mitigation and ensuring advocacy to connect policyholders with the information they need to better understand the program.

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2014 Changes

Flood: Wading Through the Tide of Change

Required Action—June 1, 2014

- Recognition of increase coverage limits on "Other Residential Buildings" (read Multi-family)
- Didn't mandate review of portfolios, but strongly encouraged such!!

Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Office of the Comptroller of the Currency
National Credit Union Administration
Farm Credit Administration

Interagency Statement on Increased Maximum Flood Insurance Coverage for Other Residential Buildings

Under Section 100204 of the Biggert-Waters Flood Insurance Reform Act of 2012, the maximum limit of building coverage available for non-condominium residential buildings designed for use for five or more families, classified as "Other Residential Buildings" by the National Flood Insurance Program (NFIP), has been increased from $250,000 per building to $500,000. The maximum contents coverage for all policies covering Other Residential Buildings will remain $100,000 per policy. The new coverage limits are available for new policies, policy renewals, or existing policies with change endorsements[1] effective on or after June 1, 2014.[2]

The Board of Governors of the Federal Reserve System, the Farm Credit Administration, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency (the Agencies) have issued flood insurance regulations requiring that, when a lender makes, increases, extends, or renews a loan secured by property located in a Special Flood Hazard Area (a "designated loan"), the property must be covered by flood insurance for the term of the loan.[3] The amount of insurance required is the lesser of:

- the outstanding principal balance of the loan(s); or
- the maximum amount of insurance available under the NFIP, which is the lesser of:
  - the maximum limit available for the particular type of structure; or
  - the "insurable value" of the structure.

Considering the Agencies' flood insurance coverage requirements, the increase in the maximum amount of flood insurance coverage available under the NFIP pursuant to the Biggert-Waters Act could affect the minimum amount of flood insurance required for both existing and future loans secured by Other Residential Buildings.

The Federal Emergency Management Agency (FEMA) has directed insurers that issue NFIP policies to provide all Other Residential policyholders with a letter informing them prior to June 1, 2014, of the new policy limits.[4] This letter is intended to notify building owners who may be affected by the increased limits. The Agencies understand that insurers may provide notification of the new policy limits to any lender named on the borrower's flood insurance policy at the

[1] An endorsement is a written document attached to an insurance policy that modifies the policy by changing the coverage afforded under the policy.
[2] FEMA Memorandum W-13070, http://nfipiservice.com/Stakeholder/FEMA2/w-13070_Full.pdf (Dec. 16, 2013), Attachment A, page 1.
[3] *See* 12 C.F.R. § 22.3 (Office of the Comptroller of the Currency); 12 C.F.R. § 208.25(c) (Federal Reserve Board); 12 C.F.R. § 339.3 (Federal Deposit Insurance Corporation); 12 C.F.R. § 614.4930 (Farm Credit Administration); 12 C.F.R. § 760.3 (National Credit Union Administration).
[4] FEMA Memorandum W-13070, Attachment A, page 1.

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Some of the Key Points in latest updates: Elements in Deeper Waters (aka HFIAA)

On March 21, 2014, President Obama signed the Homeowner Flood Insurance Act of 2014 into law.

The law repealed and modified certain provisions of Biggert-Waters Flood Insurance Report Act, which was enacted in 2012.

"Thanks to a strong, bipartisan effort, we have averted the manmade perfect storm that would have crushed thousands of families under the weight of skyrocketing flood insurance rates." Senator Menendez (FL)

Nothing Said Confidence Like Repealing a Law Before Implementation

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HFIAA Overview—Page 1

- Page 1 includes statement of BW repeal on certain sections
- Notes rate increase reductions, prevention of rate increases on certain properties
- Requires affordability study
- Promotes WYO efforts and seeks input on such

FEMA **Homeowner Flood Insurance Affordability Act**

Overview

On March 21, 2014, President Obama signed the Homeowner Flood Insurance Affordability Act of 2014 into law.

This law repeals and modifies certain provisions of the Biggert-Waters Flood Insurance Reform Act, which was enacted in 2012, and makes additional program changes to other aspects of the program not covered by that Act. Many provisions of the Biggert-Waters Flood Insurance Reform Act remain and are still being implemented.

While FEMA actively works to implement the new law, we encourage policyholders to maintain and keep current flood insurance policies. FEMA does NOT recommend cancelling a flood insurance policy. Cancelling flood insurance policies now will leave policyholders unprotected during spring flooding and may cause policyholders to lose important discounts on their rate if they reinstate in the future.

- The new law lowers the recent rate increases on some policies, prevents some future rate increases, and implements a surcharge on all policyholders. The Act also repeals certain rate increases that have already gone into effect and provides for refunds to those policyholders. The Act also authorizes additional resources for the National Academy of Sciences (NAS) to complete the affordability study.
- FEMA looks forward to working with Congress, the private Write Your Own insurance companies, and other stakeholders to implement these Congressionally mandated reforms and to working toward our shared goals of helping families maintain affordable flood insurance, ensuring the financial stability of the NFIP, and reducing the risks and consequences of flooding nationwide. FEMA will also continue to identify and publish special flood hazards and flood risk zones as authorized and required by Congress.
- FEMA has actively begun analyzing and prioritizing implementation of the new law. We will be working with the private Write Your Own insurance companies in the next few weeks to seek their input and expertise prior to issuing business practice bulletins.
- It is not possible for changes to happen immediately. While the new law does require some changes to be made retroactively, applying to certain policies written after July 6, 2012, other changes require establishment of new programs, processes and procedures.
- FEMA's initial priority is assessing potential changes to the NFIP's business processes to stop policy increases for certain subsidized policyholders as outlined in the Act.
- FEMA also plans to issue guidance in the months ahead for the Write Your Own insurance companies to begin issuing refunds as outlined in the law for some policyholders who were previously impacted by subsidy phase outs.
- More information on the new law and its impacts on the NFIP will be forthcoming.

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HFIAA Overview—Page 2

- Page 2 focuses on the Refund Issue:
  - Pre-FIRM Excess Premiums
  - Requires coordination between FEMA and WYO
- Premium Rates for Subsidized Policies
  - Notes that 80% of current NFIP policyholders pay full rate (what about WYO?)
  - Increases are no less than 5% annually until full rate is paid.
  - Maximum increase is 18% for most properties
  - New Guidelines are being developed by FEMA

REFUNDS

- For certain flood insurance policies affected by the Pre-Flood Insurance Rate Map (Pre-FIRM) subsidy elimination required by BW-12, the new law mandates refunds of the excess premiums that those policyholders were charged pursuant to the requirements of BW-12. Refunds will not affect all subsidized policyholders who received rate increases as directed by Congress in BW-12, only policyholders for whom the rate increases under BW-12 were revoked by the new law. Refunds will affect only a small percentage of the overall NFIP policy base.
  - Prior to restoring and refunding premiums, FEMA is required by the Homeowner Flood Insurance Affordability Act to consult with its partner insurers (Write-Your-Own insurance companies or WYOs) to develop guidance and rate tables.
  - In accordance with the new law, FEMA will work to develop and finalize its guidance and rate tables within eight months.
  - The law provides WYO insurance companies between six and eight months to implement the changes and update systems to implement the guidance.
- FEMA is working closely with the WYO insurance companies to develop a timetable for processing refunds expediently.
- REFUNDS APPLY TO:
  - Policyholders in high-risk areas who were required to pay their full-risk rate after purchasing a new flood insurance policy on or after July 6, 2012.
- REFUNDS MAY APPLY TO:
  - Policyholders who renewed their policy after the Homeowner Flood Insurance Affordability Act was enacted on March 21, 2014 and whose premium increased more than 18 percent .
- REFUNDS DO NOT APPLY TO:
  - Policyholders paying the 25 percent annual rate increases, as required by Congress in BW-12, for a Pre-FIRM subsidized non-primary residence, business, Severe Repetitive Loss property, or building that was substantially damaged or improved.
  - Policyholders whose full-risk premium is less than the Pre-FIRM subsidized premium, or who were not overcharged according to any retroactive revisions to the Pre-FIRM subsidized rates required by the new law.
- Policyholders who saw usual, annual rate increases in 2013 or 2014, or policyholders who paid the 5 percent fee, as required by BW-12, for the NFIP Reserve Fund, will only see a refund if their premium renewal was after March 21, 2014 and their total premium, including the reserve fund, exceeded 18 percent.

PREMIUM RATES FOR SUBSIDIZED POLICIES

- The new law requires gradual rate increases to properties now receiving artificially low (or subsidized) rates instead of immediate increases to full-risk rates required in certain cases under BW-12.
- FEMA is required to increase premiums for most subsidized properties by no less than 5 percent annually until the class premium reaches its full-risk rate. It is important to note that close to 80 percent of NFIP policyholders paid a full-risk rate prior to either BW-12 or HFIAA, and are minimally impacted by either law.
- With limited exceptions flood insurance premiums cannot increase more than 18 percent annually.
  - There are some exceptions to these general rules and limitations, The most important of these

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HFIAA Overview—Page 3

- Surcharges
  - Surcharge to offset subsidized policies. $25 surcharge for all primary residences. $250 for all others.
  - Required until all Pre-FIRM subsidies are eliminated.
- Grandfathering
  - Repeals BW-12 that mandated rate increases to actuarial levels by 20% a year.
  - Provides (or restores) “Grandfathering” capacity by FEMA.
  - Newly mapped properties sets first year premiums at same rates offered to properties outside the SFHA.
- Advocacy
  - Requires FEMA to have a policy holder super “Advocate”

Federal Emergency Management Agency

annual increases as required by BW-12 until they reach their full-risk rate: Older business properties insured with subsidized rates;
- Older non-primary residences insured with subsidized rates;
- Severe Repetitive Loss Properties insured with subsidized rates;
- and buildings that have been substantially damaged or improved built before the local adoption of a Flood Insurance Rate Map (known as Pre-FIRM properties).

- In order to enable new purchasers of property to retain Pre-FIRM rates while FEMA is developing its guidelines, a new purchaser will be allowed to assume the prior owner’s flood insurance policy and retain the same rates until the guidance is finalized. Also, lapsed policies receiving Pre-FIRM subsidized rates may be reinstated with Pre-FIRM subsidized rates pending FEMA’s implementation of the rate increases required by the Homeowner Flood Insurance Affordability Act.

NEW SURCHARGE ON ALL POLICIES

- A new surcharge will be added to all policies to offset the subsidized policies and achieve the financial sustainability goals of BW-12. A policy for a primary residence will include a $25 surcharge. All other policies will include a $250 surcharge. The fee will be included on all policies, including full-risk rated policies, until all Pre-FIRM subsidies are eliminated.

GRANDFATHERING

- The new law repeals a provision of BW-12 that required FEMA, upon the effective date of a new or updated Flood Insurance Rate Map, to phase in premium increases over five years by 20 percent a year to reflect the current risk of flood to a property, effectively eliminating FEMA’s ability to grandfather properties into lower risk classes.
- Also for newly mapped in properties, the new law sets first year premiums at the same rate offered to properties located outside the Special Flood Hazard Area (preferred risk policy rates).
- With limited exceptions, flood insurance premiums cannot increase more than 18 percent annually.

FLOOD INSURANCE ADVOCATE

- The new law requires FEMA to designate a Flood Insurance Advocate to advocate for the fair treatment of NFIP policy holders.
- The Advocate will:
  - Educate property owners and policyholders on individual flood risks; flood mitigation; measures to reduce flood insurance rates through effective mitigation; the flood insurance rate map review and amendment process; and any changes in the flood insurance program as a result of any newly enacted laws;
  - Assist policy holders and property owners to understand the procedural requirements related to appealing preliminary flood insurance rate maps and implementing measures to mitigate evolving flood risks;
  - Assist in the development of regional capacity to respond to individual constituent concerns about flood insurance rate map amendments and revisions;
  - Coordinate outreach and education with local officials and community leaders in areas impacted by proposed flood insurance rate map amendments and revisions; and

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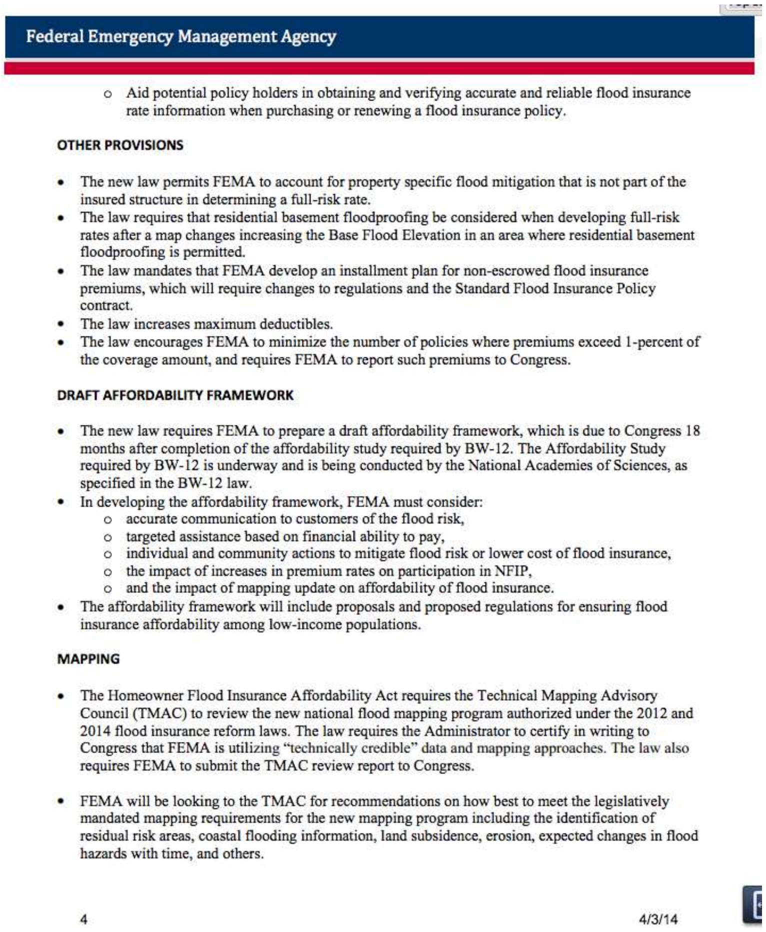
HFIAA Overview—Page 4

- Allows property specific flood mitigation efforts to be factored into premium rate (flood proof basements)
- Provides for installment plan for non-escrow premiums
- Maximum Deductibles
- Promotes reduction of premium excessive (1% of coverage)
- Affordability Analysis
- TMAC (Technical Mapping Advisory Council) Boost



Federal Emergency Management Agency

- Aid potential policy holders in obtaining and verifying accurate and reliable flood insurance rate information when purchasing or renewing a flood insurance policy.

OTHER PROVISIONS

- The new law permits FEMA to account for property specific flood mitigation that is not part of the insured structure in determining a full-risk rate.
- The law requires that residential basement floodproofing be considered when developing full-risk rates after a map changes increasing the Base Flood Elevation in an area where residential basement floodproofing is permitted.
- The law mandates that FEMA develop an installment plan for non-escrowed flood insurance premiums, which will require changes to regulations and the Standard Flood Insurance Policy contract.
- The law increases maximum deductibles.
- The law encourages FEMA to minimize the number of policies where premiums exceed 1-percent of the coverage amount, and requires FEMA to report such premiums to Congress.

DRAFT AFFORDABILITY FRAMEWORK

- The new law requires FEMA to prepare a draft affordability framework, which is due to Congress 18 months after completion of the affordability study required by BW-12. The Affordability Study required by BW-12 is underway and is being conducted by the National Academies of Sciences, as specified in the BW-12 law.
- In developing the affordability framework, FEMA must consider:
  - accurate communication to customers of the flood risk,
  - targeted assistance based on financial ability to pay,
  - individual and community actions to mitigate flood risk or lower cost of flood insurance,
  - the impact of increases in premium rates on participation in NFIP,
  - and the impact of mapping update on affordability of flood insurance.
- The affordability framework will include proposals and proposed regulations for ensuring flood insurance affordability among low-income populations.

MAPPING

- The Homeowner Flood Insurance Affordability Act requires the Technical Mapping Advisory Council (TMAC) to review the new national flood mapping program authorized under the 2012 and 2014 flood insurance reform laws. The law requires the Administrator to certify in writing to Congress that FEMA is utilizing "technically credible" data and mapping approaches. The law also requires FEMA to submit the TMAC review report to Congress.

- FEMA will be looking to the TMAC for recommendations on how best to meet the legislatively mandated mapping requirements for the new mapping program including the identification of residual risk areas, coastal flooding information, land subsidence, erosion, expected changes in flood hazards with time, and others.

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HFIAA Overview—Page 5

- Encourages Improvement to NFIP
- Allows higher reimbursements to successful mapping challenges
- Preventive efforts allowed
- Cut out of certain mapping changes
- Coordination with communities during remapping and reporting to applicable Congress for preliminary mapping changes

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- As the new national flood mapping program is being established, FEMA expects there will be opportunities to make incremental improvements to current procedures as it provides flood hazard data and information under the National Flood Insurance Program (NFIP). FEMA will make those improvements where necessary to ensure all ongoing changes to flood hazards continue to be effectively communicated, mitigated, and properly insured against.
- The law lifts the $250,000 limit on the amount that FEMA can spend to reimburse homeowners for successful map appeals based on a scientific or technical error. Federal rulemaking is required in order to implement this provision.
- FEMA is authorized to account for reconstruction or improvements of flood protection, not just new construction. It authorizes FEMA to consider the existing present value of a levee when assessing adequate progress for the reconstruction of an existing flood protection system. The law extends certain provisions related to NFIP requirements in areas restoring disaccredited flood protection systems to coastal levees and clarifies that the levee needs to be considered without regard to the level of federal funding for the original construction or the restoration.
- The law exempts mapping fees for flood map changes due to habitat restoration projects, dam removal, culvert re-design or installation, or the installation of fish passages.
- The law requires FEMA to consider the effects of non-structural flood control features, such as dunes, and beach and wetland restoration when it maps the special flood hazard area.
- The law requires FEMA to enhance coordination with communities before and during mapping activities and requires FEMA to report certain information to members of Congress for each State and congressional district affected by preliminary maps.

