



Federal Emergency Management Agency

Washington, D.C. 20472

December 12, 2002

Glenn Loney
Deputy Director, Division of Consumer and Community Affairs
Federal Reserve Board
Mail Stop 803
20th & C Streets, NW
Washington, DC 20551

Dear Mr. Loney:

As you may be aware, the authority for certain provisions of the National Flood Insurance Program ("NFIP"), including 42 U.S.C. §4026 relating to the issuance of new policies, expires on December 31, 2002.¹ With the 107th Congress adjourned, reauthorization cannot be accomplished before the 108th Congress convenes in January 2003. I want you to know that FEMA is doing everything it can to resolve this issue expeditiously and with as little disruption of insurance operations as possible. We are also working with our insurance partners to prepare for this situation.

FEMA has been asked whether the requirements of 42 U.S.C. §4012a relating to mandatory purchase of flood insurance are affected by the lapse of authority to issue new insurance contracts. It is our position that during the lapse, flood insurance is not made available under the National Flood Insurance Program for purposes of §4012a.

In anticipation that this period without authority to issue new policies will be brief, FEMA has provided direction to its NFIP Servicing Agent contractor that issues flood policies for the government, and provided guidance to the Write Your Own companies, that any premium payments for new and renewal policies received after December 31, 2002, are to be held and policies not issued until authority to enter into new flood insurance contracts has been reestablished. The Servicing Agent and the companies should hold applications received in the ordinary course of business and records of policy application and premium receipt dates are to be maintained by them. We have provided a notice, attached hereto as Notice 3, for distribution to applicants by the NFIP Servicing Agent and recommended for use by Write Your Own companies. FEMA is actively working with Congress to provide reauthorization retroactively to January 1, 2003. Such retroactive reauthorization has been done in similar circumstances for the NFIP in the past. Of course, FEMA has no guarantee that retroactive reauthorization will occur.

If retroactive reauthorization does occur as expected, the NFIP intends to honor all effective dates for flood insurance policy coverage based on the normal application and premium receipt processes and requirements, even though the issuance of the flood policy

¹ Pub. L. 107-73, Title III, November 26, 2001, 115 Stat. 689.

was held in abeyance pending the congressional action. This includes both starting applicable flood insurance waiting periods during the authority hiatus period and putting a flood policy in force as of a qualifying loan settlement date during the hiatus period. Thus any claims for flood damage that occurs during the period in which FEMA's authority has lapsed would be appropriately honored once authority is reestablished and made retroactive.

If authorization is not provided retroactively, then insurance coverage cannot be made effective earlier than the date of reauthorization. In addition, if authorization is not granted within a reasonable period of time after Congress convenes, the NFIP will have to refund premiums and not issue the new and renewal policies held in abeyance.

It should be noted that even with the lapse in authority, new and renewal policies for which premium is received on or before December 31, 2002, will still be issued for coverage that will become effective after December 31. This includes premium payments made by lenders from escrow accounts. Thus claims for existing policies and policies issued based on premiums received prior to the hiatus, will be processed without delay.

Most authorities under the NFIP continue without lapse after December 31, 2002. For example, claims will be paid as noted above, flood maps will still be in effect for determinations and floodplain management, and floodplain management requirements will still be in force.

Finally, I ask that you devote the necessary resources to prepare for this occurrence and to take appropriate action to minimize the impact upon consumers and your stakeholders.

To the extent possible, FEMA will provide technical assistance and support in working through this period. You or members of your staff may contact me or Howard Leikin, Deputy Administrator for Insurance, at (202) 646-2781, regarding this matter.

Sincerely,



Anthony S. Lowe
Administrator
Federal Insurance and Mitigation Administration

cc: Dolores Smith, Federal Reserve Board
Kathleen Conley, Federal Reserve Board
Kathleen Ryan, Federal Reserve Board
Shawn McNulty, Federal Reserve Board
Brad Fleetwood, Federal Reserve Board
Ky Tran Trong, Federal Reserve Board
Lisa Brown, Federal Reserve Board

Notice 3
[New Business or Coverage Increase Endorsements]

You are applying for flood insurance or an increase in coverage from the National Flood Insurance Program (NFIP), a government insurance program that is administered by the Federal Emergency Management Agency (FEMA).

The NFIP operates under authority from Congress that has to be renewed periodically. As of December 31, 2002, that authority has expired and is awaiting Congressional renewal. Until such renewal is granted, the premium you are paying will be held by FEMA.

FEMA will hold your premium in order that your policy or coverage increase can go into effect at the earliest date, consistent with the receipt of premium and waiting period rules of the NFIP and the extension of authority for the NFIP. For applications made in connection with a mortgage loan, if, as FEMA has requested, renewal of the authority to issue flood insurance policies under the NFIP is granted retroactively, your policy will be issued effective as of the date of the closing of your loan. If Congressional renewal is granted retroactively, any claim for insurable losses you suffer from that effective date onward will be honored by the NFIP, even if the authority is granted after the date of such losses.

If Congressional renewal is not granted within a reasonable period after Congress reconvenes, FEMA will refund your premium. In such an event, and provided that you do not purchase alternative flood coverage, you will not have had the protection of flood insurance during this period and will be at risk for any damage to the property caused by flood.

Please note, you are under no obligation to purchase your flood insurance from the NFIP. You may choose to purchase flood insurance elsewhere if other providers are available in your area. If your purchase of insurance is due to your lender's requirement, then any other provider is subject to your lender's approval.