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Overview

This course provides an overview of the requirements enacted by Congress and the mandated flood insurance requirements for all federally backed mortgages, and mortgages and loans obtained through federally insured and regulated financial institutions. This course explains the coverage requirements and exemptions, and the disclosures required in these transactions.

Version: 5.0

Update: May 2020. No significant changes.

As a banker, there are numerous decisions you must make. For example, if you work in the lending department, you must balance risk to determine whether the bank will make a particular loan, determine what information it will require for that loan, and in some cases decide whether the bank will waive any optional lending requirements.

Some laws and regulations give you less room to evaluate risk by governing what a bank can legally waive. The Flood Disaster Protection Act (FDPA) is one such regulation. The FDPA provides very specific requirements that the bank must follow if the loan being made is subject to its requirements.

TIP
Throughout this course the terms bank and banks include federal and state chartered savings associations.

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Course Introduction

Overview

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Course Introduction

Overview

Course objectives

By the end of Flood Disaster Protection Act, you will be able to

- Describe the circumstances and properties that require a flood determination
- Explain the types of loans subject to the mandatory requirement to purchase flood insurance
- Describe the minimum flood insurance purchase amounts
- Describe the process for notifying borrowers who have properties in a special flood hazard area
- Describe what constitutes sufficient proof of flood insurance and when it must be provided to the bank
- Describe force placement procedures
Introduction

For many years, consumers lost millions of dollars because of flood damage to property that, given the high risks involved, could not be insured at a reasonable cost or for which flood insurance was unavailable. Congress responded by establishing the National Flood Insurance Program (NFIP). This program makes flood insurance available to flood-prone areas at a reasonable cost through a joint program involving the private insurance industry and the federal government.

As financiers of mortgages, commercial properties, and other properties secured by improved real estate, banks and other real estate lenders are in a key position to require property owners to maintain adequate insurance. For this reason, the Flood Disaster Protection Act of 1973 and subsequent statutory revisions made it the lender’s responsibility to determine which properties are in areas most prone to flooding and, further, to become the enforcer for the purchase and maintenance of flood insurance protection.

Glossary term

National Flood Insurance Program (NFIP)

The National Flood Insurance Act of 1968 created the NFIP. Two subsequent laws, the Flood Disaster Protection Act of 1973 and the National Flood Insurance Reform Act of 1994 have made the purchase of flood insurance mandatory for federally backed mortgages on structures located in special flood hazard areas.
Overview

Introduction

Objectives

By the end of this module, you will be able to

- Describe the background of the FDPA
- Describe the circumstances and properties that require a flood determination

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Overview

Background

The NFIP provides up to a predetermined amount of federally subsidized flood insurance to owners of improved real estate located in designated flood hazard areas within participating communities.

After a community is mapped and flood zones are designated, the community can choose to participate in the NFIP. If the community chooses to participate, then flood insurance is available through the NFIP to property owners within that community. The FDPA applies to all federally regulated lending institutions and includes all banks. The FDPA covers any designated loan, defined as a loan secured by a building or mobile home that is located or to be located in a special flood hazard area in which flood insurance is available under the NFIP.

The FDPA requires banks to take the following actions:

- Determine whether the building or mobile home securing a consumer or commercial loan is in a high-risk flood zone
- Notify the borrower if flood insurance is available under the NFIP and whether it will be required

If flood insurance is available, the FDPA requires the bank to do the following tasks:

- Obtain proof of insurance prior to closing the loan
- Ensure an adequate amount of insurance remains in force for the life of the loan
Overview

Background

Eligible structures for flood insurance
The NFIP covers improved real property or mobile homes located or to be located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards.

> Click each image below to see the types of structures that are eligible and not eligible for coverage.

