



Flood Insurance

I. Overview and Key Requirements

§ **Part 339 of FDIC Rules and Regulations updated in July 2015 to implement provisions under the:**

- Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters Act)
- Homeowner Flood Insurance Affordability Act of 2014 (Affordability Act)

Overview of Presentations

- § **Overview and Key Requirements**
- § **Building an Effective Compliance Management System**
- § **Common Violations and Consequences for Noncompliance**
- § **Frequently Asked Questions**
- § **Review and Resources**

Properties Eligible for Flood Insurance Coverage Under Part 339

Structures eligible for coverage include:

- Residential, industrial, commercial, and agricultural buildings that are walled and roofed.

Also eligible for coverage are:

- Buildings under construction;
- Mobile homes;
- Condominiums;
- Co-operative buildings; and
- Personal property.

Key Requirements of Part 339

Conducting
Determinations

Securing
Insurance

Force-Placing
Insurance

Providing
Notification

Escrowing
Premiums

Conducting Determinations

- § **Determine if the improved property securing the loan is located in a special flood hazard area. See <https://msc.fema.gov/portal>**
- § **Determination must be made prior to making, increasing, extending, or renewing a loan.**
- § **Determination can be done by either the bank or a third party performing this service on its behalf.**

Providing Notification

- § **Written borrower notification is required if the property improvements are located in a special flood hazard area.**
- § **Notice must be sent to the borrower prior to making, increasing, extending, or renewing a loan.**

Providing Notification

§ **Notice must include specific information:**

- Warning that the improvements are located in a special flood hazard area;
- Description of the flood insurance purchase requirements;
- Statement whether or not flood insurance is available;
- Statement about the availability of federal disaster relief assistance; and
- Statement encouraging borrowers to compare terms in NFIP and private policies.

§ **Customer acknowledgement of receipt of the notice.**

§ **Notice of escrow requirement.**

Securing Insurance

- § **Proof of adequate insurance coverage must be obtained prior to closing.**
- § **An adequate amount of insurance must be in place for the term of the loan.**
- § **Loan may require only building insurance or it may require both building and contents insurance.**

Detached Structures Exemption

Flood insurance not required for any structure that is a part of a residential property but is detached from the primary residential structure and does not serve as a residence.

- § Exemption became effective on March 21, 2014
- § Lender may require flood insurance on a detached structure, even though the statute doesn't require it, to protect the lender's and borrower's collateral securing the loan.

Accepting Private Flood Insurance

- § **Biggert-Waters Act requires lenders to accept private flood insurance policies as satisfaction of the mandatory purchase requirement if the coverage provided by the private policy satisfies the standards specified in the Act, subject to an implementing rule.**
- § **The requirement does not become effective until a final rule is issued.**

Escrowing Premiums

- § **Lenders must escrow premiums and fees for flood insurance for any designated loans secured by residential improved real estate or a mobile home that are made, increased, extended, or renewed on or after January 1, 2016.**

Escrowing Exemptions

Small Lender Exemption:

- § Lender has total assets of less than \$1 billion;
- § On or before July 6, 2012, it was not required under Federal or State law to deposit taxes, insurance premiums, fees or any other charges in an escrow account for the entire term of any loan secured by residential improved real estate; and
- § It did not have a policy of consistently and uniformly requiring escrow of taxes, fees or insurance premiums for any loans secured by residential improved real estate or a mobile home.

Escrowing Exemption

Additional exemptions:

- § Subordinate liens;
- § Part of a condominium, cooperative, or other project development;
- § Extensions of credit primarily for a business, commercial, or agricultural purpose;
- § HELOCs;
- § Nonperforming loans; and
- § Loans with terms not longer than 12 months.

If a bank determines that a loan no longer qualifies for one of these additional exemptions, the institution must begin escrowing as soon as reasonably practical.

Escrowing Exemptions

Notice of Option to Escrow

- § A bank must offer and make available to borrowers the option to escrow flood insurance premiums and fees for loans that are outstanding as of January 1, 2016.
- § Option to escrow notice must be provided by June 30, 2016.

Force-Placing Insurance

- § **Bank is required to force-place flood insurance if insurance is not maintained in an adequate amount for the term of the loan.**
- § **Force-placement procedures should begin when the deficiency is discovered and starts with borrower notification.**

Force-Placing Insurance

- § **Bank must 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 Section 339.3, for the remaining term of the loan.**
- § **Bank must purchase the insurance on the borrower's behalf, at the borrower's expense, if the borrower hasn't done so within 45 days of notification.**

Force-Placing Insurance

- § **Lenders or servicers can force-place insurance effective as of the date of lapse or inadequacy. Premiums and fees can be collected when the insurance is placed.**
- § **Lender is required, within 30 days of receipt of proof of coverage from the borrower, to terminate force-placed insurance and refund premiums and fees paid by borrower for any period where insurance coverage overlapped.**