Flood Insurance Choice Act

Background – Solution

BACKGROUND

The National Flood Insurance Act of 1968 made federally subsidized flood insurance available to homeowners located in Special Flood Hazard Areas (SFHA) if their communities participated in the National Flood Insurance Program (NFIP). Five years later, the Flood Disaster Protection Act of 1973 established a mandatory flood insurance purchase requirement for structures located in an identified SFHA. Federally regulated lenders required flood insurance on any real estate loan in a Federal Emergency Management Agency (FEMA) designated SFHA.

Across the nation FEMA has been updating flood insurance rate maps (FIRM) as part of the agency's Map Modernization Program. Many communities are now facing new SFHAs in locations where a flood hazard has never been identified. These new SFHAs have brought homeowners under the 1973 Act's mandatory flood insurance purchase requirements. While NFIP provides subsidized insurance premiums, in many cases, the federal premiums do not truly reflect the level of risk associated with the SFHA. Some communities, who have never had a flood, will now have to pay the same level of insurance premiums as communities located in high risk flood areas.

In areas where there is a low risk of flooding, private insurers have expressed an interest in offering flood insurance policies comparable to NFIP, but at a lower premium that reflects the real risk. Federal regulations do allow banks to accept non-NFIP flood insurance policies (these policies have to meet the same minimum standards) when writing mortgages; but in practice banks do not accept them. The reason is usually a lack of familiarity of federal regulations on private flood insurance.

SOLUTION

Amend the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) to clarify that lending institutions, including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, must accept flood insurance coverage provided by a private issuer as long as it meets the required coverage under 42 U.S.C. 4012a(a).[i] This will require federal agencies to provide lending institutions further guidance on private insurance.

[i] 42 U.S.C. 4012a(a) … unless the building or mobile home and any personal property to which such financial assistance relates is covered by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less: Provided, That if the financial assistance provided is in the form of a loan or an insurance or guaranty of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan. The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property.