Types of structures eligible for coverage
The following types of structures are eligible for coverage:

- Residential, industrial, commercial, and agricultural buildings that are walled and roofed structures that are principally above ground
- Buildings under construction where a development loan is made to construct insurable improvements on the land (insurance can be purchased to keep pace with the new construction)
- Mobile homes that are affixed to a permanent site, including mobile homes that are part of a dealer’s inventory and affixed to permanent foundations
- Condominiums
- Co-operative and apartment buildings
- Flood insurance coverage is also available for personal property and other insurable contents contained in real property or mobile homes located in special flood hazard areas (the property must be insured in order for the contents to be eligible)
- Nursing homes and assisted living facilities
- Dormitories
- Grain bins, silos, or other farm buildings
Flood Disaster Protection Act

Types of structures not eligible for coverage
The following structures are not eligible for flood insurance under the NFIP:

- Unimproved land, bridges, dams and roads
- Mobile homes not affixed to a permanent site
- Travel trailers and campers
- Converted buses or vans
- Buildings entirely in, on, or over water into which boats are floated
- Pole Barns (unless they qualify as buildings)

Glossary term

Federal Emergency Management Agency (FEMA)
FEMA is an agency within the Department of Homeland Security and is headquartered in Washington, DC. FEMA also has over 9,000 standby disaster assistance employees who are available to help after disasters. Often FEMA works in partnership with other organizations that are part of the nation’s emergency management system. FEMA engineers develop the flood maps.
Overview

Background

The NFIP provides federally subsidized flood insurance as an alternative to the massive amounts of federal disaster relief funds normally required to revitalize flood-stricken areas. It is also designed to reduce the disastrous effects of floods by requiring participating communities to develop and implement plans for local flood plain management. The ultimate goal of the NFIP is to decrease the financial impact of flooding on the federal government, taxpayers, and citizens in areas most prone to flooding.

The mandatory purchase requirement means that before a bank can make, increase, renew or extend (some bankers use the acronym "MIRE"—often referred to as a MIRE event—to remember these four triggers for flood insurance coverage) any loan secured by certain improved real property (including mobile homes) the bank must perform the following tasks:

- Determine whether the building or mobile home property is located in a special flood hazard area (SFHA) in a community that participates in the NFIP.
- Notify the property owner of this fact and the owner’s obligation to purchase flood insurance.
- Ensure that sufficient flood insurance is maintained throughout the life of the loan.

Glossary term

Special Flood Hazard Area (SFHA)

“Special flood hazard area” describes high-risk areas in the 100-year flood plain. These are areas that have a 1 percent or greater chance of being flooded in any given year. Any flood zone that begins with the letter A or V is subject to the 100-year flood plain. Over the life of a 30-year loan, there is a 26 percent chance of experiencing such a flood within a special flood hazard area.
Overview

Background

Self Check Quiz

What is the purpose of the National Flood Insurance Program?

► Select the correct answer and click Submit.

A) Provide federally subsidized flood insurance
B) Implement laws and regulations governing properties in flood hazard areas
C) Provide guidance to banks for managing risk
D) Eliminate the need for federally subsidized flood insurance

A is correct.

B is incorrect because the National Flood Insurance Program does not implement any laws or regulations. C is incorrect because the National Flood Insurance Program does not help banks manage risk. D is incorrect because the National Flood Insurance Program provides federally subsidized flood insurance.
Overview

Background

Self Check Quiz

What is the bank’s responsibility under the FDPA?

» Select the correct answer and click Submit.

A) Refrain from making loans in areas designated as special flood hazard areas
B) Require flood insurance on all loans regardless of flood zone designation
C) Report status of properties in special flood hazard area to the federal government
D) Enforce the requirement for purchase of flood insurance where improved properties securing loans are or will be in special flood hazard areas

D is correct.

A is incorrect because the FDPA does not tell a bank whether or not to make loans in flood hazard areas. B is incorrect because the FDPA only requires a bank to require flood insurance for certain designated flood zones. C is incorrect because the bank’s responsibility under the FDPA is to enforce the requirement for purchase of flood insurance where improved properties securing loans are or will be in a special flood hazard area. It does not report the status of the property to the federal government.

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Overview

Flood Determination

The bank must make a flood determination anytime it makes, increases, renews, or extends a loan that is secured or to be secured by improved real property. While banks can make the determination, most banks rely on a person or vendor, which provides flood determination services and guarantees the accuracy of the information it provides to the bank. The process involves providing the property description to the person or vendor that has current flood maps published by the NFIP. The FDPA requires the person or vendor guarantee and that the determination is documented on a Standard Flood Hazard Determination Form (SFHDF) which is normally provided by the vendor performing the flood zone determination.