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Compare and Contrast—Part I

Biggert-Waters Act	Homeowner Flood Insurance Affordability Act (HFIAA)
	Premium Guidelines – Minimum and Maximum Annual Premium Increase
Generally, within any rate class the premium may not be increased by an amount that would result in an average yearly rate increase of more than **20** percent. (100205(c)(2)).	Within any rate class, generally, the average yearly premium rate increases cannot be greater than **15** percent. (Sec. 5(6)). Generally, the risk premium rate for a specific property may not increase by more than **18** percent per year. (Sec. 5(5)). Certain pre-FIRM rate classes must increase by not less than 5 percent. (Sec. 5(5)).
	Premium Guidelines — Premium as a Percentage of Coverage
	HFIAA encourages FEMA to strive to minimize the number of policies where premiums exceed 1 percent of the coverage amount, and requires FEMA to report such policies to Congress. (Sec. 7).
	Grandfathering
Properties remapped to higher risk flood zones but paying lower risk premium rates because of grandfathering will now pay the premium rate charged for current risk of flood to the property, as phased in over five years at 20 percent per year. (100207).	Repeals the BWA provision that terminated grandfathering. (Sec. 4). If the property is sold, grandfathered status will be passed on to the new owners. When the property is newly designated as within a special flood hazard area AND the premium rate is calculated as a full risk rate, a preferred risk premium is permitted for the first year. Thereafter, in accordance with premium rate increase guidelines, the property's final rate is phased in. (Sec. 6).

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Compare and Contrast—Part II

Biggert-Waters Act	Homeowner Flood Insurance Affordability Act (HFIAA)
	Subsidies
The Biggert-Waters Act excludes or removes subsidies for certain properties, including: • properties purchased after July 6, 2012; • properties not insured as of July 6, 2012 or those with lapsed insurance coverage as a result of a deliberate choice of the policyholder; • secondary residences; • business property; and • severe repetitive loss properties. (100205).[a] Rates for subsidy removal for certain properties (such as secondary residences, business property, and severe repetitive loss properties) shall be increased by 25 percent per year until the average risk premium rate of the properties is equal to full risk rate.	HFIAA generally: • repealed property sales trigger for automatic full risk rate and allows home buyers to assume flood insurance at same risk rate; • prohibited FEMA from immediately removing subsidies specifically because any property was not insured by the flood insurance program as of July 6, 2012; and • retained the Biggert-Waters Act's phase out of subsidies for certain property classes (secondary residences, business properties, and severe repetitive loss properties) and maintained the 25 percent increase per the Biggert-Waters Act. (Sec. 3).
	Refunds
N/A	FEMA must issue refunds directly to those who paid NFIP premiums under the Biggert-Waters Act in excess of rates set under the HFIAA. Refunds apply to policy holders who (1) purchased property after July 6, 2012; (2) who were not insured prior but purchased insurance after July 6, 2012; and (3) certain policy holders who let their policy lapse. (Sec. 3(a)(4)).
	Reserve Fund and Premium Surcharges
FEMA must create a reserve fund that maintains at least one percent of the total annual potential loss exposure. The fund will be phased in over time with at least 7.5 percent of the total added yearly, but FEMA is not permitted to exceed annual rate increase caps to build up or maintain the reserve fund. (100212).	Adds a premium surcharge which will be deposited in the reserve fund. Generally, a policy for a primary residence will include a $25 surcharge and all other policies will include a $250 surcharge. (Sec. 8).
	Debt Reporting
FEMA must issue a report to Congress setting forth options to repay FEMA's total debt to Treasury within 10 years. The report was due by January 2013. After borrowing funds, FEMA must report to Congress and the Treasury every 6 months on the progress of the payments. (100213).	N/A

Compare and Contrast—Part III

Biggert-Waters Act	Homeowner Flood Insurance Affordability Act (HFIAA)
Mapping	
Establish a Technical Mapping Advisory Council (TMAC) with multiple agency participation. (100215). Required that, in coordination with TMAC, FEMA shall establish an ongoing program under which FEMA shall review, update, and maintain NFIP rate maps in accordance with National Flood Mapping Program requirements provided in the Biggert-Waters Act. (100216(a)). Mapping should consider recommendations made by TMAC and include the 1 percent and .02 percent annual flood risk for all populated areas and areas protected by levees, dams and other flood control devices. (100216(b)).[b] Eliminated the cap that states can contribute to updating flood maps (previously the cap was 50 percent of total costs). (100219). Authorized $400,000,000 to be appropriated for each fiscal year 2013 through 2017 for updating maps (100216(f)). FEMA must contract with National Academy of Public Administration (NAPA) to conduct a study of improving interagency and intergovernmental mapping coordination among agencies. NAPA must complete the study by January 2013. (100221).	Before FEMA implements a flood mapping program: (1) TMAC must review the new national flood mapping program, (2) the FEMA administrator must certify in writing to Congress that FEMA is utilizing "technically credible" flood hazard data in all areas where a FIRM is prepared or updated; and (3) FEMA must submit the TMAC review report to Congress. (Sec. 17). FEMA must notify the community affected by the mapping model(s) before starting a new or updated mapping model(s) and explain the model(s) appropriateness. (Sec. 30). The community has 30 days to consult with FEMA after FEMA's initial notification. Further, FEMA must transmit the first Independent Data Submission after it is completed to the community which then has 30 days to provide FEMA data to supplement or modify FEMA's information. In addition, FEMA must notify the Congresspersons of the affected areas at least 30 days before a preliminary map is issued of any related scheduled community meetings, publication of notices in local newspapers and estimates of homes and businesses affected. (Sec. 30).
Appeals of Maps	
Limited the scope of allowable appeals of new maps to scientific or technical inaccuracies for elevations or designation of an identified special flood hazard area. (100217). Required FEMA to establish an independent Scientific Resolution Panel composed of experts, who are not FEMA employees, and make them generally available to communities involved in map appeals. (100218).	Allows FEMA to utilize the National Flood Insurance Fund to reimburse policyholders and communities that successfully appeal a map determination and removes a $250,000 limit (established by Biggert-Waters Act Section 246) for FEMA reimbursements of costs of appeals. (Sec. 18(a)(2)).
Coverage Amount – Residential	
Generally, total coverage is limited to $250,000 for a residential building with 1-4 units; and $500,000 for multi-family properties (those with 5 or more units) (1000204 and 100228).	N/A

Compare and Contrast—Part IV

Biggert-Waters Act	Homeowner Flood Insurance Affordability Act (HFIAA)
Affordability Study and Framework	
Provided FEMA $750,000 to conduct an NFIP affordability study in part about methods to encourage participation, which must be completed by April 2013. (100236). To inform the affordability study, FEMA is required to contract with NAS to conduct an economic analysis of the costs and benefits to the federal government of a flood insurance program with full risk-based premiums, combined with means-tested federal assistance to aid individuals who cannot afford coverage through a potential insurance voucher program. (100236(b)).	Provided FEMA $2.5 million to complete a draft affordability study (including issues that were to be identified in the Biggert-Waters Act study and several additional topics) by September 2015. (Sec. 16) FEMA may enter into an agreement with another federal agency to complete this study. (Sec. 9(d)(1)). FEMA must prepare a draft affordability framework submitted to Congress no later than 18 months after the affordability study is completed. (Sec. 9(a)). The framework must consider: (1) accurate communication to consumers of flood risk; (2) targeted assistance to policy holders based on their financial ability to participate in NFIP; (3) individual or community actions to mitigate risk of flood or lower the cost of flood insurance; (4) the impact of increases in risk premium rates on participation; and (5) the impact flood insurance rate map updates have on the affordability of flood insurance. (Sec. 9(a)). FEMA may enter into an agreement with another federal agency to prepare the draft affordability framework. (Sec. 9(d)). In the study, FEMA, among other things, must consider options for maintaining affordability if annual premiums were to increase to an amount greater than 2 percent of the liability coverage under the policy, including options for enhanced mitigation assistance and means-tested assistance. (Sec. 16(a)(3)).
Flood Insurance Advocate	
N/A	FEMA must designate a Flood Insurance Advocate to advocate for the fair treatment of NFIP policy holders and property owners in the mapping of flood hazards, the identification of risks from flood, and the implementation of measures to minimize the risk of flood. (Sec. 24).

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Compare and Contrast—Part V

Biggert-Waters Act	Homeowner Flood Insurance Affordability Act (HFIAA)
Mitigation	
Mitigation funds must only be used for mitigation activities consistent with mitigation plans approved by FEMA. (100225(a)). FEMA may establish grants for eligible mitigation activities up to the amounts as follows: • 100 percent for severe repetitive loss properties, • 90 percent for repetitive loss properties, and • 75 percent for all other mitigation projects. (100225(a)). Eliminated as independent programs grant programs for repetitive insurance claims properties and a pilot program for mitigation of severe repetitive loss properties as independent programs. (100225(b)-(c)). FEMA may provide financial assistance for activities designed to reduce the risk of flood damage to structures covered under flood insurance. The grants may be made to states and communities to carry out mitigation generally and mitigation that reduces flood damages to severe repetitive loss structures. If FEMA determines that the state or community cannot manage these grants, grants may be provided directly to property owners to carry out mitigation that reduces flood damages to individual structures for which two or more claim payments for losses have been made by NFIP. (100225).	By March 2015, FEMA is to establish guidelines to provide alternative methods of mitigation, other than building elevation, to reduce flood risk to residential buildings that cannot be elevated due to their structural characteristics. (Sec. 26). When setting full risk rates, FEMA must now also consider the flood mitigation activities that an owner or lessee has undertaken on a property including differences in the risk involved due to land use measures, flood proofing, flood forecasting and similar measures. (Sec. 14).

Compare and Contrast—Part VI

Biggert-Waters Act	Homeowner Flood Insurance Affordability Act (HFIAA)
Flood Protection Systems in Communities	
Generally, a person living in a community that FEMA determines has made adequate progress on the reconstruction or improvement of a flood protection system that will afford the 1 percent per year floodplain flood protection is eligible for NFIP coverage if: (1) the community participates in NFIP and (2) the premium rate does not exceed the risk premium rate that would be chargeable if the flood protection system had been completed. (100230) FEMA must follow statutorily set standards to determine adequate progress. (100230(a)(2)(A)).	Any community that has made adequate progress on the construction or reconstruction of a flood protection system which will afford flood protection for the 1 percent per year frequency flood is eligible for flood insurance at the premium rates that would apply if such flood protection system had been completed. (Sec. 19(a)(1)). FEMA's determination of "adequate progress" was amended by HFIAA to include a requirement that at least 50 percent of the cost of the system has been expended and that at least 50 percent of the system is completed. (Sec. 19(a)(2)). The provisions also apply to riverine and coastal levees located in communities which have been determined by FEMA to be in the process of restoring flood protection previously accredited as providing the 1 percent per year protection but no longer do so. (Sec. 19(b)).

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Compare and Contrast—Part VII

Biggert-Waters Act	Homeowner Flood Insurance Affordability Act (HFIAA)
Notification	
N/A	Requires FEMA, at least 6 months prior to implementation of rate changes as a result of this Act, to make publicly available the rate tables and underwriting guidelines that provide the basis for the change. (Sec. 31(a)). By June 2014, FEMA must submit to Congress a report on the feasibility of releasing property-level policy and claims data for flood insurance coverage and establishing guidelines for releasing property level policy and claims data in accordance with the Privacy Act of 1974. (Sec. 31(b)). FEMA must clearly communicate full flood risk determinations to individual property owners regardless of whether their premium rates are full actuarial rates. (Sec. 28).
Write Your Own (WYO) Oversight and Reimbursement	
FEMA must develop a methodology by January 2013 for determining the appropriate amounts that property and casualty insurance companies participating in the WYO ("WYOs") program should be reimbursed for selling, writing, and servicing NFIP policies and adjusting claims. (100224(b)). The methodology must be developed using expense data from the flood insurance lines derived from information provided by WYOs and collected by the National Association of Insurance Commissioners. (100224(b)). FEMA can require WYOs to submit a report that details the expense levels for selling, writing, and servicing standard flood insurance policies and adjusting and servicing claims. (100224(c)). FEMA was mandated to issue rules by July 2013 to formulate revised expense reimbursements for selling, writing and servicing standard flood insurance policies which are structured to ensure reimbursements track actual expenses. (100224(d)). No later than 60 days after the effective date of the final rule, FEMA must submit to Congress a report including the rationale and purpose for the rule; reasons for adopting the policy; and the degree to which the rule accurately represents the true operating costs and expenses for WYOs. (100224(e)).	N/A

Compare and Contrast—Part VIII

Biggert-Waters Act	Homeowner Flood Insurance Affordability Act (HFIAA)
	Small Business, Nonprofit, House of Worship and Residences Protection Studies
N/A	FEMA must monitor and report to Congress by September 2015 (and semiannually afterward) FEMA's assessment of the impact of the rate increases instituted under the Biggert-Waters Act—specifically, certain subsidy eliminations on secondary residences, severe repetitive loss properties, any property that has incurred flood-related damage in a cumulate amount that equals or exceed the property's fair market value, and business properties—and certain surcharges on small businesses with less than 100 employees, non-profit entities, houses of worship, and residences with a value equal to or less than 25 percent of the median home value of properties in the state the property is located. (Sec. 29) If FEMA determines the rate increases or surcharges are having a detrimental effect on affordability including resulting in lapsed policies or late payments, FEMA must make recommendations to Congress about how to improve affordability within 3 months of making the determination. (Sec. 29)

Source: GAO analysis of the Biggert-Waters Act and HFIAA. | GAO-15-178

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Some of the Key Points in updates: Private Flood Insurance

These **coverage requirements** are part of the guidelines rescinded by FEMA; however, they give institutions an idea of what to look for in private flood insurance policies:

1. Issued by an insurance company that is **licensed**, admitted or approved to engage in the business of insurance in the State or jurisdiction in which the insured building is located
2. Coverage that is as **broad** as the one provided by the SFIP under NFIP
3. 45 days' **written notice** of cancellation/non-renewal to the insured and lending institution;
4. Includes information about the **availability** of flood insurance coverage under the NFIP;
5. Includes a **mortgage interest clause** similar to the clause contained in an SFIP;
6. Includes a provision requiring an insured to file suit not later than **one year** after the date of a written denial for all or part of a claim under a policy; and
7. Contains **cancellation provisions** that are as restrictive as the provisions contained in an SFIP.

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Some of the Key Points in updates: Private Flood Insurance

- **Details**
  - Analyzing #1 and #2 would be burdensome for smaller institutions
  - Definition of “private flood insurance” makes meeting this goal difficult and presents significant compliance challenges
  - Regulators are proposing a “safe harbor”
    - State insurance regulators to determine if a company’s policies are sanctioned
    - Interesting, given other conditions within the proposal

Some of the Key Points in updates: Private Flood Insurance

- Details
  - Lenders must disclose **three points** on policies through a notice to the borrower that:
    1. Flood insurance under NFIP is available from private insurance companies or from the NFIP directly;
    2. Same level of coverage as an NFIP policy may be available from private insurance companies; and
    3. Borrowers are encouraged to compare policies
- See 2015 Form Language

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Some of the Key Points in updates: Sample Forms

- **Summary**
  - A number of new and revised sample notice forms and clauses includes:
    - Amended Form of Notice of Special Flood Hazards and Availability of Federal Disaster Relief Assistance
    - Amendment of form needed regardless how the private insurance issue is resolved.
    - Required disclosure of whether the loan is located in a SFHA and flood insurance is required and/or available.
    - Another form on the escrow requirements and force-placement notice are presented.
  - See 2015 Changes

Some of the Key Points in updates: Sample Forms

- **Details**
  - Regulated lending institutions, or servicers acting on their behalf, must mail or deliver a written notice that:
    - Informs borrower that escrow of all premiums and fees is required on residential improved RE

  - Specific language to SFHA federal disaster relief assistance form on new loans with advance notice requirements for escrow covered loans
  - See 2015 Changes

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2015 Changes

Flood: Wading Through the Tide of Change

Understanding 2015 Changes

- http://nfipiservice.com/Stakeholder/FEMA4/ATTACHMENT%20A%20-%20April%201,%202015%20Summary%20of%20Program%20Changes.pdf
- Implementation of the first annual rate change that sets rates using rate increase limitations set by HFIAA, for individual premiums and rate classes:
  - Limiting premium increases for individual premiums to 18 percent premium;
  - Limiting increases for average rate classes to 15 percent; and
  - Mandatory increases for certain subsidized policyholders under Biggert-Waters an HFIAA.
- Increasing the Reserve Fund assessments required by Biggert-Waters.
- Implementation of the annual surcharges required by HFIAA.
- Guidance on substantially damaged and substantially improved structures and additional rating guidance on Pre-Flood Insurance Rate Map (FIRM) structures.
- Implementation of a new procedure for Properties Newly Mapped into the Special Flood Hazard Area and existing Preferred Risk Policy Eligibility Extension (PRP EE) policies. The premiums will be the same as the Preferred Risk Policy for the first year (calculated before fees and assessments) to comply with provisions of HFIAA.
- Reformulation of expense loading on premiums, reducing the expense load on the highest risk policies as an interim step while investigating expenses on policies as required by Biggert-Waters
- Issued Final Rules on Escrow Requirements, Detached Structures and Other Elements

Minimum Deductibles for Claims under NFIP—A Pendulum of Change

- BW:
  - Subsidized Properties $100,000 or less = $1,500
  - Subsidized Properties over $100,000 = $2,000
  - Non-Subsidized Properties $100,000 or less = $1,000
  - Non-Subsidized Properties over $100,000 = $1,250
- HFIAA
  - Maximum Deductibles to increase to $10,000 for SFRs, but requires content consistency
  - Designed to reduce premiums by up to 40%

http://www.fema.gov/media-library-data/1414004070850-3e90be61f9762523126c385a1d7fa95a/FEMA_HFIAA_OctoberBulletinFS_100814.pdf

High-Risk Areas

NONRESIDENTIAL: Standard Rated Policy (A Zones)

(PRE-FIRM)

A nonresidential policy, based on standard rates, for high-risk areas offers three types of coverage: Building & Contents, Building Only, and Contents Only.

