

I would like to comment on several portions of the proposed flood insurance regulatory changes as proposed in the above subject line.

In my opinion, Congressional Intent (and what they may not have intended) may have included more than you indicate in your proposal with regards to expansion or improvement of the private flood insurance available.

As you are aware there are many private insurers already involved in the process as "Write Your Own" providers or in other capacities, such as those that provide supplemental insurance. In most states, there are few, if any, state approved providers of coverage. In PA, we have exactly one. Although I agree that borrowers should be informed of the existence of these private approved companies, thought should be given to how they will be provided with information about which private insurance companies may provide insurance in the state where their secured property is located. Currently, application websites for private flood insurance have been implemented that compare rates and purportedly shop various listed insurance companies that have these policies. Not all of the companies are even licensed in a particular state.

As you stated, apparent intent extended to expansion of the private flood insurance business being written. This objective could easily be met through insurance company marketing in competition with NFIP programs through offering of policies and insurers approved by the state insurance commission. It seems unlikely they intended inferior policies to be offered, because the law is silent in this regard. Further, they left this up to the regulators, who, in my opinion, also have a duty toward the safety and soundness of the institutions they regulate. Because of these facts, it seems apparent that they did not at the same time intend to have banks be required, or even permitted, to accept policies inferior in coverage to those available through the NFIP, particularly with regards to those with higher deductibles or short renewal notice features that could create risk beyond the scope of regulatory requirements. Further, policies outside of the parameters for required acceptance are not beneficial to borrowers. It seems that providing a statement that they should explore private insurers without regard to provisions of the policy that could then be accepted by their lender without regard to the risk to the borrower would be unfair and deceptive. It would cause potential unavoidable harm to the borrower in the event of a loss and may encourage them to purchase property in a flood zone which they could not afford in the event a policy with coverage, deductibles, renewals and other provisions currently acceptable would have been purchased to protect their interest. To leave it up to the lender to make this decision is to place the burden of determining the insurable risk and the mitigation of that risk ultimately to the lender and not an insurance professional. I believe they are rightfully expecting the regulators to accomplish the requirements of the law outside of new risks for either lenders or borrowers.

For this reason, please consider adopting the proposed language not allowing lenders to accept policies or insurance companies that provide coverage that does not conform to that required for policies that banks must accept under the law. More correctly, only those private flood insurance policies that meet those requirements as approved by the state insurance commission or its equivalent should be accepted by lenders. This will eliminate the need for the bank to be responsible for a determination they are not qualified to make. The state insurance commission in each state should maintain a publicly available list of approved insurance policy forms and coverage and insurance providers that are acceptable to the state in which the property is located. Unfortunately, it appears that in some states the insurance commissioner intends to neither provide a list of authorized insurers, nor designate which policies would meet the acceptability requirements. The lender would then be responsible to check the

list to assure that the policy issued and the provider is on the approved list in the state where the collateral is located or in the state where the lender is located.

The change in the description for how flood insurance coverage is only available to insure buildings and not land is not helpful. There is an opportunity to add clarity here with regards to calculation of the insurable value for flood purposes for the property. Consider defining the value of the building as either the replacement cost of the structure or the appraised value minus the land value as determined from the appraisal or the insurable value as obtained in writing from the insurance agent writing the policy.

The missing piece of the proposed regulation is the coverage provided by force-placed insurance and meaningful enumeration of the options available to the borrower to replace lapsing coverage for nonpayment of premium or other cancellation events for existing flood insurance on existing loans. Most lenders obtain coverage that only pays for the mortgage balance in the event of a loss. The borrowers interest is 100% at risk. When a policy is cancelled due to non payment, the notice from the insurance carrier to the borrower should include this information and list approved private providers if the NFIP premiums are too high for the borrower to remain in the home. In my opinion, insurance companies profit from the sale of these products and should share the burden of meeting the social ,legal and regulatory goals of the implementation of Biggert-Waters.

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