Use of a current flood determination is important as many areas are being remapped to better reflect current conditions. However, if a loan is being renewed, increased, or extended and will be secured by a property for which the bank already holds a flood determination (which must be recorded on a SFHDF), the previous flood determination can be used if it is not more than seven years old and the area has not been remapped.

Glossary term

Standard Flood Hazard Determination (SFHDF)
Lenders are required to use this form when determining whether a building or mobile home offered as collateral security for any federally regulated or insured loan is or will be located in a special flood hazard area in which flood insurance is available. The Standard Flood Hazard Determination Form may be used in a printed, computerized, or electronic manner.
Overview

Flood Determination

Likewise, when the loan involves a refinancing or assumption by the same lender who obtained the original flood determination on the same property, the lender also may rely on the previous determination only if the original determination was made not more than seven years before the date of the transaction, the basis for the determination was set forth on the SFHDF, and there were no map revisions or updates affecting the security property since the original determination was made.

Lastly, if the same lender makes multiple loans to the same borrower secured by the same improved real estate, the lender may again rely on its previous determination if the original determination was made not more than seven years before the date of the transaction, the basis for the determination was set forth on the SFHDF, and there were no map revisions or updates affecting the security property since the original determination was made.
Overview

Flood Determination

A flood determination and the accompanying determination form are required for any insurable building or mobile home regardless of whether the loan is to a business or a consumer. This means that any insurable structure would be deemed to be improved real property including homes, apartments, commercial office buildings, restaurants, strip centers, barns, storage buildings, and so forth. There are some improvements that would not fall into this definition such as septic tanks, parking lots, or other nonstructural improvements.

The requirements also apply to loans that do not yet have improvements on the property, but for which the proceeds of the loan will be used to make improvements to the property securing the loan. Examples of this include loans to construct insurable improvements or loans that will be secured by a mobile home and the land, if the mobile home will be affixed to the ground.

Exception 1
Any state-owned property that is covered under a policy of self-insurance satisfactory to the Administrator of FEMA, who publishes and periodically revises the list of states falling within this exemption, is exempt.

Exception 2
Loans with an original principal balance of $5,000 or less, which have a repayment term of one year or less.

Exception 3
The NFIP does not insure raw land, and the law does not address mortgages secured by land alone. The statutory requirements apply to improved real property—that is, land with a building on it, including a manufactured (mobile) home affixed to the real property. Therefore, if the purpose of a loan transaction is to facilitate the purchase of land for subsequent development, and any current building (structure) on the real property is of nominal value, the wording of the mortgage must specifically exclude the building as part of the security for the loan in order to avoid the mandatory purchase requirement.
Overview

Flood Determination

Recent reforms to the NFIP included the following changes:

- Raising the cap on annual premium increases from 10 percent to 20 percent
- Phasing out subsidies for many properties
- Increasing the civil money penalties that may be assessed on a bank for a flood compliance violation
- Requiring escrow for flood insurance premiums on residential properties
- Requiring banks to accept private flood insurance policies
- Clarifying the force placement process
- Increasing the coverage available for multifamily properties
- Imposing minimum deductibles for flood claims
- Permitting banks to offer residential borrowers the option to exclude from the mandatory purchase obligation a structure that is detached from the primary residence such as detached garages and other free-standing structures—if the structure is not used as a residence
- Amending the mandatory escrow provisions to apply only to loans that are originated, refinanced, increased, extended or renewed unless there is a permitted exception

Lenders or servicers are required to escrow premiums and fees for flood insurance for any designated loan secured by residential improved real estate or a mobile home at a MIRE event.

There are several exemptions to the escrow requirement including a small lender exemption and the following loan-related exceptions: subordinate-lien loans, condos or cooperatives with group purchased flood policies in place as long as the amount of insurance coverage is adequate, loans primarily for business, commercial or agricultural purpose, HELOCs, loans with terms not longer than 12 months, and nonperforming loans.

The mandatory escrow provision contains a “community bank” or small lender exemption that states that it does not apply to banks with less than $1 billion in total assets if the following is true:
Flood Disaster Protection Act

- The bank was not otherwise required by state or federal law to escrow taxes, insurance premiums, or fees for the term of the loan on the date of enactment of Biggert-Waters, July 6, 2012
- The bank did not have a policy of uniformly and consistently requiring the escrow of taxes, insurance premiums, or fees as of July 6, 2012
- Lenders and servicers may be eligible for the small lender exemption even if they make HPML loans under Regulation Z, which requires escrow, if they otherwise meet all of the exemption requirements
Flood Disaster Protection Act

**Overview**

**Flood Determination**

Certain detached structures are exempted from the mandatory flood insurance purchase requirements.