Building & Contents		Building Only		Contents Only	
Coverage	Annual Premium[1]	Coverage	Annual Premium[1]	Coverage	Annual Premium[2]
$100,000/$50,000	$1,750	$50,000	$525	$50,000	$850
$200,000/$100,000	$3,568	$100,000	$940	$100,000	$1,660
$300,000/$200,000	$6,598	$200,000	$1,948	$200,000	$3,150
$400,000/$300,000	$9,498	$300,000	$3,488	$300,000	$4,510
$500,000/$400,000	$12,383	$400,000	$5,028	$400,000	$5,870
$500,000/$500,000	$13,743	$500,000	$6,553	$500,000	$7,230

[1] Includes a Federal Policy Fee of $40 and ICC Premium.

[2] Higher deductible limits are available, up to $50,000 for Non-Residential properties.

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Avoiding Sticker Shock

- For new policies effective on or after April 1, 2015, properties newly mapped into an SFHA by a revision to the FIRM that became effective on or after March 21, 2014, are eligible for a preferred risk premium for the first year, after which they transition to full-risk rates through average premium increases of 15 percent but not exceeding 18 percent per policy (excluding the HFIAA surcharge).
- The full-risk rates may be based on the grandfathered zone or BFE. Beginning at the first renewal, the policies must be rated using the tables established for Property Newly Mapped into the SFHA.
- Read: Increases are coming and coming and probably coming even more.

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The Wave of Premiums

SFHA Type	Premium Increases (Combined) Primary Residences	Premium Increases (Combined) Non Primary Residences
Pre-Firm (AE and VE)	15%	24%
V Zones (Coastal)	13%	13%
A Zones	19% to 23%	19% to 23%
X Zones	7% to 20%	7% to 20%
Non-Primary	25%	NA
Severe Repetitive Loss	25%	25%
Substantial Damage	25%	25%
HFIAA Surcharge	$25	$250

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GAO Reviews FEMA

- Aspects Implemented
  - Repealed Rate Premiums
  - Refunded Premiums
- Aspects in Progress
  - Improved Mapping (30%)
  - No Added Debt and Fees Starting
- Still to Do
  - Complete Mapping (Years)
  - No Reserve Contributions
  - Make rate changes for business properties due to inability to make needed distinctions
  - Figure out WYO Costs (Years)

http://www.gao.gov/assets/670/668578.pdf

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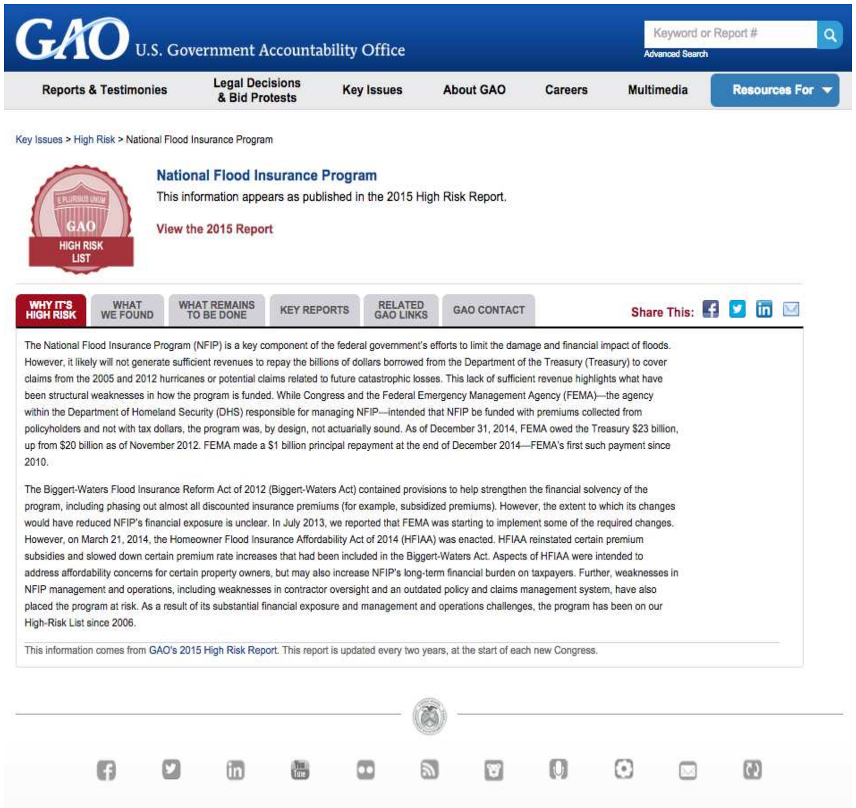
Premium Gap Analysis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GAO HIGH RISK LIST

National Flood Insurance Program

This information appears as published in the 2015 High Risk Report.

View the 2015 Report

WHY IT'S HIGH RISK | WHAT WE FOUND | WHAT REMAINS TO BE DONE | KEY REPORTS | RELATED GAO LINKS | GAO CONTACT | Share This:

The National Flood Insurance Program (NFIP) is a key component of the federal government's efforts to limit the damage and financial impact of floods. However, it likely will not generate sufficient revenues to repay the billions of dollars borrowed from the Department of the Treasury (Treasury) to cover claims from the 2005 and 2012 hurricanes or potential claims related to future catastrophic losses. This lack of sufficient revenue highlights what have been structural weaknesses in how the program is funded. While Congress and the Federal Emergency Management Agency (FEMA)—the agency within the Department of Homeland Security (DHS) responsible for managing NFIP—intended that NFIP be funded with premiums collected from policyholders and not with tax dollars, the program was, by design, not actuarially sound. As of December 31, 2014, FEMA owed the Treasury $23 billion, up from $20 billion as of November 2012. FEMA made a $1 billion principal repayment at the end of December 2014—FEMA's first such payment since 2010.

The Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters Act) contained provisions to help strengthen the financial solvency of the program, including phasing out almost all discounted insurance premiums (for example, subsidized premiums). However, the extent to which its changes would have reduced NFIP's financial exposure is unclear. In July 2013, we reported that FEMA was starting to implement some of the required changes. However, on March 21, 2014, the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA) was enacted. HFIAA reinstated certain premium subsidies and slowed down certain premium rate increases that had been included in the Biggert-Waters Act. Aspects of HFIAA were intended to address affordability concerns for certain property owners, but may also increase NFIP's long-term financial burden on taxpayers. Further, weaknesses in NFIP management and operations, including weaknesses in contractor oversight and an outdated policy and claims management system, have also placed the program at risk. As a result of its substantial financial exposure and management and operations challenges, the program has been on our High-Risk List since 2006.

This information comes from GAO's 2015 High Risk Report. This report is updated every two years, at the start of each new Congress.

- Requirement for FEMA Reserve fund is 7.5% annually if rate cap allows.
- GAO's report says the NFIP's current exposure is $1.3 trillion, meaning the reserve fund eventually would need to hold $13 billion, and FEMA would have to collect approximately $975 million annually (7.5 percent of $13 billion) in order to meet statutory targets.
- FEMA says the reserve fund has been created, but not funded.
- Effective April 2015, policies that had been charged a 5 percent reserve fund assessment will be charged an additional 10 percent.
- For preferred-risk policies, the reserve fund assessment will increase from 0 percent to 10 percent.
- FEMA has issued guidance to the WYOs and will begin charging a reserve fund surcharge that is separate from the reserve assessment beginning in April 2015. Primary residential properties are subject to a $25 surcharge, while all non-primary residential and nonresidential properties are subject to a $250 surcharge.
- FEMA officials estimate that reserve fund contributions will total approximately $500 million in fiscal year 2015 and that about $1 billion will be contributed to the reserve fund in fiscal year 2016.

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- Testimony and Speeches
- Press Releases
- Regulatory Reform
- Conferences
- Other Public Communication

Joint Press Release

Print

Board of Governors of the Federal Reserve System
Farm Credit Administration
Federal Deposit Insurance Corporation
National Credit Union Administration
Office of the Comptroller of the Currency

For release at 11:00 a.m. EDT **June 22, 2015**

Agencies Issue Flood Insurance Rule

Five federal regulatory agencies today announced the approval of a joint final rule that modifies regulations that apply to loans secured by properties located in special flood hazard areas. The final rule implements provisions of the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA) relating to the escrowing of flood insurance payments and the exemption of certain detached structures from the mandatory flood insurance purchase requirement. The final rule also implements provisions in the Biggert-Waters Flood Insurance Reform Act of 2012 (the Biggert-Waters Act) relating to the force placement of flood insurance.

In accordance with HFIAA, the final rule requires regulated lending institutions to escrow flood insurance premiums and fees for loans secured by residential improved real estate or mobile homes that are made, increased, extended or renewed on or after January 1, 2016, unless the loan qualifies for a statutory exception. In addition, certain regulated lending institutions are exempt from this escrow requirement if they have total assets of less than $1 billion. Further, the final rule requires institutions to provide borrowers of residential loans outstanding as of January 1, 2016, the option to escrow flood insurance premiums and fees. The final rule includes new and revised sample notice forms and clauses concerning the escrow requirement and the option to escrow.

The final rule includes a statutory exemption from the requirement to purchase flood insurance for a structure that is a part of a residential property if that structure is detached from the primary residence and does not also serve as a residence. However, under HFIAA, lenders may nevertheless require flood insurance on the detached structures to protect the collateral securing the mortgage.

Lastly, the final rule includes the Biggert-Waters Act provisions on force placement. These provisions clarify that regulated lending institutions have the authority to charge a borrower for the cost of force-placed flood insurance coverage beginning on the date on which the borrower's coverage lapses or becomes insufficient. The final rule also stipulates the circumstances under which a lender must terminate force-placed flood insurance coverage and refund payments to a borrower.

This final rule does not address the private flood insurance provisions in the Biggert-Waters Act. The agencies plan to address these provisions in a separate rulemaking.

The final rule is being issued by the Board of Governors of the Federal Reserve System, the Farm Credit Administration, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency.

The agencies expect the final rule to be published in the *Federal Register* shortly.

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Key Elements

- Implements HFIAA
  - Escrowing Flood Insurance Premiums
  - Exemption on Detached Structures on Mandatory Insurance Purchase Requirements
  - Implementation of BW Force Placement of Flood Insurance
- Escrow Rules in place on or after 1/1/2016 if not exempt
- $1 Billion FI Exemption observed
- Option for Residential Borrowers for Escrow
- New Forms

Escrow Requirements

- $1 Billion Asset Rule (7/6/12)
  - Either to prior two calendar years
  - Six month transition given
  - Common Ownership FIs not Counted
  - Transition Requirement when threshold exceeded (six months)
- MIRE on or after 1/1/16
- Exceptions:
  - Business, commercial or agricultural purposes
  - Subordinate liens when appropriate flood insurance purchased under 1st
  - Residential RE that are part of a condominium, cooperative or other project development
  - HELOC
  - Non-performing loans
  - 12 month term or less
- Excludes FIs not subject to Escrow prior two years
- Applies to 1-4 Family Residential Improved Real Estate or Mobile Home
- Must meet escrow requirements of RESPA (tolerances, refund on overcharges, etc.)
- Notice Requirement

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Optional Escrow Requirements

- 1/1/16 Requirement or 7/1/16 FIs transition in change of status
- Does not apply to Exempted FIs (size exemption)
- Does not apply to loans already being escrowed for Flood premiums and fees
- Notice required no later than 6/30/16 or 9/1/16 for FIs transitioning in change of status
- E-Sign Allowed
- Optional Escrow must begin as soon as reasonably practical
- Emphasis on Pre-2016 Loans
- Applies to 1-4 Family Residential Improved Real Estate or Mobile Home Loans Not otherwise Exempted
- Must meet escrow requirements of RESPA
- Notice Requirement

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Detached Structures—Now We're Talking

- Structure not used as residence, but where primary building is Residential Property used for personal, family or household purposes.
- Not joined by any structural connection to primary structure
- Residential based on good faith determination with focus on sleeping, bathroom **or** kitchen facilities (does not need all, but is based on circumstances).
- Still requires flood determination due to exemption status.
- Optional inclusion provision provided for lenders

Force Placement

- Its all about timing issues on charging for force-placed insurance
- Potential Mixed Interests in Play (Borrower's and Lender's) leads to required actions.
- Emphasis that force place flood insurance is not required on the date the lender learns insurance is required.
- Notice is required
- 15 day gap from grace period to notice end period is greatest risk. This requires sound tracking and handling.

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New Form Clauses—Detached and Insurance Purchase Options

• Although you may not be required to maintain flood insurance on all structures, you may still wish to do so, and your mortgage lender may still require you to do so to protect the collateral securing the mortgage. If you choose not to maintain flood insurance on a structure and it floods, you are responsible for all flood losses relating to that structure.

Availability of Private Flood Insurance Coverage

Flood insurance coverage under the NFIP may be purchased through an insurance agent who will obtain the policy either directly through the NFIP or through an insurance company that participates in the NFIP. Flood insurance that provides the same level of coverage as a standard flood insurance policy under the NFIP may be available from private insurers that do not participate in the NFIP. You should compare the flood insurance coverage, deductibles, exclusions, conditions, and premiums associated with flood insurance policies issued on behalf of the NFIP and policies issued on behalf of private insurance companies and contact an insurance agent as to the availability, cost, and comparisons of flood insurance coverage.

New Form Clauses—Escrow

[Escrow Requirement for Residential Loans

Federal law may require a lender or its servicer to escrow all premiums and fees for flood insurance that covers any residential building or mobile home securing a loan that is located in an area with special flood hazards. If your lender notifies you that an escrow account is required for your loan, then you must pay your flood insurance premiums and fees to the lender or its servicer with the same frequency as you make loan payments for the duration of your loan. These premiums and fees will be deposited in the escrow account, which will be used to pay the flood insurance provider.]

___Flood insurance coverage under the NFIP is not available for the property securing the loan because the community in which the property is located does not participate in the NFIP. In addition, if the non-participating community has been identified for at least one year as containing a special flood hazard area, properties located in the community will not be eligible for Federal disaster relief assistance in the event of a Federally declared flood disaster.

New Form Clauses—Optional Escrow

Appendix B to Part 339 – SAMPLE CLAUSE FOR OPTION TO ESCROW FOR OUTSTANDING LOANS

Escrow Option Clause

You have the option to escrow all premiums and fees for the payment on your flood insurance policy that covers any residential building or mobile home that is located in an area with special flood hazards and that secures your loan. If you choose this option:

- Your payments will be deposited in an escrow account to be paid to the flood insurance provider.
- The escrow amount for flood insurance will be added to the regular mortgage payment that you make to your lender or its servicer.
- The payments you make into the escrow account will accumulate over time and the funds will be used to pay your flood insurance policy when your lender or servicer receives a notice from your flood insurance provider that the flood insurance premium is due.

To choose this option, follow the instructions below. If you have any questions about the option, contact [Insert Name of Lender or Servicer] at [Insert Contact Information].

[Insert Instructions for Selecting to Escrow]

WYO—Still Good Business?

- BW required FEMA to make sense of compensation to WYOs—Full compensation without underwriting risk! WYO allowance is 30% based on 15% commission, 2.3% state taxes (voluntary), 12.5-13.5% company expenses. No data to determine if this relative to reality.
- New agreements at approximately 13%
- Several years before a change occurs.

Write Your Own Flood Insurance Company List

Found 82 companies matching search criteria
List insurance companies participating in the Mortgage Portfolio Protection Program (MPPP).

SELECT STATE - Any - GO

Allstate Insurance Company

Subsidiary: Allstate New Jersey Insurance Company

Refer to your Local Agent, or for Agent Locator: Click Here

American Commerce Insurance Company

Subsidiaries: Citation Insurance Company, Commerce Insurance Company, Commerce West Insurance Company, Mapfre Insurance Company, Mapfre Insurance Company of New York.

