

JANUARY 2014

Statewide Condo Connection Newsletter



First Quarter
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NFIP Flood Ins. – More Changes coming BW-12 June 1, 2014

As you know, the Biggert-Waters Flood Insurance Reform and Modernization Act of 2012 (BW-12) has transformed the National Flood Insurance Program (NFIP) over the last eighteen months. As a result, many changes have been implemented to the flood policy under the NFIP, and FEMA has recently announced additional revisions to take place effective June, 1 2014.

No changes to RCBAP policies or rates included with this round of changes. The carriers are to notify the policyholders 90 days in advance of any changes coming upon renewal, Selected changes include layout and text on policy declarations pages and the following:

1. Maximum limits of building coverage available for non-condo residential buildings for five or more families (Other Residential buildings) will be increased to match the limits of commercial and other non-residential properties insured under the Standard Flood Insurance Policy (SFIP) General Property Form, an increase of available building coverage from \$250,000 per building to \$500,000. The maximum contents coverage for all policies covering Other Residential buildings will remain \$100,000 per policy.
2. Revised Primary Residence Definition - primary residence to be a building that will be lived in by the insured or the insured's spouse for more than 50 percent of the 365 days following the policy effective date. Signed verification statement and proof of primary residence required.
3. New minimum deductibles - changes to the minimum deductibles are available only for new business and renewals. Insurers must advise affected policyholders of the new minimum deductible option as part of the renewal process, as all deductibles must comply with the new minimums.

Please contact us to discuss your policy rating, flood zone changes, and Elevation Certificates as these all factor into the cost of the Flood insurance. Let us make sure your costs are as low and possible – send us your current declarations page(s) and elevation cert(s), for a free review now.

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RECENT COURT DECISION:

Banks can require Flood Insurance covering Full Replacement Value

A federal appeals court has ruled that banks can require a homeowner to buy flood insurance covering the full replacement value of a home rather than the amount of the mortgage loan. The First Circuit Court of Appeals made that decision in *Kolbe v. BAC Home Loans Servicing, LP*,

The decision was handed down through a class action lawsuit where the named plaintiff, Stanley Kolbe, sued BAC Home Loans Servicing for damages alleged to have arisen out of the bank's requirement that he maintain flood insurance in an amount sufficient to cover the replacement value of his home, \$250,000, rather than the amount of the loan, \$197,437. Kolbe contended that the bank cannot require more than the federally mandated minimum flood insurance, which is the lesser of the principal balance of the loan or \$250,000 in special flood hazard and \$0 in all other areas. The court ruled otherwise.

Kolbe owns a home in Atlantic City, New Jersey in a special flood-hazard area. The loan was guaranteed by the Federal Housing Administration. The district court granted the bank's motion to dismiss all claims, and Kolbe appealed. A divided panel of the First Circuit later vacated the dismissal. The panel majority held that both Kolbe's interpretation and the bank's interpretation of the contract could be found reasonable by a trier of fact, and therefore that the district court erred in dismissing the breach of contract claim. But, the full court granted a rehearing where it was concluded that the bank's reading of the text is the only plausible reading in the relevant context, according to Barry Zalma of Zalma Insurance Consultants.

The full court held that, for contract language mandated by a federal regulation that implicates the federal mortgage insurance and flood-insurance programs, this context includes the broader regulatory schemes and the federal policy underlying those schemes. In the context of federal-housing policy, the only reasonable interpretation of this language is that offered by the bank. "The result urged by Kolbe would seriously impair federal housing policy." He says Kolbe's interpretation would prevent lenders from requiring adequate flood insurance, .."

This precedent may prevail as respects lender required flood insurance limits.

Source: <http://www.propertycasualty360.com/2014/01/10/court-banks-can-require-flood-insurance-covering-f?ref=hp>

Legislative Update: (SB 542) Proposes Private alternatives to NFIP Flood Ins.

Jan. 8, 2014 - The Senate Banking and Insurance Committee unanimously backed a bill (SB 542) that would encourage more private insurers to offer an alternative to the National Flood Insurance Program by giving the companies more freedom to set rates and shape coverage plans. "Ultimately this bill puts consumers in control," said Sen. Jeff Brandes, R-St. Petersburg, the bill's sponsor. Brandes filed the legislation in response to escalating premiums in the federal program, which provides coverage for about 2 million Floridians. Some 269,000 of those policies that receive subsidized rates could face substantial increases under a new federal law aimed at shoring up the NFIP.

Efforts to block the NFIP rate hikes have so far been stymied in Congress, but glimmers of hope emerged in Washington on Wednesday. In the U.S. Senate, Democrats are pushing for a vote on a bill as early as next week that would delay the rate hikes for many homeowners for up to four years. But that bill's prospects in the House are uncertain. Both chambers must agree for the delay to be instituted. In the U.S. House, a bill to delay the rate hikes for 15 months appeared to have more momentum, though it is uncertain when, or even if, that legislation would be scheduled for a vote.

Brandes said regardless of what happens in Washington, Florida lawmakers need to proceed with a private-sector plan. "Hoping Congress will act is not a strategy we can rely on," Brandes

said. "We need a strong alternative." Brandes said his bill would allow private insurers to provide "more choices" for flood coverage, including allowing homeowners to decide whether to opt for coverage for the full replacement cost of their homes or the mortgage amount or its actual cash value. It would also allow homeowners to limit coverage to the main house structure or opt not to cover personal property.

Insurance companies would have more freedom to set rates, although they could use the standard rate review process. One option would include a "consent" agreement with the homeowner on the rate amount. Brandes said the rates set by the NFIP would act as a "ceiling" for the private insurers' rates. But he said he believed there was an opportunity for companies to offer competitive, actuarially sound rates in cases where homeowners are now facing annual insurance costs of \$30,000 or \$40,000 in the federal program.

The bill next heads to the Senate General Government Appropriations Subcommittee headed by Hays. Sen. Garrett Richter, R-Naples, said "the most responsible way to reduce premiums" is to expand the size of the flood insurance market. "I think we're on the right track," he said. "This is a good bill." A similar bill is expected to be filed in the House by Rep. Larry Ahern, R-Seminole

Source: <http://politics.heraldtribune.com/2014/01/08/flood-insurance-bill-advances/#>

Citizens Property Ins – 2014 Rate, Rule and Form changes:

Citizens has approved and implemented various rate, rule and form changes for 2014. The changes apply to new and renewal policies with effective dates as follows:

Jan. 1, 2014: Commercial Nonresidential Multiperil (CNR-M) / Commercial Residential Multiperil (CR-M)

Feb. 1, 2014: Commercial Nonresidential Wind-Only (CNR-W) / Commercial Residential Wind-Only (CR-W)

Rate Changes: Citizens received approval to implement new rates for CR-M, CNR-W and CR-W policies. Rate changes vary by policy type, but are subject to a 10 percent cap, excluding coverage changes, Sinkhole Loss coverage rate changes, surcharges and a required rapid cash-build-up provision for the Florida Hurricane Catastrophe Fund (FHCF).

Including the FHCF fee, the Condo Wind rate increases are 10.9% to 11.6%, for buildings under \$10mil., as per Citizens rating territories.

Special Class Rates and A-Rated Risks - rates increased for both CNR-W and CR-W Special Class items. There are no rate changes to the following: Special Class items for CR-M and A-rated risks.

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