Flood insurance is not required on any structure on a residential property if it is detached from the primary residential structure and does not serve as a residence.

The exemption gives banks significant discretion to determine which structures require coverage. When detached structures are given as collateral, lenders, and servicers may require the structure be covered regardless. In this instance, the structures themselves—such as detached greenhouses—have value to the bank and the borrower, and accordingly do not meet the purpose of the exemption.

The detached structure exemption applies to loans made for business, commercial, or agricultural purposes if they are secured by a residence and part of the residence includes structures, which meet the requirements of the exemption.

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Overview
Flood Determination
Self Check Quiz

Which three loan situations would require you to perform a flood determination?

» Select the correct answers and click Submit.

- A) A loan to purchase a vacant lot that will be secured by the vacant lot
- B) A loan to purchase a mobile home that will be secured by a lot and the mobile home, which will be affixed to the lot
- C) A loan to construct a new apartment complex that will be secured by the apartment complex
- D) A loan to purchase a vacation condominium that will be secured by the vacation condominium

B, C, and D are correct.

A is incorrect because the requirement to perform a flood determination applies to any loan that is or will be secured by improved real property.

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Overview

Flood Determination

Self Check Quiz

For exemptions of certain detached structures from the mandatory flood insurance purchase, which two statements are true?

» Select the correct answers and click Submit.

A) Flood insurance is not required on any structure on a residential property if it is detached from the primary residential structure and does not serve as a residence

B) Flood insurance is not required on any commercial structure if it is detached from the primary commercial structure

C) Flood insurance is not required for detached structures for a loan made for business, commercial or agricultural purposes if they are secured by a residence and part of the residence includes detached structures which meet the requirements of the exception

D) Flood insurance is never required for a greenhouse

A, and C are correct.

B is incorrect because the exemption only applies if the primary structure is residential. D is incorrect because a greenhouse may have significant value which would still require flood insurance.
Flood Disaster Protection Act

Wrap Up

In this module, you learned the background of the Flood Disaster Protection Act, and how to describe the circumstances and properties that require a flood determination.

Page 17
Monitoring, Notice, and Force Placement

Introduction

Banks have a responsibility to determine which loan applications secured by improved property are in areas most prone to flood damage and to ensure that those borrowers purchase and maintain flood insurance protection. In this module, you will learn how you can help your bank do this by complying with the requirements of the FDPA.

Objectives

By the end of this module, you will be able to

- Explain the types of loans subject to the mandatory requirement to purchase flood insurance
- Describe the minimum flood insurance purchase amounts
- Describe the process for notifying borrowers who have improved properties in a special flood hazard area securing their loan
- Describe what constitutes sufficient proof of flood insurance and when the borrower must provide the bank that evidence of proof
Monitoring, Notice, and Force Placement

Insurance Coverage

The mandatory flood insurance purchase requirements apply to loans secured by improved real property located in a special flood hazard area in a community that participates in the NFIP and insurance is available ("designated loan"). All areas that have been mapped by FEMA for flood status have a designated zone.

Properties in a special flood hazard area are clearly marked on the SFHDF. The beginning letters of the flood zone designation identify these areas. All special flood hazard areas begin with an A or a V. If a property securing a loan is in one of these areas or will be in one of these areas, flood insurance is required for the real property improvements unless there is a permitted exemption (i.e. residential detached structure). Flood insurance is required on each structure within the special flood hazard area securing the loan unless an exemption applies.

Loans secured by properties in any other flood zones can be made without requiring flood insurance.
Inspection Coverage

Self Check Quiz

Assuming the transactions below are secured by improved real property, which two would be subject to the requirement to purchase flood insurance?

Select the correct answers and click Submit.

A) A property in zone A
B) A property in zone B
C) A property in zone C
D) A property in zone V

A and D are correct.