Jeffrey Pasco Manager, Staff Underwriting	508-949-4732 jpasco@mapfreusa.com

American Family Mutual Insurance Company

Subsidiary: American Family Insurance Company

Refer to your Local Agent, or for Agent Locator: Click Here

Jill Blackburn Sr. Manager External Markets	(608) 242-4100 ext. 34828 jblackbu@amfam.com

American National Property and Casualty Company

Joni Fulks Flood Program Coordinator	417-887-4990 ext 2840 jfulks@anpac.com

American Strategic Insurance Corporation

Subsidiaries: ACA Home Insurance Corporation, American Capital Assurance Corporation, ASI Assurance Corporation, ASI Lloyds, ASI Preferred Insurance Corporation

Kevin Milkey Executive Vice President	727-821-8765 ext. 1202 kmilkey@asicorp.org

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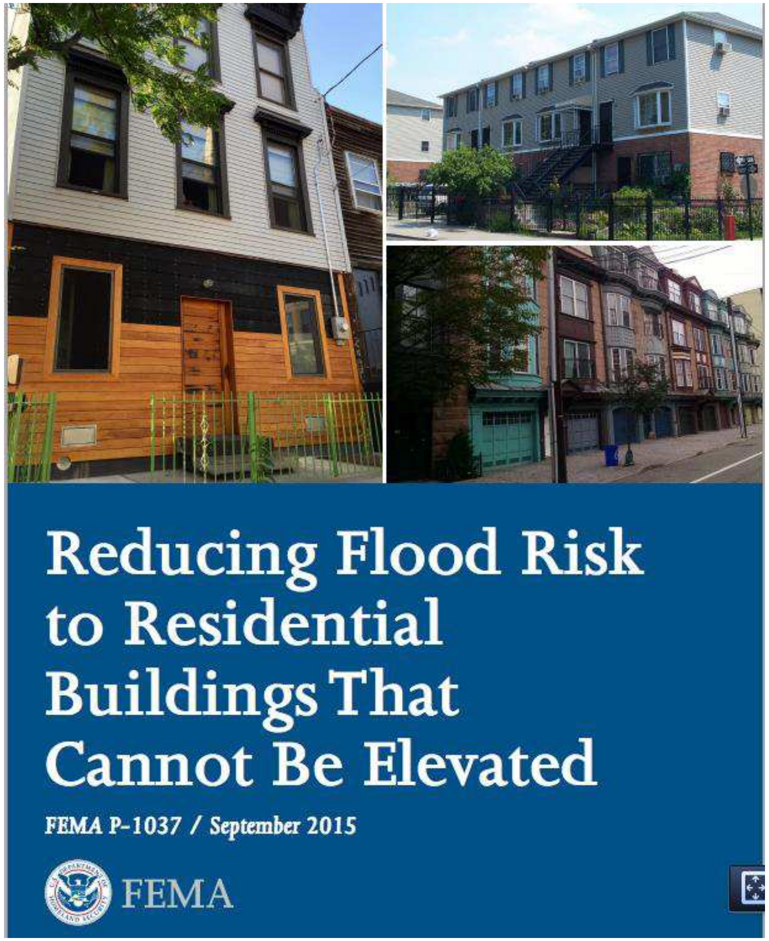
FDIC Issued Its Flood FAQs

- https://www.fdic.gov/regulations/resources/director/technical/flood.html#four
- Most are basic, but have value worth reviewing

September 2015 Guide



- Interesting guidebook on impact of floods on properties and what efforts can be done to improve them.
- http://www.fema.gov/media-library-data/1443014398612-a4dfc0f86711bc72434b82c4b100a677/revFEMA_HMA_Grants_4pg_2015_508.pdf

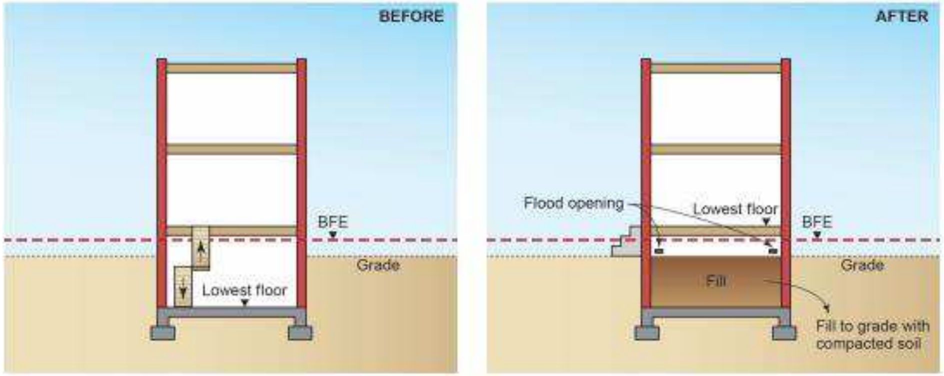


Figure 1: Basement infill before and after mitigation

The Future!?!

Flood: Wading Through the Tide of Change

The Focus Will Be on Rates

- Use of Community Rating Systems (CRS) to reduce risk and costs by meeting various risk reduction levels.
- 2014 had only 5% of communities participating in CRS, but that accounted for 67% of policies.

- Highest Community in Nation (2014):
  – Roseville, CA

Other Elements

- Continued Media Push to Increase Flood Insurance Awareness
- Potential Scrutiny of WYOs?
  - Write-your-own firms receive a near 30% “allowance” without any analysis to determine whether the allowance is justified.
- FEMA to Continue Marketing
- Potential Use of “R” Designator for newly identified properties in SFHAs due to remapping
- Community-Level Coverage Plans

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Foundational Elements

Flood: Wading Through the Tide of Change

The Basics—The Requirements

1. A bank shall not make, increase, extend, or renew any designated loan unless the building or mobile home and any personal property securing the loan is **covered** by flood insurance for the **term of the loan**
2. Insurance amount must be at least **equal to the lesser** of the outstanding principal balance of the designated loan **or the maximum** limit of coverage available for the particular type of property under the Act
3. Coverage for One to Four Residential is:
    1. $250,000 for the Building and $100,000 for Contents and;
    2. $500,000/$500,000 for Commercial including Multifamily Properties (available for new business, renewals, or change endorsements that are effective on or after June 1, 2014).
4. Coverage is limited to the overall value of the property securing the designated loan minus the value of the land on which the property is located.

The Basics—Key Definitions

Residential improved real estate means real estate upon which a home or other residential building is located or to be located (see 2015 new definitional elements).

Special flood hazard area means the land in the flood plain within a community having at least a one percent chance of flooding in any given year, as designated by the Director of FEMA.

Flood Zone Codes: A, AE, A4, AR, AR/A, AR/AE, AR/AO, V, VE, V12, AH, AO, B, C, X, D (New “R” Zone Designation).

If **any** part of the building or mobile home is within the Special Flood Hazard Area (SFHA), the entire building or mobile home is considered to be in the SFHA.

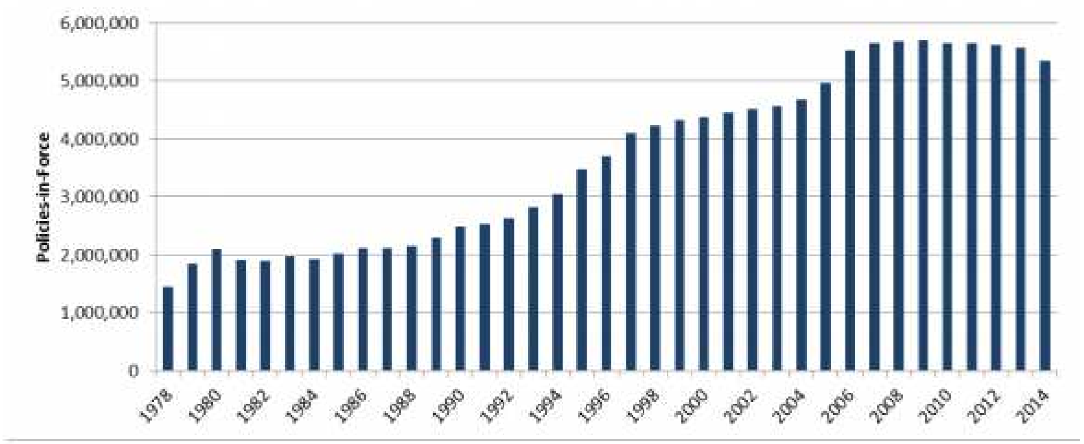
All flood zones beginning with the letter "A" or "V" are considered Special Flood Hazard Areas (SFHAs)—Remember wAVy.

Each flood zone is defined in the legend of the NFIP map on which it appears. If there is no NFIP map for the subject area, the code is "none."

BTB—What about Zone D?

- Flood insurance is available in Zone D and property owners should be encouraged to purchase it.
- However, flood insurance is not federally required by lenders for loans on properties in these zones.
- http://www.rff.org/files/document/file/RFF-Rpt-KouskyShabman-CommunityFloodIns_0.pdf

Figure 1. NFIP Policies in Force, by Year



BTB—Remapping Issues

- Remapping Issues
  - Property goes from SFHA to Non-SFHA: Borrower should be notified of change with borrower making determination to continue insurance or not (not mandatory)
  - Will Likely Result in New Flood Zone R
- Discrepancies in Flood Zone
  - Take the more hazardous flood zone unless the policy qualifies for "grandfather rule"
  - Requires continuous coverage of insurance

BTB—Disputations

- No flexibility in SFHA determinations. If identified in SFHA determination form, insurance must be in place prior to lending action.
- Borrower can pursue mapping revision by hiring engineering firm to pursue remapping. Good Plan!

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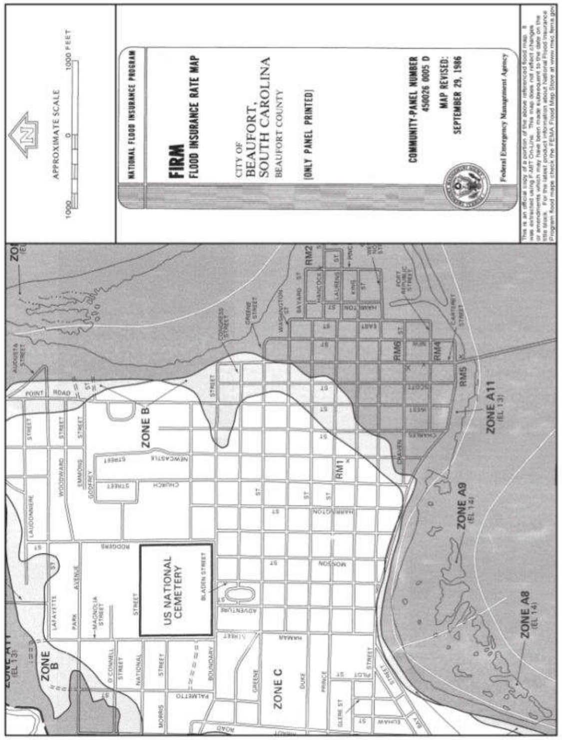
Beyond the Basics—Challenging Maps

- Scope of Appeals on Maps and SFHA is clarified—Only allowed based on whether such determination or designation was technically or scientifically incorrect.
- Scientific Resolution Panel—BW established an independent Scientific Resolution Panel to address mapping related concerns from communities dissatisfied with the outcome of their appeal to FEMA and to use the new panel to rule on Letters of Map Revision.
- States may now get fully involved in the mapping process by paying the full costs of mapping and BW further requires increased coordination in mapping efforts.
- BW and HFIAA allow individuals to be reimbursed for certain costs. HFIAA appears to increase amount above BW's $250,000 for the successful challenge to a SCIENTIFIC mapping error made by FEMA.



The Basics—Key Definitions

Residential improved real estate means real estate upon which a home or other residential building is located or to be located.

- Multifamily structures (5 or more units) are eligible for NFIP flood Insurance with coverage at same levels as Commercial RE.
- If **any** part of the building or mobile home is within the Special Flood Hazard Area (SFHA), the **entire** building or mobile home is considered to be in the SFHA.
- Flood zones are defined in the NFIP map, with all flood zones beginning with the letter “A” or “V” considered SFHAs
- If there is no NFIP map for the subject area, the code is "none."

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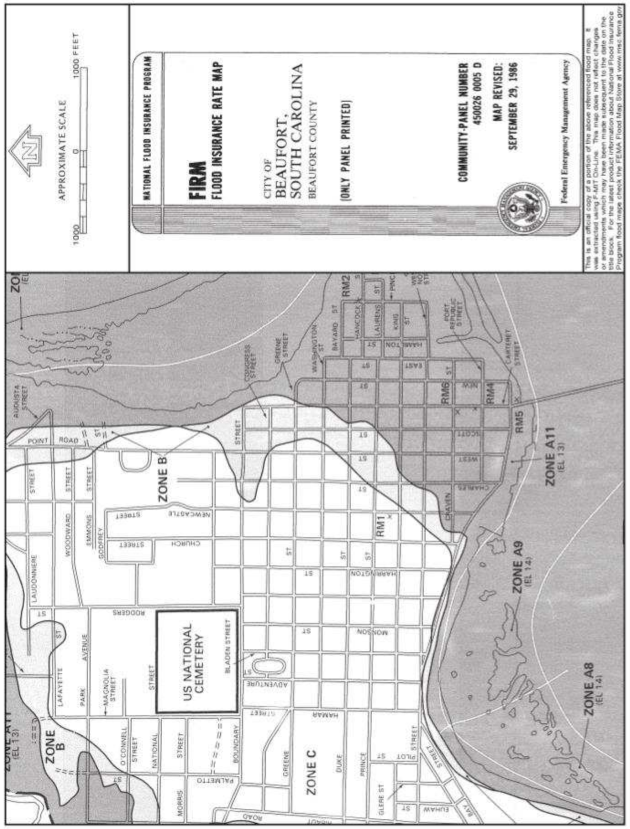
The Basics—Key Definitions

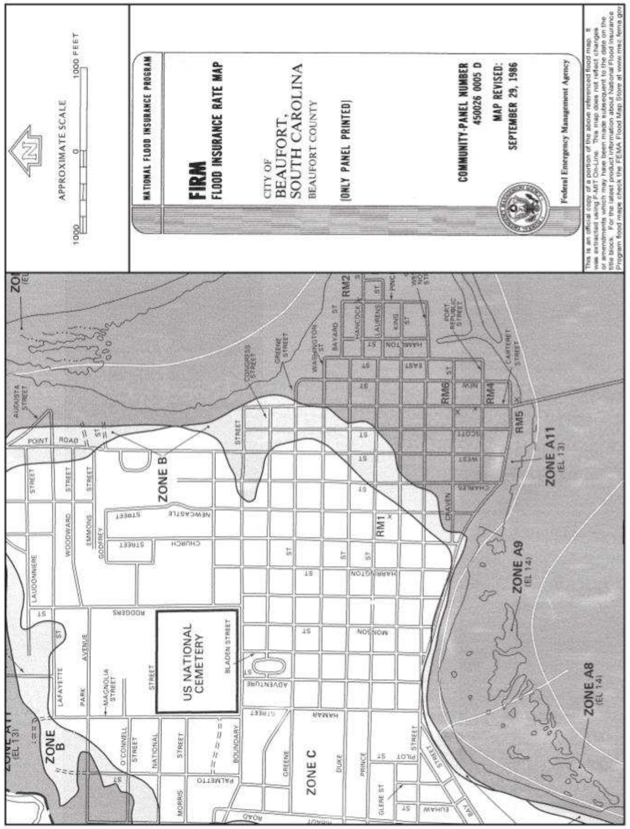
- *Flood Hazard Boundary Map (FHBM) – Usually the initial map of a community.*
- *Flood Insurance Rate Map (FIRM) – The official map of a participating community.*
- *NFIP – National Flood Insurance Program (started in 1968) and continues actively today.*
- *Participating and Non-Participating Communities – Eligible and ineligible communities. Found at http://www.fema.gov/fema/csb.shtm*
- *LOMC – Letters of Map Change: Provides a clearinghouse for map changes.*



http://www.fema.gov/plan/prevent/fhm/index.shtm

The Basics—TMAC

- BW created and HFIAA affirmed the Technical Mapping Advisory Council or TMAC. TMAC is made up of federal, state, and local experts to review current flood hazard risk mapping standards and recommend new standards to FEMA based on evolving new scientific and technological data.
- BW established a process for communities to request a remapping based on the standards recommended by TMAC and adopted by FEMA and allows any community affected to request an update to rate maps.
- HFIAA provides required notification of impacting mapping changes to members of Congress



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Basics—Insurable Value

- Reasonable and Consistent Valuation Method.
- Could be appraisal based cost value (not market value)
- Construction-cost calculation
- Insurable value from a hazard insurance policy (may require adjustments such as foundation inclusion).
- Other reasonable approach with sound support.
- Replacement Cost Value for Residential Properties (Primary Residence) with Commercial, Ag Properties as well as specialized properties such as vacation homes and 2nd properties paid out as Actual Cash Value (RCV less Depreciation)
- Should not **require** more insurance than what can be paid out by FEMA (Private Insurance)

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Beyond the Basics—Insurable Value

Issue: Insurable Value means the ***overall*** *value of the property minus the land.*

FEMA notes that it is important to recognize that the RCV of a building **is not its contributory value to the overall appraised value** of the collateral and does not include any value for any land that is also part of collateral. As such, the RCV of a building requires consideration of a logical basis such as (1) the replacement cost value under a hazard insurance, (2) an appraisal based on a cost-value before depreciation deductions (I.e., not a market value), or a construction cost calculation.

”Value” is a critical term. Some buildings have really no substantive value to the property value (abandoned buildings, etc.). As such, their value is lower, but not necessarily zero under the guidance.

FEMA states that the full insurable value of a building is the same as 100 percent replacement cost value (RCV) of the insured building. RCV is the cost to replace property with the same kind of material and construction without deduction for depreciation.

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Beyond the Basics—Insurable Value

Issue: Just then what is the Replacement Cost?

Replacement Cost: The cost to replace property with the same kind of material and construction without deduction for depreciation.

Property type, use, likelihood for replacement, functional obsolescence, antiquity, etc. can all come into play.

Functional Building Cost Value is one approach: Cost to repair or replace a building with commonly used, less costly construction materials and methods that are functionally equivalent to obsolete, antique, or custom construction materials and methods used in the original construction of the building.

Borrowers and/or lenders can choose this alternative when the building being insured is important to the business operation and would be replaced if damaged or destroyed by a flood, but not to its original condition. The "functional building cost value" recognizes that insurance to the replacement cost is not needed as the borrower would not repair or replace the building back to its original form but to a condition that represents the function the building is providing to the business operation.

Beyond the Basics—Insurable Value

So, what about obsolete buildings damaged in a flood.

A Commercial Option Only: Choice of these two alternatives requires careful documentation. Both borrower and lender must ensure that they consider the impact this may have on the ongoing nature of the business and the value of the collateral securing the loan.

These alternatives are available only for those situations where full replacement cost would result in a building used for farming, ranching, or industrial purposes being over-insured.

Example: old dairy barn currently used for storage.

Second Alternative: "Demolition/removal cost value" method.

The cost to demolish the remaining structure and remove the debris after a flood.

Borrowers and/or lenders can choose this alternative when the building being insured is not important to the business operation and would not be repaired or replaced if damaged or destroyed by a flood. The "demolition/removal cost value" recognizes that the building has limited-to-no-value and that it does not provide an important enough function to necessitate that the business repair or replace it.

