

FDIC "LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS-PRIVATE FLOOD INSURANCE"

The flood insurance rule proposal is an admirable attempt to further the intent and the letter of Biggert-Waters as described in your footnote on 18 on page 22 of the proposal.

Comment on the definition of Private Insurance Definition:

Current situation: In many areas of the country, it has been the practice of lending institutions of all sizes to close mortgage loans in special flood hazard areas with an initial FEMA policy, which then almost immediately lapses because of cancellation by the borrower or at renewal for non-payment of premium. This is because, for the value of the home, the premium is prohibitive; as is the premium for force-placing the insurance through the MPPP. At that time, to avoid foreclosing on the mortgage, the lender attempts to meet the mandatory purchase requirements and protect their own interest in the collateral. They place the mortgage balance on their blanket collateral protection policy. These policies have extremely low premiums and generally provide insurance of the insured lending institution only.

Comment: The proposal is silent on two critical points: Will the new definition of private insurance policy be applied (and enforced) as to force-placed policies after the borrower's current policy cancels for non-payment or otherwise? If so, will this requirement be applied to all of the existing loans already covered by the lender- only collateral protection policies that cover so many loans nationwide at this time?

If so, the new definition of private insurance policy and the provision to apply a criterion of requiring the borrower and the lending institution to each appear as loss payees or insured on the policies will do much to expand the force- placed insurance market in the private sector, as individual policies are issued in replacement of the policies that lapse due to nonpayment of FEMA policies. It will also bring FEMA a windfall of new policies at full risk non-subsidized rates.

I would recommend that you consider adding specific information about two things:

First, the use of private insurance that is lender coverage only (after a policy lapse) should be clearly categorized as falling or not falling under the requirements of acceptance of policies to meet the mandatory purchase and maintenance requirements. If these types of policies continue to be permitted, their use for the purpose of satisfying the mandatory purchase requirement or their use as private insurance should be clearly stated with respect to any restrictions on their use. Any such requirements should be clearly set forth in the proposal if they are intended to be addressed here.

Second, if it applies, specify if the definition of private insurance policy is intended to be retroactive and cover the existing insurance force- placed by lenders that does not meet the private insurance requirement because it does not cover both the borrower and lender.

Note: If the definition is used for either of these the result potential will be an increase in the number of foreclosures and delinquency. Because the borrower has not had an insurance policy in place and their policy has lapsed, they will lose any subsidy they may have had and the premiums will skyrocket beyond their ability to repay the mortgage and maintain the insurance. In addition, their equity in the home remains in constant jeopardy as the mortgage balance only is covered.

Comment on accepting private policies that meet the definition requirements and are therefore required to be accepted.

While keeping in mind that the requirement that lenders accept private policies appears to be statutory and must therefore be included in the rule, there appears to be no way to fix the issues that creates. It leaves this determination eventually up to the bank, which will never have the expertise to mitigate this risk. In my opinion, if the issuing company does not state that the policy meets the provisions that were in effect by FEMA for their own policies at the time it was issued, the rule should clearly state that the

policy is not considered to have met the mandatory acceptance requirements and acceptance of the policy is at the discretion of the lender's internal policy on accepting such policies.

Comment on accepting private insurance policies that do not meet the definition of private insurance policy:

As your information states, lenders feel unqualified, as do State Insurance commissioners, to determine if a policy meets all of the conditions of a FEMA policy. If the States cannot determine if a policy qualifies, my opinion is that a list of qualifications used by a lender will be ineffective as well. I concur with your handling of this eventuality in the proposed rule, but would clearly state that any private policy or collective insurance, such as Amish Aid or some similar may be accepted if a bank has in place written procedures for which types of these will be accepted and with what deductibles and other features.

Comment on tool for determination if the policy meets the requirements of a private flood insurance policy required to be accepted by a lender.

This tool looks like a good way to gauge a bank's compliance with their policy on acceptance of private insurance, but even consistent accurate use of the tool could prove to be time consuming. I have no suggestion as to how to correct or improve on it.

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