B and C are incorrect because zones beginning with an A and V are the only zones considered special flood hazard areas. Improved real property located in zones starting with other letters are not in a special flood hazard area, and the bank would not be required to have the borrower purchase insurance.
Monitoring, Notice, and Force Placement

Insurance Coverage

What if insurance is not available?
If the community is not participating and insurance is not available for the property, it is the bank’s decision whether or not to make the loan or whether or not to require private flood insurance.

Safety and soundness concerns should be evaluated to determine if it would be too risky to make the loan without flood insurance. When this happens, the bank must notify the borrower that the improved real property securing the loan is in a special flood hazard area, that the community is not participating in the NFIP, and that federally subsidized flood insurance is not available. However, the bank may, at its discretion, require the borrower to purchase private flood insurance.

Private flood insurance
Lenders are required to accept private flood insurance policies as satisfaction of the mandatory purchase requirement if the coverage provided by the private flood insurance satisfies certain specified standards. Additionally, regulated lenders are required to disclose to borrowers the following information:

- Flood insurance under the NFIP is available from private insurance companies or from the NFIP directly
- Flood insurance that provides the same level of coverage as an NFIP policy may be available from private insurance companies
- Borrowers are encouraged to compare policies
Monitoring, Notice, and Force Placement

Insurance Coverage

The Federal Financial Institutions Examination Council (the Agencies) released a final rule on private flood acceptance (Final Rule) that was implemented on July 1, 2019.

The Final Rule:

- Clarifies the statutory definition of private flood insurance
- Provides a compliance aid to simplify and streamline the acceptance of private flood policies that must be accepted in satisfaction of the mandatory purchase obligation
- Outlines the process by which banks may accept private flood policies that do not meet the statutory definition of private flood insurance (discretionary acceptance)
- Provides guidelines regarding the acceptance of flood insurance issued by mutual aid societies such as Amish and Mennonite Aid organizations.
Insurance Coverage

Private Flood Insurance
The Final Rule clarifies the statutory definition of private flood insurance.

Private flood insurance means an insurance policy that:
(1) Is issued by an insurance company that is:
   (i) Licensed, admitted, or otherwise approved to engage in the business of insurance by the insurance regulator of the state or jurisdiction in which the property to be insured is located; or
   (ii) Recognized, or not disapproved, as a surplus lines insurer by the insurance regulator of the state or jurisdiction in which the property to be insured is located in the case of a policy of difference in conditions, multiple peril, all risk, or other blanket coverage insuring nonresidential commercial property;

(2) Provides flood insurance coverage that is at least as broad as the coverage provided under a Standard Flood Insurance Policy (SFIP) for the same type of property, including when considering deductibles, exclusions, and conditions offered by the insurer. To be at least as broad as the coverage provided under a SFIP, the policy must, at a minimum:
   (i) Define the term “flood” to include the events defined as a “flood” in a SFIP;
   (ii) Contain the coverage specified in a SFIP, including that relating to building property coverage; personal property coverage, if purchased by the insured mortgagor(s); other coverages; and increased cost of compliance coverage;
   (iii) Contain deductibles no higher than the specified maximum, and include similar non-applicability provisions, as under a SFIP, for any total policy coverage amount up to the maximum available under the NFIP at the time the policy is provided to the lender;
   (iv) Provide coverage for direct physical loss caused by a flood and may only exclude other causes of loss that are excluded in a SFIP. Any exclusions other than those in a SFIP may pertain only to coverage that is in addition to the amount and type of coverage that could be provided by a SFIP or have the effect of providing broader coverage to the policyholder; and
   (v) Not contain conditions that narrow the coverage provided in a SFIP;

(3) Includes all of the following:
Flood Disaster Protection Act

(i) A requirement for the insurer to give written notice 45 days before cancellation or non-renewal of flood insurance coverage to:
   (A) The insured; and
   (B) The lender that made the designated loan secured by the property covered by the flood insurance, or the servicer acting on its behalf;
(ii) Information about the availability of flood insurance coverage under the NFIP;
(iii) A mortgage interest clause similar to the clause contained in a SFIP; and
(iv) A provision requiring an insured to file suit not later than one year after the date of a written denial of all or part of a claim under the policy; and

(4) Contains cancellation provisions that are as restrictive as the provisions contained in a SFIP.