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There will be Variables

Special Flood Insurance Edition

Consumer Compliance Outlook®

Third/Fourth Quarter 2015

Inside

A Federal Reserve System publication with a focus on consumer compliance issues

A Note from the Editors

"Floods are the most common and costly natural disaster in the United States," according to the Federal Emergency Management Agency (FEMA).[1] "Between 1980 and 2013, the United States suffered more than $260 billion in flood-related damages."[2] These significant losses translate to a large volume of flood insurance claims. In 2005, for example, Hurricane Katrina resulted in claim payments of $16.3 billion from the National Flood Insurance Program (NFIP), ranking as the most expensive flood in the U.S. since the NFIP's inception in 1968. In 2012, Superstorm Sandy resulted in more than $8 billion in claim payments, ranking as the second most costly flood in the U.S.[3]

These statistics provide a stark reminder to lenders about the importance of understanding and complying with federal flood insurance laws and regulations. To facilitate compliance, *Consumer Compliance Outlook* has published several articles over the years discussing federal flood insurance requirements. However, flood insurance compliance continues to be a challenge for financial institutions. Federal Reserve data for consumer compliance examinations reveal that several flood insurance requirements regularly appear among the top-cited violations by examiners.

As a result, this issue of *Outlook* is devoted to flood insurance compliance. We review the July 2015 interagency final rule to implement new flood insurance requirements of the Biggert-Waters Flood Insurance Reform Act of 2012 (BWA) and the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA). We also republish a comprehensive article on flood insurance requirements from 2011 titled "Flood Insurance Compliance Requirements" that has been updated to reflect several significant changes in the flood insurance laws, including changes as a result of the passage of the BWA and the HFIAA. Finally, we provide a resource page with helpful flood insurance links.

We hope you find this special flood insurance issue informative.

Strictly linking insurable value to RCV is not practical in all cases. In cases involving certain residential or condominium properties, insurance policies should be written to, and the insurance loss payout usually would be the equivalent of, RCV. However, in cases involving nonresidential properties, and even some residential properties, *where the insurance loss payout would normally be based on actual cash value, which is RCV less physical depreciation, insurance policies written at RCV may require an insured to pay for coverage that exceeds the amount the NFIP would pay in the event of a loss. Therefore, it is reasonable for lenders, in determining the amount of flood insurance required, to consider the extent of recovery allowed under the NFIP policy for the type of property being insured.*[34]

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Beyond the Basics—Examples

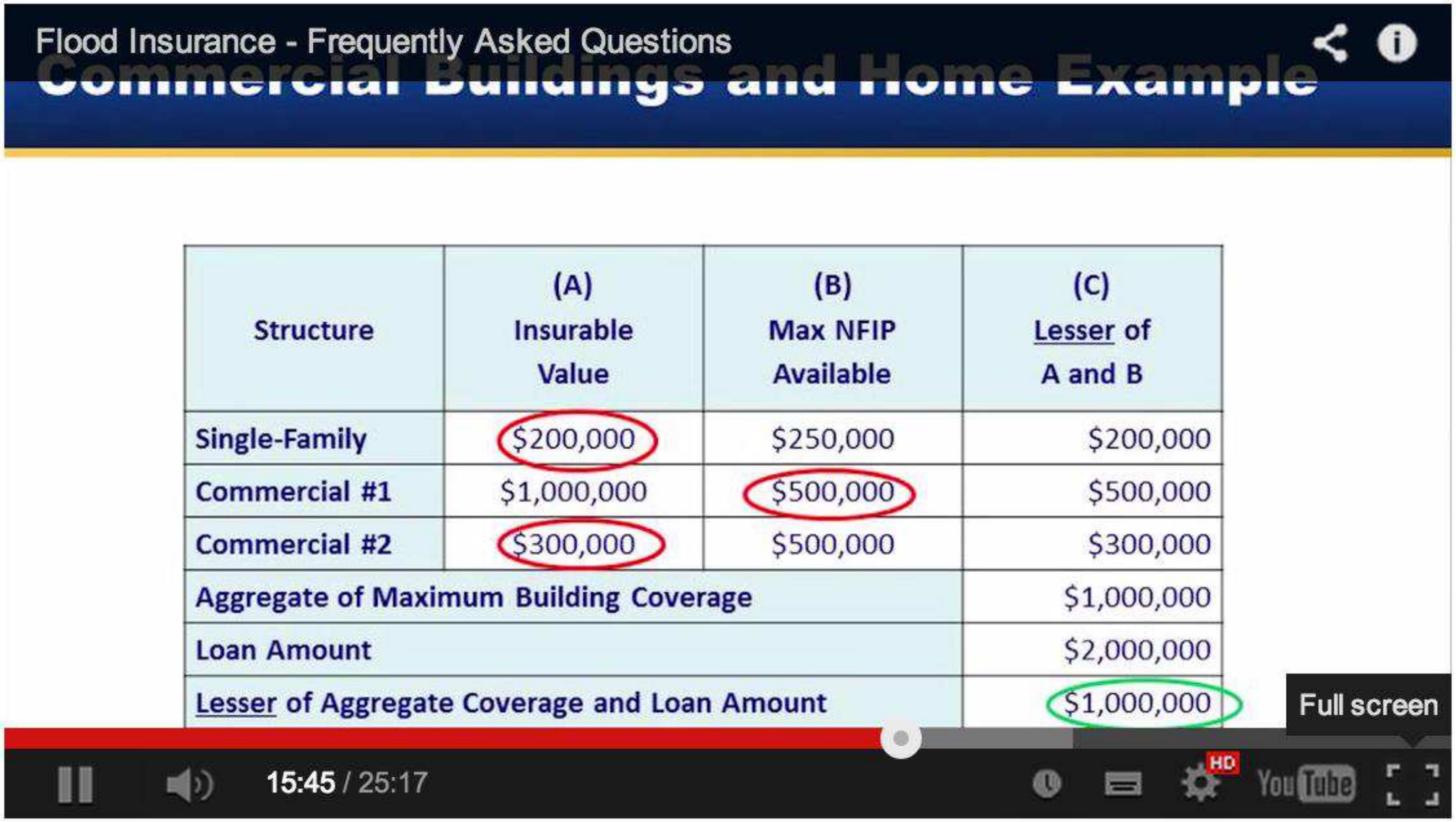
Issue: No value of a Building— The appraiser gave no value to a building. What is the insurance requirement?

What is the insured value of the improvements (e.g., is there an insurable value to the buildings). If there is no regular insurance offered because there is nothing to insure then it is logical that the flood insurance isn't required. If there is no insurance because the improvements are uninhabitable or scheduled to be destroyed then you'll likely not require flood insurance. Additionally, if you excluded from collateral consideration the buildings and only took the land as collateral that would be beneficial. However, if there is value to the buildings from an insurance POV and you've taken the entire property as collateral then it would be more difficult to exclude. Focusing on the improvements less land isn't a factor in this regard.

The appraised market value of the structure is not a factor in determining the amount of required insurance. But, it can be a factor if properly directed.

When taking a security interest in improved real estate where the value of the land, excluding the value of the improvements, is sufficient collateral for the debt, the lender must nonetheless require flood insurance to cover the value of the structure (noting all of the other factors for determining proper coverage) if it is located in a participating community's SFHA

Basics—Multiple Properties



Structure	(A) Insurable Value	(B) Max NFIP Available	(C) Lesser of A and B
Single-Family	$200,000	$250,000	$200,000
Commercial #1	$1,000,000	$500,000	$500,000
Commercial #2	$300,000	$500,000	$300,000
Aggregate of Maximum Building Coverage			$1,000,000
Loan Amount			$2,000,000
Lesser of Aggregate Coverage and Loan Amount			$1,000,000

- Allocation amongst properties in SFHA if multiple properties involved (with some exceptions).
- Some coverage on all covered properties

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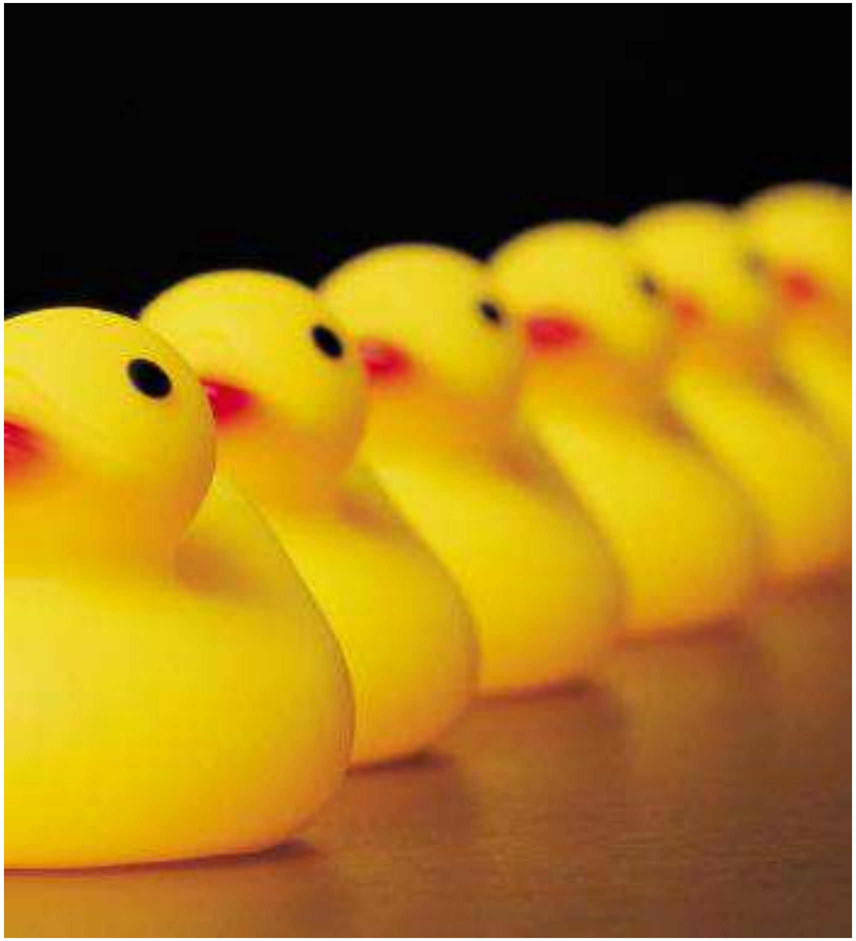
BTB—Condo and Mobile Homes

- RCBA (Residential Condominium Building Association) guidance must be understood prior to engaging in condo lending.
- Mobile Homes permanently affixed generally require coverage



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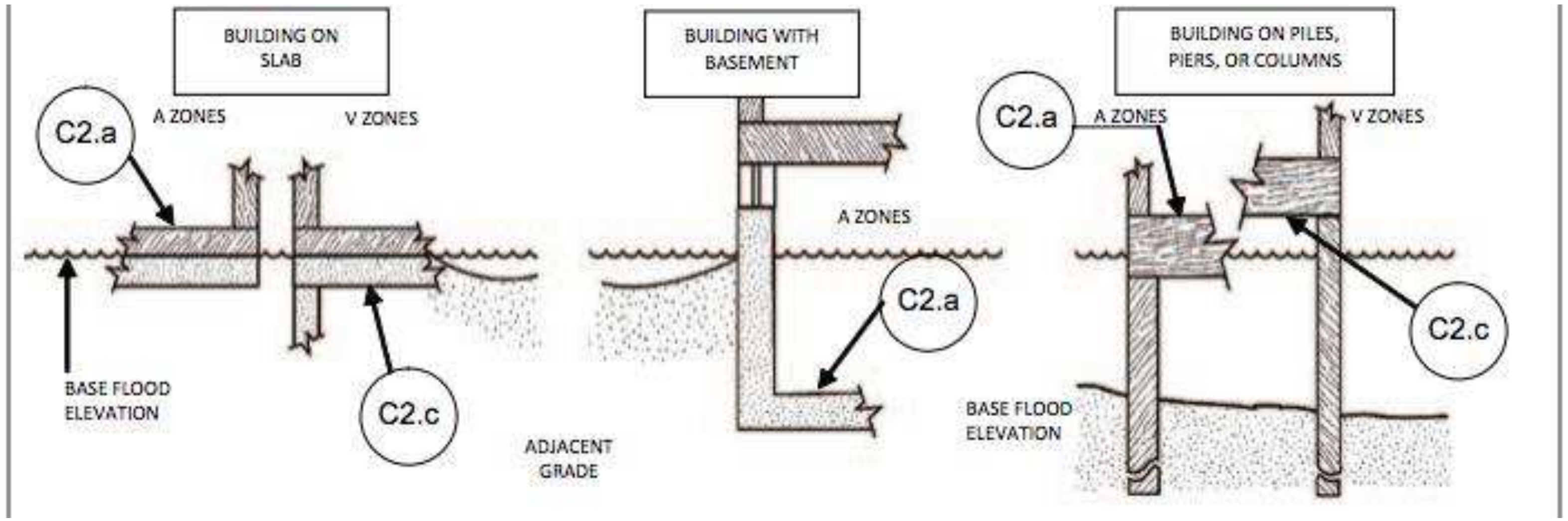
Beyond Basics—Elevation Certificates

- Maybe worth your time reading—used to provide elevation information necessary to ensure compliance with community floodplain management ordinances, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision
- http://www.fema.gov/media-library-data/20130726-1437-20490-0725/f_053_elevcertif_30nov12_fillable.pdf



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BTB—Let's go to Floodsmart

General Guidance on Flood Insurance Coverage

What IS insured under Building Property coverage:

- Insured building and its foundation
- Electrical and plumbing systems
- Water heaters
- Central air conditioning equipment, furnaces, and ventilating equipment
- Permanently installed carpeting over an unfinished floor
- Permanently installed paneling, wallboard, bookcases, and cabinets
- Pumps and machinery for operating pumps
- Awnings and canopies
- Walk-in freezers
- Outdoor antennas and aerials attached to buildings
- Fire extinguishing apparatus and fire sprinkler systems

What IS insured under Personal Property coverage:

- Furniture and fixtures, machinery and equipment, and other personal property owned by you and used in your business (See Section IV of your policy for exclusions)
- Stock as defined in Section II of your policy (merchandise held in storage or for sale, raw materials, and in-process or finished goods)
- Portable and window air conditioners
- Portable microwave ovens and portable dishwashers
- Carpets or rugs not included in building coverage (see Building Coverage)
- Clothes washers and dryers
- Food freezers (other than walk-ins) and the food in any freezer
- Certain valuable items such as original artwork and furs (Limited to $2,500 in total)
- Non-licensed self-propelled vehicles if stored inside the insured building and used to service the described location (e.g., tractor) or designed to assist a person with a disability
- Up to 10 percent of contents coverage to improvements made to a building the insured occupies as a tenant

What is NOT insured by either Building Property or Personal Property coverage:

- Damage caused by moisture, mildew, or mold that could have been avoided by the property owner
- Damage caused by sewer or drain backup unless there is a flood in the area that caused the backup
- Currency; precious metals; and valuable papers such as stock certificates, script, and recorded data
- Property and belongings outside of a building, or in another structure, such as trees, plants, wells, septic systems, walkways, decks, patios, fences, seawalls, hot tubs, and swimming pools
- Financial losses caused by business interruption or loss of use of insured property
- Most self-propelled vehicles such as cars, including their parts

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BTB—Areas Below Lowest Elevation

General Guidance on Flood Insurance Coverage Limitations in Areas below the Lowest Elevated Floor and Basements

Flood insurance coverage is limited in areas below the lowest elevated floor (including crawl spaces) depending on the flood zone and date of construction (refer to Part III, Section A.8 in your policy) and in basements regardless of zone or date of construction. As illustrated below, these areas include:

1. Basements regardless of flood zone or date of construction
2. Enclosed areas beneath post-FIRM elevated buildings including crawl spaces

What IS insured under Building Property coverage:

- Foundation walls, anchorage systems, and staircases attached to the building
- Central air conditioners
- Cisterns and the water in them
- Drywall for walls and ceilings (in basements only)
- Nonflammable insulation (in basements only)
- Electrical outlets, switches, and circuit breaker boxes
- Fuel tanks and the fuel in them, solar energy equipment, well water tanks and pumps
- Furnaces, hot water heaters, heat pumps, and sump pumps
- Elevators, dumbwaiters, and related equipment

What IS insured under Personal Property coverage:

- Washers and dryers
- Food freezers (other than walk-ins) and food in any freezer
- Portable and window air conditioners

What is NOT insured by either Building Property or Personal Property coverage:

- Paneling, bookcases, shelving, and window treatments such as curtains and blinds
- Carpeting, area carpets, and other floor coverings such as tile
- Drywall for walls and ceilings (below lowest elevated floor and not in a basement)
- Walls and ceilings not made of drywall
- Most personal property such as clothing, electronic equipment, kitchen supplies, and furniture
- Refrigerators and the food in them

Additional coverages:

The General Property Form provides the following additional coverages:

- Expenses for removal of non-owned debris from insured property and owned insured debris anywhere
- Expenses up to $1,000 for loss avoidance measures such as sandbagging and up to $1,000 to move insured property to a safer location when flooding is imminent
- Damage up to $10,000 caused by pollutants if the discharge, escape, or seepage is caused by or the result of a flood. These are not additional amounts of insurance.

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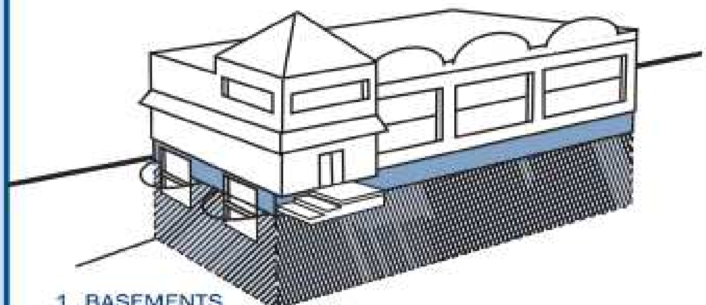
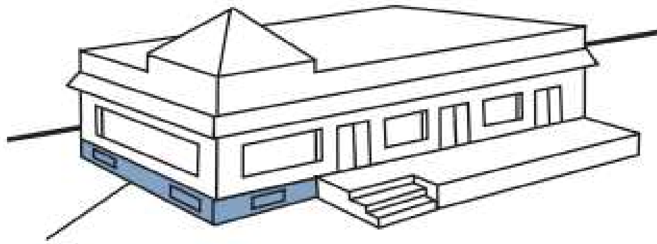
BTB—Pictures are worth…

For all areas below the lowest elevated floor of a post-FIRM elevated building there is limited coverage. Some examples are:



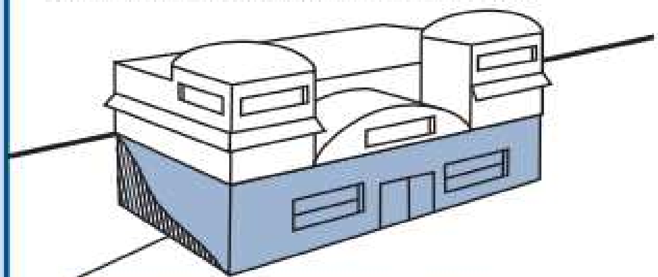
1. BASEMENTS

Coverage limitations apply to basements, which are any area of the building, including a sunken room or sunken portion of a room, having its floor below ground level on all sides.



