FLOOD INSURANCE FOR BUSINESS: IMPACTS OF RECENT LEGISLATION

FEMA

NATIONAL FLOOD INSURANCE PROGRAM

The National Flood Insurance Program (NFIP) is in the process of implementing reforms required by the Homeowner Flood Insurance Affordability Act of 2014 and the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters). The 2014 law repeals or modifies some provisions of Biggert-Waters. However, it maintains the requirement that flood insurance rates for business properties in high-risk areas reflect true risk. This means that the subsidized rates that previously applied to some older business buildings will continue to be phased out.

This fact sheet provides an overview of the changes business owners should expect, including a one-time refund for some policyholders.

PHASING OUT FLOOD INSURANCE SUBSIDIES

A **flood zone** is a geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map (FIRM) that reflects the severity or type of flooding in the area. Prior to Biggert-Waters, many older business buildings in Special Flood Hazard Areas and Zone D, constructed before the effective date of the community's first FIRM and never substantially damaged or improved, were eligible for subsidized rates. On October 1, 2013, the subsidized rates for these pre-FIRM buildings began to phase out. At renewal, non-residential policyholders received a 25 percent rate increase. As required by both the 2012 and 2014 laws, the 25 percent rate increases are set to continue until rates reflect the property's true risk.

From 2008 to 2012, the average National Flood Insurance Program (NFIP) commercial flood claim was more than $87,000. Flood insurance continues to be an important safeguard and financial planning tool for business continuity and recovery.

However, a provision of the 2014 law temporarily slows that rate of increase. Currently, business properties and other non-residential buildings such as schools, churches, hospitals, and apartment buildings are included within a single non-residential policy rating class. The 2014 law caps increases for these other buildings at 18 percent a year. Until FEMA determines how best to identify and separately classify businesses, all non-residential properties—including businesses—will receive no more than an 18 percent annual increase starting October 1, 2014.

HOW CHANGES TO SUBSIDIZED RATES AFFECT BUSINESS BUILDINGS IN HIGH-RISK AREAS[1]

POLICY TYPE	IMPACT ON RATES
Policies for post-FIRM buildings, constructed in compliance with NFIP standards	Already pay full-risk rates.
Existing policies for pre-FIRM business buildings	Policies can be renewed at subsidized rates. When FEMA is able to separate businesses from other properties, future rates will increase by 25 percent per year until reaching full-risk rates.
Newly written policies for pre-FIRM business buildings or for newly purchased pre-FIRM buildings	Policies can be issued and renewed at subsidized rates. When FEMA is able to separate businesses from other properties, future rates will increase by 25 percent per year until reaching full-risk rates.
Policies for pre-FIRM buildings re-issued after a lapse	Policies that lapsed due to a late renewal payment (received after the 30-day grace period but less than 90 days after expiration) can be re-issued and renewed at subsidized rates. When FEMA is able to separate businesses from other properties, future rates will increase by 25 percent per year until reaching full-risk rates. Also note that in the future, the exception allowing policies to be issued using subsidized rates after a lapse will only apply to policies that lapsed because coverage was no longer required by the lender (e.g., the mortgage was paid off). The bottom line: Don't let a policy lapse. It could cost you more when you reinstate it.
Policies for business buildings in moderate- to low-risk areas	Already pay full-risk rates.

[1] Shown on the FIRM as a flood zone beginning with the letter "A" or "V"; in addition, this affects pre-FIRM properties in Zone D.

REFUNDS

Biggert-Waters required an immediate move to full-risk rates when a pre-FIRM building that had been eligible for subsidized rates was sold or purchased, when a policy was issued for the first time on a pre-FIRM building, or when a pre-FIRM-rated policy was reissued after being allowed to lapse. The new law reinstates subsidized rates under these conditions, and calls for refunds of the difference between the subsidized rates and the higher, full-risk rates that policyholders first paid. The new 18 percent cap on increases for non-residential policies will also result in refunds for some policyholders who experienced a 25 percent increase. Insurance companies will begin issuing the one-time refunds in October 2014.

SURCHARGES

A Congressionally mandated surcharge will be added to all policies to offset the subsidized policies and achieve the financial sustainability goals of Biggert-Waters. A policy for a business property will include a $250 surcharge. The fee will be included each year on all policies, including full-risk-rated policies and those in moderate- to low-risk areas, until all pre-FIRM subsidies are eliminated. The surcharge is not considered part of the premium and is not included in the annual caps on premium increases. Implementation of this surcharge is expected in 2015.

AFFORDABILITY

The 2014 law (Section 29) requires FEMA, within 18 months and then semi-annually, to report to Congress on the effects the pre-FIRM subsidy phase-outs and surcharge are having on small businesses, non-profits, houses of worship, and certain residences. If FEMA determines the rate increases and surcharges are having a detrimental effect on affordability, FEMA must submit appropriate affordability recommendations to Congress.

REDUCE YOUR RISK, REDUCE YOUR RATE

Flood risk and associated flood insurance rates vary by property, based on a number of factors. Two important factors that could affect your flood risk and business building rates are elevation and floodproofing.

KEY FACTORS INFLUENCING FULL-RISK RATES

FACTOR	EFFECT ON RATES
ELEVATION used for rating is the building's Lowest Floor Elevation compared to the Base Flood Elevation (BFE; the elevation reached by a flood with a 1 percent annual chance of occurring, known also as the "100-year" flood)	The higher the Lowest Floor Elevation (LFE) is above the BFE, the lower the risk and typically lower the rate, which may be lower than the subsidized pre-FIRM rate. However, a building whose lowest floor is *below* the BFE is at higher risk, and full-risk rates can be substantially higher than the subsidized rates. To learn the building's elevation, the owner will need to obtain an Elevation Certificate. To learn more about Elevation Certificates, go to **fema.gov/national-flood-insurance-program-2/elevation-certificate**, or talk to an insurance agent. With an Elevation Certificate, the agent can calculate the full-risk rate.
FLOODPROOFING to make a building watertight also influences flood insurance rates for businesses	Dry-floodproofing a building can lead to lower rates, if an engineer certifies that the design, construction methods, and materials make the building watertight to at least one foot above the BFE. The higher above BFE it can be certified, the lower the rates. To obtain the rating credit, the design professional must complete a Floodproofing Certificate form. To learn more, information can be found in the NFIP Technical Bulletin 3, Non-Residential Floodproofing – Requirements and Certification found at: **fema.gov/media-library/resources-documents/collections**

FOR MORE INFORMATION

Learn more about flood risk and find an agent at **FloodSmart.gov**

To keep current as FEMA implements changes to the NFIP based on recent legislation, visit **fema.gov/flood-insurance-reform**

Policyholders who have questions about their flood insurance policies should contact their insurance agents.