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Insurance Coverage

The Final Rule also defines the “as broad as” provision in Biggert-Waters Act. The Final Rule defines private policies which are “as broad as” an NFIP policy to mean that the private policy meets the following criteria:

- Defines a “flood” to include the same events as a SFIP
- Has the same types of coverage available as an SFIP
- Has deductibles which are no higher than SFIP deductibles for policy amounts up to NFIP maximums
- Only excludes losses that are excluded in an SFIP, except those that apply to coverage that is beyond what is provided by an SFIP
- Does not contain conditions which narrow the coverage that would be provided in an SFIP
Insurance Coverage

Compliance Aid
The Compliance Aid consists of the statement “This policy meets the definition of private flood insurance contained in 42 U.S.C. 4012a(b)(7) and the corresponding regulation.”

If present, a banker may rely on the statement as proof that the policy meets the statutory definition, with no further analysis necessary. Lenders are not required to rely on the Compliance Aid and may choose to conduct their own analysis as to whether a policy meets the statutory definition.

IMPORTANT NOTE: Bankers should note that Biggert-Waters requires lenders to accept policies that adhere to the statutory definition, regardless of whether the Compliance Aid is present.
Discretionary acceptance

The Final Rule retains the ability of lenders to accept or reject private flood policies which do not meet the statutory definition.

The Final Rule permits the discretionary acceptance of a commercial or residential private policy that:

- provides coverage in the amount required, which 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 FDPA
- is issued by an insurer that is licensed, admitted, or otherwise approved to do business where the property is located; or for non-residential commercial property, is issued by a surplus lines insurer recognized or not disapproved where the property is located
- covers both the mortgagor(s) and the mortgagee(s) as loss payees, except in the case of a policy that is provided by a condominium association, cooperative, homeowners association, or other applicable group and for which the premium is paid by the condominium association, cooperative, homeowners association, or other applicable group as a common expense
- provides sufficient protection of the designated loan, consistent with general safety and soundness principles, and the bank documents its conclusion regarding sufficiency of the protection of the loan in writing
Insurance Coverage

Mutual aid societies
The Final Rule allows lenders to accept flood insurance policies written by mutual aid societies in satisfaction of the mandatory purchase requirement. Mutual aid societies are defined as organizations that meet all the following criteria:

- Members share a common religious, charitable, educational, or fraternal bond
- Pursuant to an agreement, the organization covers losses caused by damage to members' property including damage caused by flooding, in accordance with this common bond
- The organization has a "demonstrated history" of fulfilling the terms of agreements to cover losses to members' property caused by flooding

Banks may accept plans offered by mutual aid societies to fulfill the mandatory purchase requirement, if the following conditions are met:

- The appropriate supervisory agency has determined that such plans qualify as flood insurance for purposes of the Act (Note: this criteria must be satisfied by the Agencies themselves);
- The plan provides coverage in the amount specified in the flood insurance purchase requirement;
- The plan covers both the mortgagor(s) and the mortgagee(s) as loss payees; and
- The plan provides sufficient protection of the designated loan, consistent with general safety and soundness principles, and the bank documents its conclusion regarding sufficiency of the protection of the loan in writing.

Finally, lenders are not required to accept mutual aid policies. The Final Rule provides a mechanism for lenders to accept such policies if they so choose.
Insurance Coverage

<table>
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<tr>
<th>Outstanding principal</th>
<th>Insurable value</th>
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The FDPA requires that the bank ensure that at least a minimum amount of flood insurance is purchased. There are certain criteria that determine this minimum amount.

In calculating the amount of insurance to require, the lender and borrower (either by themselves or in consultation with the flood insurance provider or other appropriate professional) may choose from a variety of approaches or methods to establish the insurable value. They may use an appraisal based on a cost-value (not market-value) approach, a construction-cost calculation, the insurable value used in a hazard insurance policy (recognizing that the insurable value for flood insurance purposes may differ from the coverage provided by the hazard insurance and that adjustments may be necessary; for example, most hazard policies do not cover foundations), or any other reasonable approach, so long as it can be supported.

> Click each tab above to learn about the minimum purchase amounts.
Monitoring, Notice, and Force Placement

Insurance Coverage

Outstanding Principal

Outstanding principal balance
To meet compliance requirements, the amount of flood insurance must at least be, but is not limited to, the lowest of...