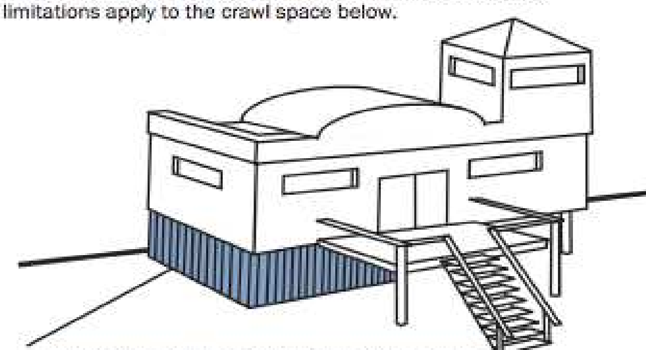
2. CRAWL SPACE

When a building is elevated on foundation walls, coverage limitations apply to the crawl space below.



3. ELEVATED BUILDING ON FULL STORY FOUNDATION WALLS

Coverage limitations apply to the enclosed areas (lower floor) even when a building is constructed with what is sometimes called a walkout.



4. ELEVATED BUILDING WITH ENCLOSURE

Coverage limitations apply to an enclosed area at ground level under an elevated building. An elevated building allows water to flow freely under the business space, thus putting less strain on the building in the event of flooding. An enclosure is the area below the lowest elevated floor that is fully shut in by rigid walls.

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Basics—Proof of Flood Insurance

- New Policy: Copy of written application and method of premium payment (e.g., copy of check). Could have declarations page.
- Existing Policy: (1) Declarations page with (2) policy # and (3) info (ID and Contact Info) about insurance company or agent.

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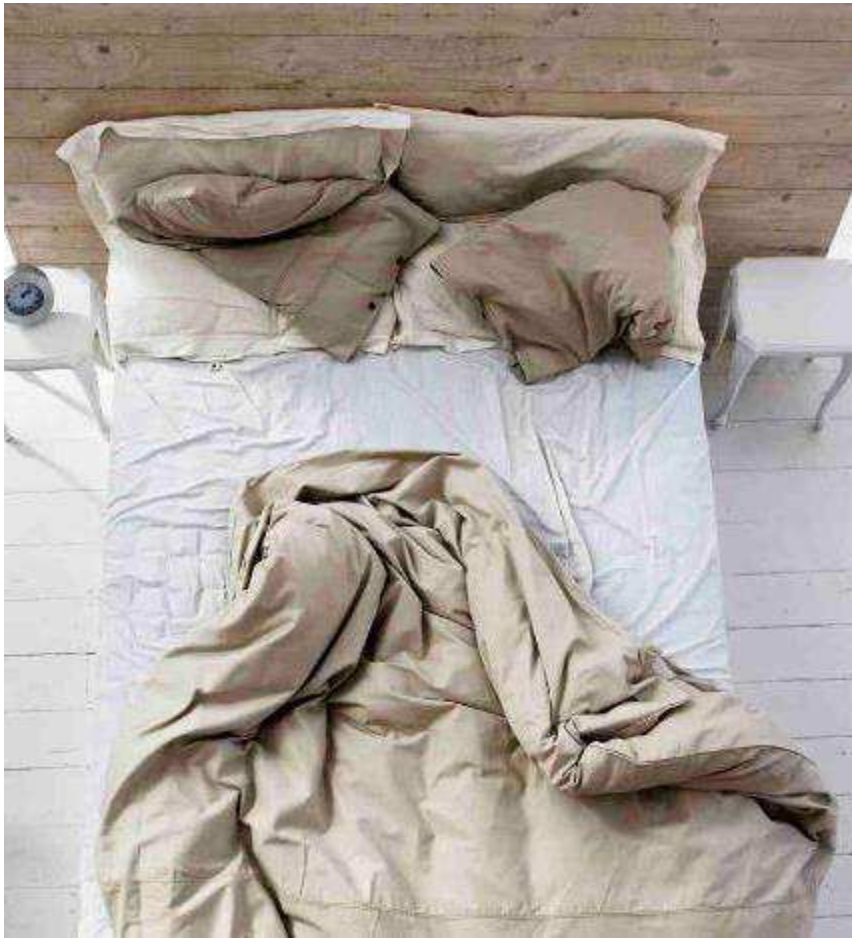
Basics—Blanket Insurance Policy?

- Isn't sufficient to meet all requirements of Flood Insurance because it protects FI's interests rather than the borrower's.
- Policies must show borrower as beneficiaries.



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BTB—2nds

Issue: What about 2nds?

Special Situations—Second Mortgages/Home Equity Loans

Both second mortgages and home equity loans are transactions that come within the purchase provisions of the FDPA. Since only one flood insurance policy can be issued for a building, an institution should not request a new flood insurance policy if one already exists. Instead, the institution should have the borrower contact the insurance agent:

- *To inform the agent of the intention to obtain a loan involving a subordinate lien*
- *To obtain verification of the existence of a flood insurance policy, and*
- *To check whether the amount of insurance covers all loan amounts.*

After obtaining this information, the Lender should increase the amount of coverage if necessary and issue an endorsement that will reflect the institution as a lien holder.

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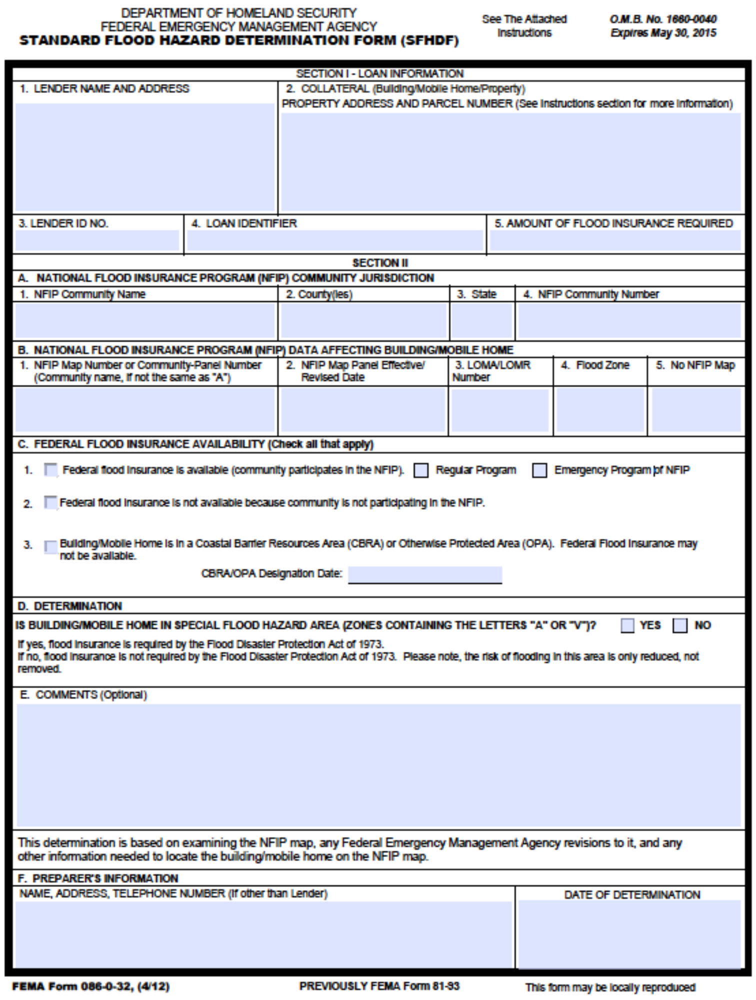
The Basics—The Form

A bank shall use the standard flood hazard determination form developed by the Director of FEMA when determining whether the building or mobile home offered as collateral security for a loan is or will be located in a special flood hazard area in which flood insurance is available under the Act. The standard flood hazard determination form may be used in a printed, computerized, or electronic manner (May 30, 2015 date).

http://www.fema.gov/media-library-data/20130726-1438-20490-8829/086_0_32.pdf\

Read the Instructions. Valuable Info.



DEPARTMENT OF HOMELAND SECURITY
FEDERAL EMERGENCY MANAGEMENT AGENCY
STANDARD FLOOD HAZARD DETERMINATION FORM (SFHDF)

See The Attached Instructions

O.M.B. No. 1660-0040
Expires May 30, 2015

SECTION I - LOAN INFORMATION

1. LENDER NAME AND ADDRESS
2. COLLATERAL (Building/Mobile Home/Property) PROPERTY ADDRESS AND PARCEL NUMBER (See Instructions section for more information)
3. LENDER ID NO.
4. LOAN IDENTIFIER
5. AMOUNT OF FLOOD INSURANCE REQUIRED

SECTION II

A. NATIONAL FLOOD INSURANCE PROGRAM (NFIP) COMMUNITY JURISDICTION

1. NFIP Community Name
2. County(ies)
3. State
4. NFIP Community Number

B. NATIONAL FLOOD INSURANCE PROGRAM (NFIP) DATA AFFECTING BUILDING/MOBILE HOME

1. NFIP Map Number or Community-Panel Number (Community name, if not the same as "A")
2. NFIP Map Panel Effective/ Revised Date
3. LOMA/LOMR Number
4. Flood Zone
5. No NFIP Map

C. FEDERAL FLOOD INSURANCE AVAILABILITY (Check all that apply)

1. ☐ Federal flood insurance is available (community participates in the NFIP). ☐ Regular Program ☐ Emergency Program of NFIP
2. ☐ Federal flood insurance is not available because community is not participating in the NFIP.
3. ☐ Building/Mobile Home is in a Coastal Barrier Resources Area (CBRA) or Otherwise Protected Area (OPA). Federal Flood Insurance may not be available.

CBRA/OPA Designation Date:

D. DETERMINATION

IS BUILDING/MOBILE HOME IN SPECIAL FLOOD HAZARD AREA (ZONES CONTAINING THE LETTERS "A" OR "V")? ☐ YES ☐ NO

If yes, flood insurance is required by the Flood Disaster Protection Act of 1973.
If no, flood insurance is not required by the Flood Disaster Protection Act of 1973. Please note, the risk of flooding in this area is only reduced, not removed.

E. COMMENTS (Optional)

This determination is based on examining the NFIP map, any Federal Emergency Management Agency revisions to it, and any other information needed to locate the building/mobile home on the NFIP map.

F. PREPARER'S INFORMATION

NAME, ADDRESS, TELEPHONE NUMBER (If other than Lender)
DATE OF DETERMINATION

FEMA Form 086-0-32, (4/12) PREVIOUSLY FEMA Form 81-93 This form may be locally reproduced

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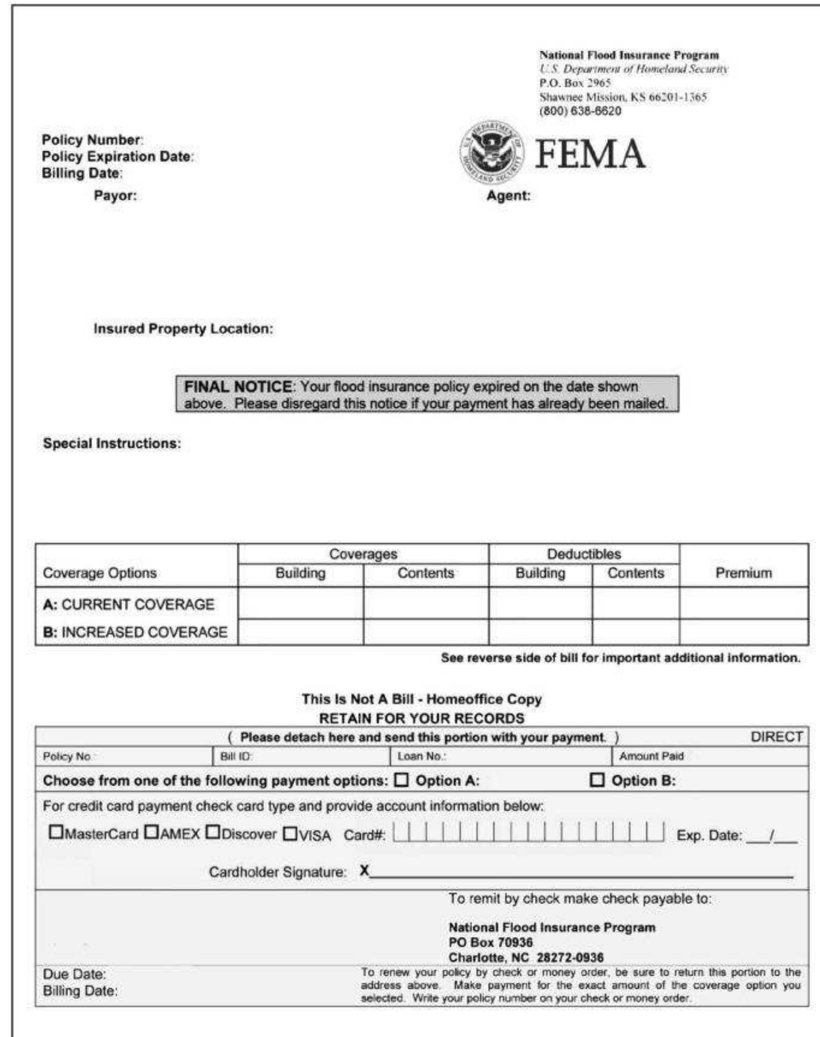
The Basics—The Notice Timing & Retention

- The bank must provide the notice within a reasonable time (most promote 10 days) before the completion of the transaction, and to the servicer as promptly as practicable after the bank provides notice to the borrower and in any event no later than the time the bank provides other similar notices to the servicer concerning hazard insurance and taxes.
- Notice to the servicer may be made electronically or may take the form of a copy of the notice to the borrower.

COMMON VIOLATION

- The bank MUST retain a record of the **receipt** of the notices by the borrower and the servicer for the period of time the bank owns the loan.



National Flood Insurance Program
U.S. Department of Homeland Security
P.O. Box 2965
Shawnee Mission, KS 66201-1365
(800) 638-8620

Policy Number:
Policy Expiration Date:
Billing Date:
Payor:

FEMA

Agent:

Insured Property Location:

FINAL NOTICE: Your flood insurance policy expired on the date shown above. Please disregard this notice if your payment has already been mailed.

Special Instructions:

Coverage Options	Coverages		Deductibles		Premium
	Building	Contents	Building	Contents	
A: CURRENT COVERAGE					
B: INCREASED COVERAGE					

See reverse side of bill for important additional information.

This Is Not A Bill - Homeoffice Copy
RETAIN FOR YOUR RECORDS

(Please detach here and send this portion with your payment.) DIRECT

Policy No:	Bill ID:	Loan No.:	Amount Paid

Choose from one of the following payment options: ☐ Option A: ☐ Option B:

For credit card payment check card type and provide account information below:

☐MasterCard ☐AMEX ☐Discover ☐VISA Card#: Exp. Date: __/__

Cardholder Signature: X

To remit by check make check payable to:

National Flood Insurance Program
PO Box 70936
Charlotte, NC 28272-0936

Due Date:
Billing Date:

To renew your policy by check or money order, be sure to return this portion to the address above. Make payment for the exact amount of the coverage option you selected. Write your policy number on your check or money order.

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The Basics—The Notice Contents

- A warning in a prescribed format advising that the building or the mobile home is or will be located in an SFHA;
- A description of the flood insurance purchase requirements;
- A statement, where applicable, that flood insurance coverage is available under the NFIP and may also be available from private insurers; and
- A statement whether federal disaster relief assistance may be available in the event of damage to the building or mobile home caused by flooding in a federally-declared disaster.
- Amended language from 2015 changes

IMPORTANT MESSAGES

1. PROVIDED YOUR PAYMENT IS RECEIVED WITHIN 30 DAYS OF THE EXPIRATION OF YOUR POLICY, IT WILL BE RENEWED WITHOUT A LAPSE IN COVERAGE. ANY PAYMENT RECEIVED AFTER THE 30 DAY GRACE PERIOD AND PRIOR TO 90 DAYS WILL STILL RENEW YOUR POLICY, HOWEVER, THERE WILL BE A 30 DAY WAITING PERIOD FOR COVERAGE TO BECOME EFFECTIVE. THE 30 DAY WAITING PERIOD BEGINS THE DAY THE PREMIUM IS RECEIVED.
2. YOU ARE ENCOURAGED TO INSURE YOUR PROPERTY FOR AT LEAST 80% OF THE STRUCTURES REPLACEMENT COST TO ENSURE ADEQUATE COVERAGE IN THE EVENT OF A LOSS. CONTACT YOUR INSURANCE AGENT FOR DETAILS.
3. IF THE MORTGAGEE LISTED ON THE BILL IS NOT THE CURRENT MORTGAGEE, PLEASE FORWARD THE BILL TO THE NEW FINANCIAL INSTITUTION (IF THEY ARE RESPONSIBLE FOR PREMIUM PAYMENT) AND HAVE A CHANGE ENDORSEMENT SENT TO CORRECT THE POLICY.
4. IF THIS POLICY IS A PREFERRED RISK POLICY (PRP), PLEASE NOTE. IF THE FLOOD ZONE LISTED ON YOUR POLICY IS NOT THE ZONE ON THE CURRENT FLOOD INSURANCE RATE MAP, YOU MAY NO LONGER BE ELIGIBLE FOR THE PRP. PLEASE CONTACT YOUR INSURANCE REPRESENTATIVE TO VERIFY IF YOU ARE STILL ELIGIBLE FOR THIS POLICY OR TO OBTAIN A QUOTE FOR A STANDARD POLICY.
5. **EFFECTIVE OCTOBER 1, 2009, THE NATIONAL FLOOD INSURANCE PROGRAM HAS DISCONTINUED THE $500 MINIMUM STANDARD DEDUCTIBLE FOR ALL PROPERTIES.** IF YOUR POLICY PREVIOUSLY INCLUDED A $500 MINIMUM STANDARD DEDUCTIBLE (PRE-/POST-FIRM ZONES B, C, X, A99 & D AND POST-FIRM SFHA ZONES) THAT DEDUCTIBLE HAS BEEN CHANGED TO $1000. IF YOUR POLICY PREVIOUSLY INCLUDED A $1000 MINIMUM STANDARD DEDUCTIBLE (EMERGENCY PROGRAM AND PRE-FIRM SFHA ZONES) THAT DEDUCTIBLE HAS BEEN CHANGED TO $2000. IF DESIRED, YOU MAY BUY BACK TO THE $1000 DEDUCTIBLE FOR AN ADDITIONAL PREMIUM. FOR ADDITIONAL INFORMATION REGARDING THIS CHANGE OR TO OBTAIN A PREMIUM QUOTE FOR THE DEDUCTIBLE BUY BACK, PLEASE CONTACT YOUR INSURANCE REPRESENTATIVE.

