



The Flood Rate Hike Crisis & Flood Insurance Changes

As *Weekly Industry News* has reported a number of times, implementation of market-based rates for flood insurance is causing controversy in some communities. Some residents seeing huge increases on

the horizon are experiencing flood “sticker shock.” This has led to proposals in Congress to delay some increases in premiums resulting from last year’s enactment of the Biggert-Waters Flood Insurance Reform Act of 2012 (BW-12).

Ground Zero for the opposition to higher rates has been in New Jersey and Louisiana. The states experienced massive losses from Superstorm Sandy in 2012 and Hurricane Katrina in 2005.

Louisiana Insurance Commissioner Jim Donelon said “draconian rate increases” for flood insurance under the National Flood Insurance Program (NFIP) will be devastating to homeowners and businesses. He is urging Congress to put off changes under BW-12 for at least another year. Donelon said the law reauthorizing the NFIP calls for substantially higher premiums for certain policyholders in high-risk areas. These are people who had their rates subsidized until now. These increases threaten to devastate Louisiana’s economy and make thousands of properties valueless.

Proponents of the changes contend the rate increases will help get the program out of debt and move it toward actuarial soundness.

In New Jersey, Assemblyman Reed Gusciora (D-Mercer/Hunterdon) has introduced a bill that is intended to make it easier for consumers to sue their insurance companies. Gusciora wants to make the expectation of good faith an actual law. He’s making this move after hearing homeowners during public hearings complain about how insurers are handling claims. The bill he introduced will create a private cause of action for policyholders when insurers act in bad faith on claims from a declared disaster, as judged by a pronouncement of a state of emergency from either the governor or president.

Meanwhile, the Federal Emergency Management Agency (FEMA) and the National Flood Insurance Program (NFIP) have issued bulletin, w-13058. It is their policy to facilitate implementation of the provision of the Biggert-Waters Flood Insurance Reform Act of 2012 (BW-12) requiring FEMA — when appropriate — to participate in state-sponsored non-binding mediation of wind versus water disputes.

The FEMA policy will enable PIA state partners, Write Your Own (WYO) companies and NFIP insureds to understand the role of FEMA, WYO companies and other stakeholders in wind-versus-water mediation. This policy is made necessary by the importance of the subject, the statutory requirements, limited available Federal resources and limitation to the Claims and Appeals Branch participation.

This bulletin provides the process of what and how FEMA/NFIP will participate. Key to this BW12 provision is that it depends upon “The State” deciding that it wants this type of program, whether or not they currently have a wind pool and NFIP flood claims coordination program.

PIA affiliates and members should stay aware as to what your state’s action may be in this area. The insurance industry has continually expressed concerns that an NFIP wind-water claims controlled process may conflict, confuse and interfere with the terms and conditions already clearly stated in the private sector property insurance policy-contracts. These are directed by and based upon well-established, current state courts’ consistent articulation regarding wind damage covered under private sector policies.

If your state is considering movement towards this BW12 optional approach, please advise us immediately (davidep@pianet.org) so that we may work together to keep separation between the flood exposure covered under NFIP, and what constitutes wind damage covered under private sector property policies.

The NFIP has also issued major changes to the NFIP Flood Insurance Manual. These include changes that go into effect as a result of BW-12. These include revised map information, rating tables and more. The scale and size of all the changes being made to the NFIP are massive and they are coming out weekly.