The outstanding principal balance of the loan(s), or…

The maximum amount of coverage available under the NFIP for the particular type of building. or…

The insurable value of the building and/or its contents, which is the same as 100 percent replacement cost value (RCV). (Unlike the practice in other lines of property insurance, building RCVs under the NFIP do not include market values or the value of the land.)

› Click each tab above to learn about the minimum purchase amounts.

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Flood Disaster Protection Act

Monitoring, Notice, and Force Placement

Insurance Coverage

Insurable value

Currently, $250,000 is the maximum limit of flood insurance coverage available under the National Flood Insurance Program (NFIP) for residential structures and $500,000 for commercial structures. Contents coverage has a maximum limit of $100,000 for residential structure contents and $500,000 for commercial structure contents. The maximum limit for "other residential properties" (for example, apartment buildings) of 5 or more units is $500,000. Contents coverage is also required when: 1) the contents of the property are taken as collateral; 2) the bank also takes the building where the contents are located as collateral; and 3) the building is located in a special flood hazard area. Banks can, but are not required to, require additional insurance through a private insurer if the value of the real property or the loan amount is greater than the maximum limit available under the NFIP. These may represent situations were banks consider safety and soundness considerations over and above the legal requirements to insure adequately the collateral property. This private policy is not issued or guaranteed through FEMA.

Example

For a loan in the amount of $185,000 secured by improved real property (residential property) for which the replacement cost less the value of the land is $170,000, the minimum insurance requirement is the lowest of the following amounts:

- The outstanding balance of the loan—$185,000
- The maximum available under the NFIP for that type of property—$250,000
- The insurable value of the property—$170,000

$170,000 is the insurable value of the property and the minimum amount of required flood insurance coverage.

> Click each tab above to learn about the minimum purchase amounts.
Insurance Coverage

Self Check Quiz

If the improved real property is in a special flood hazard area and flood insurance is available, which two approaches describe acceptable methods of establishing the insurable value in calculating the amount of flood insurance to require?

- Select the correct answers and click Submit.

A) Use a construction-cost calculation
B) Use an appraisal based on the market-value approach
C) Use the identical insurable value in a hazard insurance policy
D) Use an appraisal based on the cost-value approach

A and D are correct.

B is incorrect because you may use an appraisal based on a cost-value, not market-value approach. C is incorrect because the insurable value for flood insurance purposes may differ from the coverage provided by the hazard insurance, and adjustments may be necessary to include, for example, foundation coverage not normally provided for under a hazard insurance policy.
Monitoring, Notice, and Force Placement

Borrower Notification

If the flood determination reveals that improved real property securing a loan is in a special flood hazard area, the bank must provide written notice to the borrower.

The bank must notify the borrower that his or her property is in a special flood hazard area in sufficient time to allow the borrower to obtain flood insurance prior to loan closing.

The Act requires this notice be provided within a "reasonable" amount of time before the loan closing.

This notice is required whenever a bank makes, increases, renews, or extends any designated loan. That means that even if the bank modifies a loan that already has flood insurance in place, the bank must still provide this notice to the borrower(s).
Borrower Notification

The regulations implementing the Act provide a prescribed notice that must be used to meet the content requirements.

➤ Roll over the numbers on the notice to see the parts.

1. A warning that the building or the mobile home is or will be located in a special flood hazard area
2. A description of the flood insurance purchase requirements
3. 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 for participating communities
4. The details of the availability of private flood insurance coverage and comparing private policies with an NFIP policy
5. Escrow requirements for residential loans, if applicable
6. A statement that NFIP flood insurance coverage is not available in communities that do not participate in the NFIP and such properties are not eligible for Federal disaster relief assistance in the event of a Federally declared flood disaster
### Monitoring, Notice, and Force Placement

#### Borrower Notification

**Timing of the Notice**
A bank should always complete the flood determination in sufficient time to provide this notice to the borrower. Many banks obtain the determination upon approval of the loan so they will have time to make the notification to the borrower if they are going to require flood insurance.

**Question**
What information is included in the written notice to the borrower?

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<th>Answer</th>
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Monitoring, Notice, and Force Placement

Proof of Flood Insurance

Banks are prohibited from making loans secured by improved real property in special flood hazard areas in participating communities unless the loan is covered by flood insurance. The borrower must present sufficient proof of flood insurance coverage at closing. If it is not in place at this time, the bank cannot proceed with closing the loan. After closing, the borrower must supply the bank with renewal policies throughout the life of the loan to show continuing proof of coverage.