This policy is not subject to cancellation for reasons other than those set forth in the National Flood Insurance Program rules and regulations. In matters involving billing disputes, cancellation is not available other than for billing processing error or fraud.

If you send us a check, it will be converted into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually occur within 24 hours, and will be shown on your regular account statement. You will not receive your original check back. We will destroy your original check, but we will keep the copy of it. If the EFT cannot be processed for technical reasons, you authorize us to process the copy in place of your original check. If the EFT cannot be completed because of insufficient funds, we may try to make the transfer up to 2 times.

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The Basics—The Notice of Servicer's Identity & Transfers of Servicing Rights

- When a bank makes, increases, extends, renews, sells, or transfers a loan secured by a building or mobile home located or to be located in a special flood hazard area, the bank shall notify the Director of FEMA (or the Director of FEMA's designee) in writing of the identity of the servicer of the loan. The Director of FEMA has designated the insurance provider to receive the bank's notice of the servicer's identity.
- The bank shall notify the Director of FEMA (or the Director of FEMA's designee) of any change in the servicer within 60 days after the effective date of the change.

The Basics—The Notice of Servicer's Identity & Transfers of Servicing Rights

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- The bank shall notify the Director of FEMA (or the Director of FEMA's designee) of any change in the servicer **within 60 days** after the effective date of the change.

The Basics of WYO—The Other One

- The Write Your Own (WYO) Program began in 1983 and is a cooperative undertaking of the insurance industry and FEMA
- It allows participating property and casualty insurance companies to write and service the Standard Flood Insurance Policy in their own names.
- WYO companies receive an expense allowance for policies written and claims processed
  - Federal Government retains responsibility for underwriting losses
- The WYO Program operates as part of the NFIP, and is subject to its rules and regulations.
- Because the insurance agent is the seller, **notifying** the insurance agent of the loss payee to be named on the policy effectively notifies FEMA
  - If the loan's servicing is sold then the seller is responsible for the notification of the new servicer
    - Requires documentation of notification of the new servicer to the insurance agent (WYO) or directly to FEMA if purchased directly (far less likely)
  - If the servicer is changed, requires a notification by the former servicer to the new servicer
  - The Lender must provide notice even if the servicer is directly associated with the FI. A notice similar (or exact) to what the Lender provides to the borrower suffices. **Retain documentation.**

Force Placement

Flood: Wading Through the Tide of Change

The Basics—Force Placement

1. If a bank, or a servicer, determines, during the term of a designated loan, that the building or mobile home and any personal property securing the loan is not covered by flood insurance or is covered by flood insurance in an amount less than the amount required then:
   - The bank or its servicer shall notify the borrower that the borrower should obtain flood insurance
     - At the borrower's expense
     - In an amount at least equal to the amount required under the Regulation
     - For the remaining term of the loan.

2. If the borrower fails to obtain flood insurance within 45 days after notification (based on when notification is sent), then:
   - Bank or servicer shall purchase insurance on the borrower's behalf;
   - The bank or its servicer may charge the borrower for the cost of premiums and fees incurred in purchasing the insurance

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Force Placement—Basics and History

- FDPA (Federal Disaster Protection Act of 1973) was amended to
  - Allow a lender/servicer to charge the borrower premiums or fees incurred for coverage beginning on the date on which flood insurance coverage lapsed/was insufficient
- **Past History: The 15 day non-coverage gap** that required lenders to address through their own policies or the like at their own expense would be effectively **closed**.

Force Placement—Nuances

- Coverage under Standard Flood Insurance Policy (SFIP) expires 30 days after payment lapse
  - Notice is for 45 days from knowledge of event. What about the 15-day gap?
  - FDPA (Federal Disaster Protection Act of 1973) was amended to allow a lender/servicer to charge the borrower premiums or fees incurred for coverage beginning on the date on which flood insurance coverage lapsed or was insufficient.
- Paying the current policy premium for the borrower is allowed, but does not eliminate the possibility of dual coverage

Basics—Force Placement

- Cannot send 45 day notice prior to expiration date.
- Can send courtesy notice, but this does not supplant the 45 day notice requirement.

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Force Placement—Critical Factors: The Once Proposed

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- *Day 45? Yes and No*
  - Insurance shall be purchased by the lender when:
    - Borrower fails to obtain flood insurance
  - If borrower does not obtain flood insurance **after** 45 days from the date the notification was sent
    - Lender will be expected to provide a **reasonable explanation** to the Agencies why there is a delay in force placing required insurance
      - i.e. When a lender uses batch processing to purchase force-placed flood insurance policies.
- *Bottom Line—If approved, tracking required, but some allowances provided.*

Force Placement—Nuances

Lender or Servicer must send notice to the borrower UPON making a determination that the improved real estate collateral's insurance coverage has **expired** or is **less than** the amount required for that particular property.

- Anticipation notices (warning notices) do not likely suffice for notification but are acceptable

Exact Guidance Language: *The Act does not permit a lender or its servicer to send the required 45-day notice to the borrower prior to the institution's making a determination that flood insurance is insufficient or lacking (for example, the actual expiration date of the flood insurance policy).*

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Force Placement—Critical Factors: Outcome

There are 2 key elements that must be met for this fee recovery to be met:

1. The lender must **terminate** its force-placement policy
2. Must **refund** any overlap in coverage within 30 days of receipt of evidence of a borrower's existing adequate flood insurance
   - Evidence of coverage includes a **declaration page** that includes:
     - The existing flood insurance policy number
     - The identity and contact information of the insurance company or agent

KEY: Does your institution have the right notices, procedures, personnel understanding, etc.?

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Some of the Key Points in updates: Force-Placement Requirements

- **Summary**
  - Lenders will be able to charge a borrower for the cost of flood insurance coverage
    - This can start on the date on which the borrower's coverage lapsed or became insufficient—Fully clarified in 2015 guidance
  - Raises questions on duplicate coverage and acceptable documentation

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Some of the Key Points in updates: Force-Placement Requirements

Details

- Presents the historical language for notification of lack of coverage and/or insufficient coverage, and also the statement on failure of the borrower to obtain required coverage
  - The regulated lending institution or its servicer may charge borrower for the cost of premiums and fees incurred for coverage beginning on the date on which flood insurance coverage lapsed or did not provide a sufficient coverage amount
- The regulators are seeking clarification on what is defined by **“lapsed”**
  - Should get a clear definition and answers regarding a grace period
- Regulators note that overlaps may occur but that the **advantage remains with the borrower** and the potential **cost falls on the shoulders of the FI**
- A lender or its servicer must accept from the borrower an insurance policy declarations page that includes:
  - The existing flood insurance policy number
  - The identity of, and contact information for, the insurance company or its agent
- The task of determining **coverage adequacy rests on the lender**.

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Some of the Key Points in updates: Force-Placement Requirement

- Details
  - **Changes** to Declarations Page Requirements
    - Effective on or after June 1, 2014, Declarations Pages **must display the following**:
      - Pre-FIRM subsidized policies must state "Pre-FIRM Subsidized." This includes:
        - » All policies covering Pre-FIRM buildings rated without elevation data from an Elevation Certificate and zones Unnumbered A, AE, A1-A30, AH, AO, VE, and V1-V30, and
        - » All policies effective prior to October 1, 2013, covering Pre-FIRM buildings in zones Unnumbered V and D with original new business dates prior to July 6, 2012, and no lapse on or after October 4, 2012.
  - The Declarations Pages for policies covering primary residences must state "Y" when the policy covers a building that:
    - Will be **occupied by the insured or the insured's spouse for more than 50 percent of the 365 days following the policy effective date**
  - The name of the field is changed from "Principal/Primary Residence" to "Primary Residence."

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Some of the Key Points in updates: Force-Placement Requirements

- **Details**
  - Lender or servicer to terminate any force-placed insurance and **refund force-placed premiums and fees charged during overlap coverage**

- Done **within 30 days** of receipt by a lender or mortgage services of confirmation of a borrower's existing flood insurance coverage
- Lender/Servicer allowed to charge borrower premiums or fees for coverage beginning on date on which flood insurance coverage lapsed or was insufficient
  - **Requires strong notification and tracking procedures**

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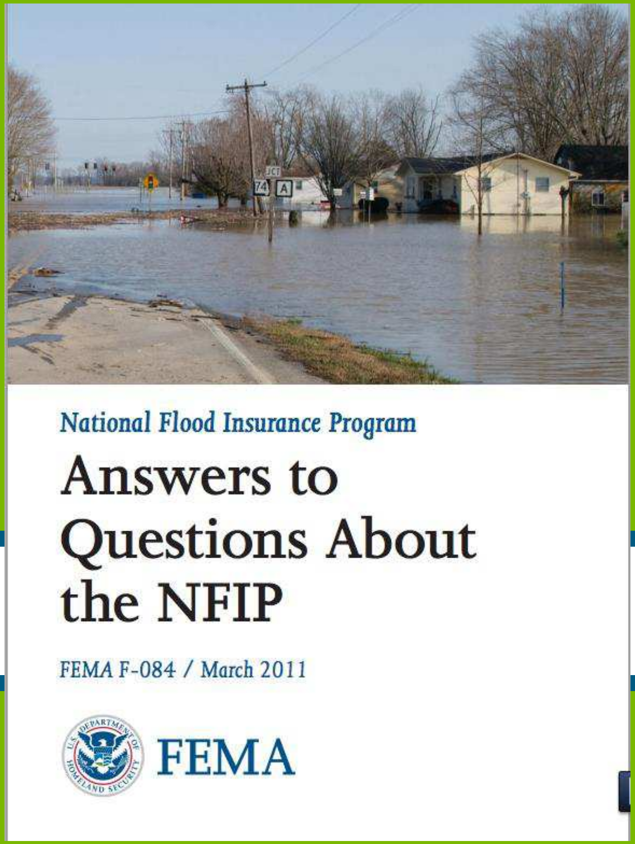
Selective Q&A

Flood: Wading Through the Tide of Change



http://www.fema.gov/media-library-data/20130726-1438-20490-1905/f084_atq_11aug11.pdf

Q&A #1—In SFHA, but NPC

- *Does the Regulation apply to a loan where the building or mobile home securing such loan is located in a community that does not participate in the National Flood Insurance Program (NFIP)?*

- Regulation still applies, but does not require a lender to require a borrower to obtain flood insurance.
- Must still obtain SFHDF
- Must notify borrower.
- Option remains with Bank to require flood insurance or not.
- Risk factors?

Q&A #2—Purchase of Loan

- *Does a lender's purchase of a loan, secured by a building or mobile home located in an SFHA in which flood insurance is available under the Act, from another lender trigger any requirements under the Regulation?*

- No, as a purchase is not a triggering event.
- However, if lender becomes aware that flood insurance is required (e.g., through life of loan determination) than coverage requirements become applicable.
- More risk elements?

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Q&A #3—Restructured/Modifications

- *Does the Regulation apply to loans that are being restructured or modified?*

- Depends. If the loan otherwise meets the definition of a designated loan and if the lender increases the amount of the loan, or extends or renews the terms of the original loan, then the regulation applies.
- Requires careful documentation if applying exemption

AffirmX

Q&A #4—Wait the 45 Days before Force Placement?

- *Does a lender have to wait 45 days to force place insurance?*

- A lender can always force place insurance when it determines a property is not covered by insurance with some limitations on new loans. However, the disclosure requirements as well as factors associated with responsibility for associated costs of force placement will come into play.

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Q&A #5—Force Placement Requires Notice?

- *You Force Place a Loan and add the fee to the loan. Is this a MIRE scenario requiring disclosure?*

- Regular notices are applicable on force placement, but adding additional fees does not amount to an increase in the legal obligation.

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Q&A #6—How Much Coverage?

- *How much insurance is required on a building located in an SFHA in a participating community?*

- Lesser of:
  - Outstanding balance of the loan(s);

  OR

  - The maximum amount of insurance available under NFIP, which is the lesser of:
    - The maximum limit ($250,000 Residential and $500,000 non-residential) available for the type of structure;

    OR

    - The "insurable value" of the structure.

New Q&A notes that full Insurable Value of a building is the same as 100% replacement cost value (RCV).

Other alternatives may apply. Nuances are extensive.

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Q&A #7—Content Coverage?

- *You take contents as collateral on a loan also secured by improvements and located in a SFHA. Is insurance on contents the depreciated value or replacement cost value?*

- Retired Mandatory Purchase of Flood Guidelines (What else do we have?):

- Under NFIP Regular Program, communities where most renters, homeowners, and businesses are eligible to purchase the maximum amount of flood insurance available under the NFIP for their type of building, **or the replacement cost value of their building and/or its contents, whichever is less**. This protection is available for buildings located inside and outside of SFHAs, subject to NFIP underwriting guidelines.

and

- The full insurable value of the building and/or its contents, **which is the same as 100-percent replacement cost value (RCV)**. and The maximum coverage limit under the NFIP for contents is $100,000 ($500,000 for Other Residential and Commercial) **or the replacement cost value of the contents**, whichever is less.

However…

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Q&A #8—But What is RCV?

What is the "Insurable Value" of a building?

Quick Answer(s)—They are out there:

- The insurable value of a building is the same as the overall value of a property minus the land on which the property is located.

- But, FEMA notes that insurable value is the same as 100% replacement cost value (RCV) or the cost to replace the property with the same kind of material and construction WITHOUT deduction for depreciation (EXCEPTIONS APPLY—See Alternatives Described).

- **Key guidance further notes that the amount of coverage should not be more than what would be allowed under NFIP in the event of loss. This can impact use of RCV and may bring back depreciation into the insurable equation problem.**

- Key requirements in calculating insurance focus on using an approach or method that is supportable and documented. This might include appraisal based on a cost-value (not market value), which places increased point on ordering appraisals in SFHAs to provide material instruction in the completion of this aspect of the appraisal (and promote the concept of getting the determination early in the process and prior to appraisals). Other approaches would include construction-cost calculation, insurable value approach (adjusted appropriately), or any other approach that meets the two major requirements.

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Q&A #9—Building Versus Contents Coverage?

Flood Insurance protects two types of insurable property: building and contents. Neither covers the land they occupy

Building coverage includes:

- The insured building and its foundation
- The electrical and plumbing system
- Central air conditioning equipment, furnaces, and water heaters
- Refrigerators, cooking stoves, and built-in appliances such as dishwashers
- Permanently installed carpeting over unfinished flooring

Contents coverage includes:

- Clothing, furniture, and electronic equipment
- Curtains
- Portable and window air conditioners
- Portable microwaves and dishwashers
- Carpeting that is not already included in property coverage
- Clothing washers and dryers

The two most common reimbursement methods for flood claims are : Replacement Cost Value (RCV) and Actual Cash Value (ACV). The RCV is the cost to replace damaged property. It is reimbursable to owners of single-family, primary residences insured to within 80% of the buildings replacement cost.

All other buildings and personal property (i.e. contents) are valued at ACV. The ACV is the RCV at the time of loss minus physical depreciation. Personal property is always valued using the ACV.

(See http://www.floodsmart.gov/floodsmart/pages/about/coverage_from_nfip.jsp

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Q&A #10—Coverage Requirements

- *The Regulation states that the amount of flood insurance required "must be at least equal to the lesser of the outstanding principal balance of the designated loan or the maximum limit of coverage available for the particular type of property under the Act."*
- *What is meant by the "maximum limit of coverage available for the particular type of property under the Act"?*

- First, there are maximum caps on the amount of insurance available.
- Second, the regulation also provides that flood insurance coverage under the act is limited to the overall value of the property securing the designated loan minus the value of the land on which the property is located.
- Must emphasize the correct insurable value-Goldilocks Principle.
- Caveat on calculating land values in excess of loan balance. Even if land is worth more than loan, must still have flood insurance, where applicable.
- See earlier Beyond the Basics

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Q&A #11—More Coverage Requirements

- An NFIP Policy will not cover an amount exceeding the “Insurable value” of the structure. In determining coverage amounts for flood insurance, lenders often follow the same practice used to establish other hazard insurance policies. However, unlike the insurable valuation used to underwrite most other hazard insurance policies, the insurable value of improved real estate for flood insurance purposes also includes the repair or replacement cost of the foundation and supporting structures.

Q&A #12—Each Building?

