



Flood Insurance

III. Common Violations and Consequences for Noncompliance

Common Violations of Part 339



Inadequate Insurance Coverage

Section 339.3 requires that the amount of insurance 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 securing the loan.

Inadequate Insurance Coverage

- § **When calculating the amount of insurance required, include all loan balances secured by the property in the special flood hazard area.**
- § **Examples illustrating how to properly calculate flood insurance coverage will be provided in the Frequently Asked Questions module.**

No Insurance Coverage

Section 339.3 prohibits a bank from making, increasing, extending, or renewing a designated loan secured by a building, a mobile home, or personal property unless the underlying security is covered by flood insurance.

No Insurance Coverage

- § **Do not close a loan without proof of adequate insurance.**
- § **Flood insurance coverage cannot be obtained through force-placement at the time of loan closing, even if the borrower requests that the bank do so.**

No Notice Provided

- § **Section 339.9 requires a bank to furnish a written notice to the borrower and to the servicer in all cases whether or not flood insurance is available for the collateral securing the loan.**
- § **This notice is required when making, increasing, extending, or renewing a loan secured by a building or a mobile home located or to be located in a designated special flood hazard area.**

No Notice Provided

- § **Notification should be provided a reasonable period of time prior to making, increasing, extending, or renewing a loan whether or not the property is in a participating community.**
- § **An acknowledgement by the customer or a record of receipt of the notice is required.**

Force-Placement

- § **Section 339.7 requires that if a bank or servicer determines that the building or mobile home and any personal property securing the designated loan is not covered by flood insurance, or coverage is inadequate, then the bank or its servicer shall notify the borrower that the borrower should obtain adequate flood insurance.**
- § **If the borrower fails to obtain flood insurance within 45 days after notification, then the bank or its 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.**

Force-Placement

Flood map changes by FEMA may change the status of a borrower's property from outside the special flood hazard area (SFHA) and *not* requiring flood insurance coverage, to inside the SFHA. When this happens, and the community participates in the National Flood Insurance Program, the bank must start force-placement procedures.

Lapsed Insurance Coverage

Section 339.3 requires that the building, mobile home, or personal property securing a designated loan be covered by flood insurance for the term of the loan.

Lapsed Insurance Coverage

- § **Track insurance policies for expiration dates to ensure they are renewed in a timely manner.**
- § **Review notices from insurance companies to ensure that policies are not prematurely cancelled.**

Consequences for Noncompliance

The National Flood Insurance Act requires:

§ Mandatory Civil Money Penalties for “pattern or practice” type violations of:

- Flood Insurance Coverage Requirements;
- Notification Requirements;
- Escrow Requirements; or
- Force-Placement Requirements.

Consequences for Noncompliance

“Pattern or practice” is not clearly defined. Question #82 of the 2009 Interagency Questions and Answers provides guidance on what constitutes a pattern or practice of violations for which civil money penalties must be imposed.

Isolated, unrelated, or accidental violations are usually not considered to be “pattern or practice” violations.

Consequences for Noncompliance

§ Civil Money Penalty Amounts

- Up to \$2,000 per violation
- No annual cap on the amount of civil money penalties.