Types of proof at closing include either of the following elements:

- A copy of the declarations page of the Flood Insurance policy
- A copy of the flood insurance application and premium payment

These documents must be verified to ensure that an appropriate amount of insurance is in place before closing is complete. The NFIP does not recognize binders or certificates of insurance.
Monitoring, Notice, and Force Placement

Proof of Flood Insurance

While not required by the regulation, the regulatory agencies encourage banks to monitor flood insurance policies to ensure sufficient coverage is maintained on all designated loans that require flood insurance. This means ensuring that there is a policy for flood insurance in place at closing, as well as ensuring that renewal policies are received each year.

If the bank determines at any time that flood insurance is not sufficient or in place for a designated loan, the bank must notify the borrower in writing of the requirement and request that the borrower provide a copy of his or her flood insurance policy within 45 days.

If the borrower fails to provide proof of insurance after 45 days have elapsed, the bank must force place a policy. This means the bank will purchase the flood insurance for the borrower. The bank will charge the premium to the borrower and the force placed premium could be much more expensive than the premium that the borrower would pay had the borrower purchased the insurance or kept the old policy in place. A bank may force place a policy at any time during the 45-day notice period.

Because the borrower will generally contact his or her lender to inquire about the notice, it is important for lending personnel to be aware of this notice requirement and know who in the bank is responsible for ensuring that continuous coverage is maintained. Lending personnel should feel comfortable answering questions about the notice. The lender should also make sure borrowers understand the insurance requirements to prevent force placement.

Glossary term

Force placement

If after the loan is made the borrower fails to maintain sufficient flood insurance coverage and fails to respond within 45 days to the lender’s notice of the need to do so, the lender must purchase insurance and charge the borrower. The price of such insurance is often greater than when purchased by the borrower.
Monitoring, Notice, and Force Placement

Proof of Flood Insurance

Force placement provisions

- The premiums and fees that a lender or servicer may charge the borrower include premiums or fees incurred for coverage beginning on the date on which flood insurance coverage lapsed or did not provide a sufficient coverage amount.
- The lender or servicer, within 30 days of receiving a borrower’s confirmation of an existing flood insurance coverage, must terminate any force-placed insurance and refund to the borrower all force-placed insurance premiums and any related fees the borrower paid during any period of overlap between the borrower’s policy and the force-placed policy.
- A lender or servicer must accept as confirmation of a borrower’s existing flood insurance policy a declarations page that includes the existing flood insurance policy number and the identity and contact information for the insurance company or agent.

Civil money penalties
The maximum civil money penalty for a FDPA violation is $2,000 per violation with no penalty cap per year.
Monitoring, Notice, and Force Placement

Proof of Flood Insurance

Self Check Quiz

The bank is closing a loan today and asks the borrower for proof of flood insurance coverage. Which two items would be acceptable proof?

» Select the correct answers and click Submit.

- A) A signed statement from the borrower indicating that he or she has purchased flood insurance
- B) A copy of the declarations page of the flood insurance policy
- C) A binder or certificate of insurance showing that the insurance was purchased
- D) A copy of the flood insurance application and premium payment

B and D are correct.

A is incorrect because the only acceptable forms of proof of flood insurance are the declarations page of the policy or a copy of the flood insurance application and premium payment. C is incorrect because the NFIP does not recognize binders or certificates of insurance.

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Monitoring, Notice, and Force Placement

Wrap Up

In this module, you learned the types of loans subject to the mandatory purchase of flood insurance requirement. You know the minimum flood insurance purchase amounts. You can describe the process for notifying borrowers who have properties in special flood hazard areas. You know what constitutes sufficient proof of flood insurance and when it must be provided to the bank. You also know the force placement requirements and procedures.
Course Conclusion

Course Wrap Up

By completing *Flood Disaster Protection Act*, you know the circumstances and types of properties that require a flood determination. You can also explain the types of loans subject to the mandatory requirement to purchase flood insurance and the minimum flood insurance purchase amounts. You can describe the process for notifying borrowers who have properties in special flood hazard areas. You are able to describe what constitutes sufficient proof of flood insurance and when it must be provided to the bank and force placement procedures.

› Click Exit to close this course.