- *Is flood insurance required for each building when the real estate security contains more than one building located in an SFHA in a participating community?*
- *If so, how much coverage is required?*

COMMON VIOLATION

- Answer: Yes, the lender must determine the amount of insurance required on each building and add these individual amounts together.
- Same rules apply, but requires that each building is added together on rule #2—Insurable Value of the structure(s)— emphasis on the "(s)"
- Example: Lender makes a loan in the principal amount of $150,000 secured by five nonresidential buildings, only three of which are located in SFHAs within participating communities that are valued at $100,000 each.
- Insurance requirement: $150,000.

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Q&A #13—More Insurance?

- *Can a lender require more flood insurance than the minimum required by the Regulation?*

- Yes. Lenders are permitted to require more flood insurance coverage than required by the Regulation.
- The borrower or lender may have to seek such coverage outside the NFIP.
- Each lender has the responsibility to tailor its own flood insurance policies and procedures to suit its business needs and protect its ongoing interest in the collateral. However, lenders should avoid creating situations where a building is "over-insured."
- When insurance is higher than NFIP, FI should establish and document rationale and method used. Don't presume examiners will accept.
- Competitive factor issues?

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Q&A #14—Blanket Lien?

- *UCC Filing on a commercial loan where real estate is taken as well and property is in a SFHA. Do we have to obtain flood insurance on contents associated with the lien?*

- Yes, absent of the lien not covering contents. Must UCC filings are very broad and it would be difficult to exclude. Likely violation. Merits review of all UCC filings on commercial loans in SFHA.

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Q&A #15—Reliance on Previous SFHDF

- *If we have Life of Loan coverage and the determination form is less than 7 years old can we rely on it when we make, increase, renew or extend (MIRE) a loan?*

- Existing certifications are acceptable, but there are caveats:
  - 7 years maximum
  - No change to the map that the determination was based upon (requires review and nullifies reliance even if the map change doesn't change flood zone).
  - Often more hassle than value
  - LOL (Life of Loan, not the other one) is not regulatory sanctioned

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Q&A #16 to 19—Construction Issues

- *Do land-only loans require insurance?*
- *If loan secured or to be secured is in an SFHA a designated loan?*
- *Does NFIP cover such loans?*
- *When?*

- No on land-only loans. What about temporary buildings on construction sites?
- Yes, on designated loans for obtaining a SFHFD prior to loan origination. Requisite notices still apply.
- Yes on NFIP, but limitations apply with respect to what is covered (e.g., materials or supplies, which would likely be covered otherwise).
- Timing is usually at time of "first permanent construction" such as pouring of a slab. Underscores that foundations have insurable value!
- FEMA encourages proper insurance at time of loan origination on construction loans unless there is just cause for initiation of the permanent construction.

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Q&A #20 through 24—Condo Issues

- *Covered?*
- *How?*
- *How Much?*
- *Challenges?*
- *RCBAP Lapses in Coverage?*

- The Mandatory Flood Insurance purchase requirements apply to condos (both residential and otherwise) even if the condo is a multi-story condominium.
- Usually covered under a Residential Condominium Building Association Policy or RCBAP). Flood insurance claim payments may not be denied to condo owners who purchased flood insurance policies separate and apart from flood insurance purchased by the condo association.
- Amount of coverage under RCBAP is more complex and focuses on 80% to 100% of insurable value or total # of units times $250,000, whichever is less.
- If coverage is not adequately provided under a RCBAP (cannot be presumed) the lender must require insurance according to other guidelines for property type (calculation invokes insurable value and # of units).
- A lapse in coverage under a RCBAP would warrant action: first to the condo association and then the borrower.

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Q&A #25 through 27—HELOCs & Sub-Liens

- *Are HELOCs covered?*
- *Is each draw under a line of credit (e.g., HELOC) covered?*
- *How much coverage on sub-lien position?*

- Yes, regardless of lien position.
- Each draw is not covered, just the original loan, but the renewal or request for extension is a covered event.
- Coverage amounts require subordinate lender to determine amount of coverage under 1st lien and apply against formula.

Common Violation

- Must ensure that junior lienholder is named beneficiary on policy as mortgage/loss payee.
- Onus is heavily weighted against subordinate lien holder.
- Example: Lender A has first mortgage of $100,000, but only has insurance of $75,000 (should be $100,000). Lender B has 2nd of $50,000. Insurable value of residential property is $200,000. Lender B must require insurance of $150,000 and not $125,000.

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Q&A #28 through 31—Nuances of Equipment and Liens

- *Does equipment in a SFHA require coverage?*
- *What about building and equipment if collateral on loan?*
- *Nuances of such*
- *Abundance of caution*

- Equipment only loans even if located in SFHA do not trigger insurance requirements (bank option).
- Building and equipment loans require insurance on both where coverage rules apply.
- Example: Lender A has loan for $200,000 that is secured by warehouse valued at $150,000 and inventory of $100,000. Maximum insurance is $500,000 for BOTH building and coverage. Coverage would be $200,000 with $150,000 for the building and $50,000 for the contents.
- If the inventory collateral was stored in a separate building, then coverage on equipment would not apply as rules focus on "building AND its contents secure a loan."
- Abundance of caution rules don't apply WHEN security interest is taken regardless of reason.

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Q&A 32 Commercial RE and Contents?

We have a borrower that is a RE holding company and the principal balance on the loan is $350,000 and the building is valued at $500,000. We also have a UCC filing on contents of the building. Is a flood policy for $350,000 on the real estate alone sufficient or do we also need coverage for the contents (fixtures, etc.)? If so, how are the amounts established between the real estate and the contents?

- When the value of the building is less than the amount of the loan applies. In this question, the insurable value (by an acceptable means) of the building is above the amount of the loan.
- Flood insurance requirements require that both building and contents are covered when taken as collateral (whether as an abundance of caution or not).
- Need to provide some level of coverage through the NFIP. Policy should be made so that both have appropriate coverage levels up to the amount of the loan. Expanded coverage may be considered by the lender.

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Q&A #33 to 37—Escrow Issues

Are multi-family buildings residential?

How about mixed-use?

When do escrow rules on Flood trigger?

Voluntary escrow accounts?

Does credit life trigger?

- Multi-family are covered, but only to the extent that lender requires escrow of other covered escrow items.
- Mixed-use determination should be based on guidelines under HMDA for applicability coverage.
- Triggering of escrow for Flood Insurance is at same time other escrow is established.
- Voluntary escrow does not trigger nor do credit life type premiums trigger flood insurance escrow rules.
- Escrow on commercial loans such as multi-family residential that include protection of the property (e.g., hazard insurance, real estate taxes) may trigger flood insurance escrow requirements (see exceptions and note uncertainty on implementation).
- Condos covered under a RCBAP would likely not require escrow when properly maintained by condominium association.

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Q&A #38—Force Placement Issues: When

When is force-placement triggered?

When Four Events ALL Occur

1. The lender determines (directly or inadvertently) at any time during the life of the loan that the property securing the loan is located in an SFHA;
2. Flood insurance under the Act is available for improved property securing the loan;
3. The lender determines that flood insurance coverage is inadequate or does not exist; AND
4. After required notice, the borrower fails to purchase the appropriate amount of coverage.

Notice must meet requirements of 45-day period, notice that lender will purchase insurance on behalf of borrower. Amounts can be added to the principal amount of loan.

Remember: Advance notices in anticipation of potential lapse does not meet notification sufficiency.

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Q&A #39 and 40—Force Placement Issues: Action

- *Can a servicer force place?*
- *How much insurance?*

- Servicer can force place when the statutory requirements are met and subject to the servicing contract between the lender and servicer.
  - An area to be reviewed if applicable to ensure the presumption of assumption
- Amount of coverage is applicable to normal calculations.

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Q&A #41—Private Insurance Policies

- *Are they allowed?*
- *When and when not?*

Private insurance is allowed, but has risk factors and must meet insurance level requirements under FEMA guidelines.

Private insurance company policies that do not meet FEMA guidelines may be acceptable for short periods of time such as a blanket policy while the lender is obtaining acceptable insurance during a force-placement scenario.

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Q&A #42 and 43—Special Flood Hazard Determination Form (SFHDF)

- *Can lender give to borrower?*
- *Can prior determination be used in refinancing or similar?*

- SFHDF can be given to borrower, but does not replace notification form. Should be given when determination review on SFHA is being jointly made by borrower/lender.
- Cannot rely on prior determination when "making" a loan. Refinance by same lender is allowed if not more than 7 years before date of the transaction, and basis established on prior SFHDF and no map updates.
- Basically requires life of loan determination to work.
- Logical when collateral is used or anticipated to be used on multiple properties.

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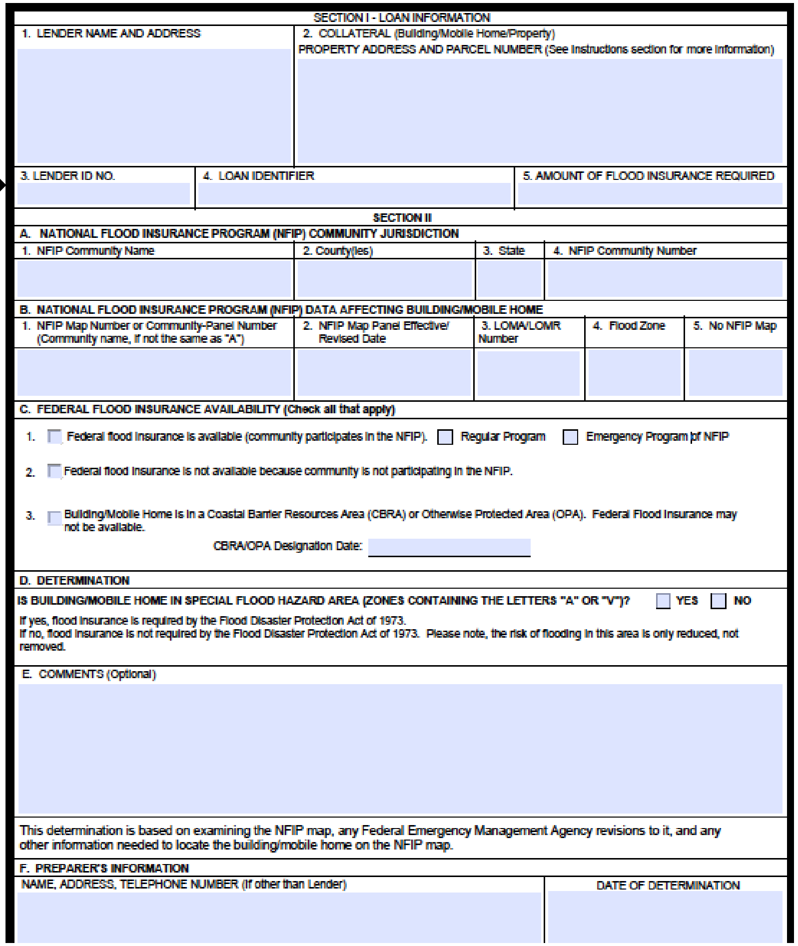
Q&A 44: What Goes in Box #3 of The SFHDF

Box #3 (Lender ID No.) not filled in or improperly filled:

3. LENDER ID NO: The lender funding the loan should identify itself as follows:

- FDIC-insured lenders should indicate their FDIC insurance certificate number;
- Federally-insured credit unions should indicate their charter/insurance number;
- Farm credit institutions should indicate their UNINUM number.

Failure shows a lack of attention to details.


SECTION I - LOAN INFORMATION

1. LENDER NAME AND ADDRESS

2. COLLATERAL (Building/Mobile Home/Property) PROPERTY ADDRESS AND PARCEL NUMBER (See Instructions section for more information)

3. LENDER ID NO.

4. LOAN IDENTIFIER

5. AMOUNT OF FLOOD INSURANCE REQUIRED

SECTION II

A. NATIONAL FLOOD INSURANCE PROGRAM (NFIP) COMMUNITY JURISDICTION

1. NFIP Community Name
2. County(ies)
3. State
4. NFIP Community Number

B. NATIONAL FLOOD INSURANCE PROGRAM (NFIP) DATA AFFECTING BUILDING/MOBILE HOME

1. NFIP Map Number or Community-Panel Number (Community name, if not the same as "A")
2. NFIP Map Panel Effective/ Revised Date
3. LOMA/LOMR Number
4. Flood Zone
5. No NFIP Map

C. FEDERAL FLOOD INSURANCE AVAILABILITY (Check all that apply)

1. Federal flood insurance is available (community participates in the NFIP). Regular Program Emergency Program of NFIP
2. Federal flood insurance is not available because community is not participating in the NFIP.
3. Building/Mobile Home is in a Coastal Barrier Resources Area (CBRA) or Otherwise Protected Area (OPA). Federal Flood Insurance may not be available.

CBRA/OPA Designation Date:

D. DETERMINATION

IS BUILDING/MOBILE HOME IN SPECIAL FLOOD HAZARD AREA (ZONES CONTAINING THE LETTERS "A" OR "V")? YES NO

If yes, flood insurance is required by the Flood Disaster Protection Act of 1973.
If no, flood insurance is not required by the Flood Disaster Protection Act of 1973. Please note, the risk of flooding in this area is only reduced, not removed.

E. COMMENTS (Optional)

This determination is based on examining the NFIP map, any Federal Emergency Management Agency revisions to it, and any other information needed to locate the building/mobile home on the NFIP map.

F. PREPARER'S INFORMATION

NAME, ADDRESS, TELEPHONE NUMBER (If other than Lender)

DATE OF DETERMINATION

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Using Q&A #45—Lack of Information and Disputes

Q: We have a situation in which our determination shows the property in zone A, the insurance company shows it in zone X and FEMA states there is no map for it. When it becomes the responsibility of the lender to check the zone itself, using the FIRM maps provided by FEMA, what happens when the FIRM is NOT mapped/surveyed (therefore there is no map to use for the determination)?

A: If a lender is able to substantiate in its loan file a bona fide effort to resolve a discrepancy, either by finding a legitimate reason for such discrepancy or by attempting to resolve the discrepancy, for example, by contacting FEMA to review the determination, no violation will be cited. **Lesson 1: Document**

Federal law sets the ultimate responsibility to place flood insurance on the lender, with limited reliance permitted on third parties to the extent that the information that those third parties provide is guaranteed. **Lesson 2: Ensure that your flood determination company is properly insured.**

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Using Q&A #46—Lack of Information and Disputes

If, despite these efforts, the discrepancy is not resolved, or in the course of attempting to resolve a discrepancy, a borrower or an insurance company or its agent is uncooperative in assisting a lender in this attempt, the lender should notify the insurance agent about the insurer's duty pursuant to FEMA's letter of April 16, 2008 (W–08021), to write a flood insurance policy that covers the most hazardous flood zone. When providing this notification, the lender should include its zone information and it should also notify the insurance company itself. The lender should substantiate these communications in its loan file.

Lesson 3: Document. Isn't that always the lesson!

Q&A #47—Discrepancies & Disputes

- *Does the type of discrepancy matter?*

- Yes. A discrepancy between a high-risk zone (A or V) and a low or moderate-risk zone (B, C, D or X) matters, but not between a moderate and a low; however, investigation is still warranted.

COMMON VIOLATION

- Requires procedures within the institution to resolve all discrepancies and disputes.
- May require notification to FEMA to resolve dispute. FEMA requires notification of dispute within 45 days (calendar) of the date the lender notified the borrower that a building was in an SFHA and flood insurance is required.
- Interim insurance required.

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Q&A #48 through 50—The Notice

- *Notice to each borrower?*
- *Affiliated servicer notice?*
- *Reliance on prior notice?*

- Notices are not required to each borrower, but lenders may choose to do so.

COMMON VIOLATIONS

- Must provide a notice to the servicer even if the servicer is affiliated with the lender.
- A new determination (SFHDF) may not be required (see prior Q&As), but the notice must be provided regardless of whether a new determination is made.

Q&A #51—The Penalties

- *Which violations lead to CMPs?*
- *What is a pattern or practice?*

CMPs are required when a pattern or practice involves:

- Failure to require purchase of flood insurance where available and applicable;
- Failure to escrow flood insurance premiums;
- Force placement of flood insurance;
- Failure to provide notice
- Failure to provide notice to servicer or change of servicer

Amount of CMP is $2,000 PER VIOLATION.

Pattern or practice is generally associated with ECOA or TILA guidelines.

Need or Want More

FEMA

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Flood Insurance
- Information for Property Owners
- Information for Lenders
  - Preferred Risk Policy Eligibility Extension for Lenders

Information for State & Local Officials

Information for Surveyors
- Information for Claims Adjusters
- Information for Insurance Professionals
- Flood Insurance Manual
- Flood Insurance Library
- Moving Forward with Flood Insurance
- Flood Insurance Reform
- Workshops and Training
- Publications
- Statistics

National Flood Insurance Program and Mitigation Resource List
- National Flood Insurance Program Community Rating System

Technical Support Hotline

National Flood Insurance Program: Links to Related Sites

The 1993 Great Midwest Flood: Voices 10 Years Later

What Is The Write Your Own Program?

Flood Zone Determination Companies

Information for Lenders

This page contains a list of links to pages that contain flood insurance information for Lenders.

To receive NFIP e-mail updates

- Associate in National Flood Insurance (ANFI™) - Earn a designation that reinforces the technical and practical knowledge and skills you need to confidently and accurately handle all aspects of flood insurance coverage. (The Federal Emergency Management Agency does not endorse any non-profit or other entity, but provides links to the Institutes as a convenience to the public.)
- Claims Handbook
- Coastal Barrier Resource System
- Community Status Book
- FEMA Map Service Center
- Flood Map Information
- Flood Zone Determination Companies
- Forms
- Insurance Outreach Toolkit for Flood Map Updates - a comprehensive toolkit designed to help community officials, insurance agents, realtors and others communicate effectively about flood map changes and their impact on insurance requirements
- Interagency Questions and Answers Regarding Flood
- NFIP & FEMA Regional Offices
- Preferred Risk Policy Eligibility Extension
- Publications
- Summary of Coverage (English and Spanish)

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