



FEMA

W-12032

April 25, 2012

MEMORANDUM FOR: Write Your Own (WYO) Principal Coordinators and the
National Flood Insurance Program (NFIP) Servicing Agent

A handwritten signature in black ink, appearing to read "Dennis Kuhns".

FROM: Dennis Kuhns
Division Director
Risk Insurance

SUBJECT: NFIP Reauthorization

The NFIP authority to issue new policies, issue increased coverage on existing policies, and issue renewal policies will expire at midnight on May 31, 2012. While we await Congressional reauthorization, the attached guidance is provided in the event the Program experiences a hiatus.

This guidance, while similar to the guidance issued on December 15, 2011 (Bulletin W-11125), contains clarifications. Sample text is also provided to assist you in communicating with current and prospective policyholders impacted during a hiatus.

We will continue to keep you informed of the status of NFIP reauthorization.

Attachments:

- NFIP Reauthorization Information for WYO Companies and Agents, June 1, 2012
- Sample letter

cc: Vendors, IBHS, FIPNC, Government Technical Representative

**NFIP Reauthorization
Information for WYO Companies and Agents
June 1, 2012**

New Policies

Applications and premium payments made on or before May 31, 2012, the last effective day of Program authorization

- New policies for which the application is completed on or before May 31, 2012, and the application and premium payment are received within 10 days of the application date, will be issued for coverage and will become effective on the requested effective date, in accordance with the applicable waiting period rules.
- For loans closing prior to the first day of hiatus, when the application is dated on or before closing and the premium payment is from the escrow account (lender's check), title company, or settlement attorney, and is received within 30 days from the closing date, the policy can be issued effective the date of the closing.
- For loans closing prior to the first day of hiatus, when the application is dated on or before closing and the premium payment is not part of the closing (i.e., the applicant or applicant's representative check or credit card) and the application and premium are received within 10 days of the closing date, the policy can be issued effective the date of the closing.
- For loans closing on or after the first day of hiatus, when the application is dated prior to the hiatus and the application and premium are received within 10 days of the closing date, the policy can be issued effective the date of closing.
- As always, the starting dates of NFIP coverage depend on the applicable flood insurance waiting period.

Claims

- Policies that are in force before midnight of the last effective day of Program authorization will remain in force, and claims under those policies are to be processed and paid as usual afterwards (once hiatus begins).
- Claims for covered losses occurring during a hiatus, on existing policies and on policies issued effective after the last effective day of effective authorization, are to be processed and paid as usual.
- WYO Companies may investigate claims under a reservation-of-rights letter or a non-waiver agreement, up to the point of payment. Under either, WYO Companies would reserve the right not to pay the claim if Congress does not reauthorize the NFIP, while continuing the investigation of the claim.

- If reauthorization is granted retroactively, WYO Companies can issue policies effective as of the date they receive payments (subject to applicable waiting periods), and claims for covered losses can be processed and paid (subject to the provisions of the SFIP).

Determining Payment Receipt Dates

New Policy Premiums, Renewal Policy Premiums, Added Coverage Endorsements

- The controlling factor in determining payment receipt dates for new policy premiums, renewal policy premiums, or added coverage endorsements is when the insurance company receives payment, not the standard mail postmark.
 - However, proof of mailing receipts or third-party receipts that WYO Companies receive through certified mail or from entities such as Federal Express (FedEx), United Parcel Service (UPS), and courier services do serve as payment receipt dates.

Financials

- During the NFIP hiatus, the NFIP recommends that WYO Companies hold in abeyance the following: (1) any premiums for new applications dated on or after the first day of the hiatus, (2) renewal premiums received on or after the first day of the hiatus and after the end of the 30-day renewal grace period, and (3) added coverage endorsements dated on or after the first day of the hiatus. We recognize that receiving and holding applications and premiums may create the appearance that a contract to provide insurance has been entered into and an insurance policy may have been created. Because the NFIP is prohibited from entering into a contract for flood insurance during a hiatus, we further recommend that WYO Companies, expressly and in writing, advise individuals and entities seeking to procure flood insurance that insurance is unavailable by operation of law pending reauthorization, and of the options available during the hiatus.
- NFIP Letter of Credit is available during the hiatus.

Hiatus Scenarios

Policies without a 30-Day Waiting Period

- If the reauthorization is not retroactive to the first day of the hiatus, policies without a 30-day waiting period would become effective on the date the reauthorization is effective. This rule applies to loan closings occurring on or after the first day of the hiatus.

Policies with a 30-Day Waiting Period

- If the reauthorization is not retroactive to the first day of the hiatus, policies with a 30-day waiting period would become effective 30 days after Congress has reauthorized the NFIP.

Renewals

- If the renewal offer was issued prior to authorization expiration, and the renewal premium is received before or within the 30-day grace period, the policy can be renewed even if the renewal premium was received after authorization expiration. The same rule applies on an underpayment notice issued before authorization expiration.
- WYO Companies are no longer authorized to renew policies if the premium is received on or after the first day of the hiatus and after the end of the 30-day renewal grace period.

Cancellations

Existing policies can be canceled during the hiatus in accordance with valid NFIP cancellation reason codes.

Group Flood Insurance Policies, Mortgage Portfolio Protection Program Policies

Follow the guidelines provided above.

Assignment of Flood Policies

An existing policy can be assigned provided the insured signs and dates the endorsement request.

Action Required by WYO Companies during an NFIP Hiatus

- WYO Companies are to communicate the status of the program to their agents ASAP.
- WYO Companies are no longer authorized to issue renewal offers after the last effective day of authorization.
- New business applications, renewals, and endorsements adding coverage that do not meet the criteria listed above cannot be issued.

Frequently Asked Questions (FAQs) Concerning NFIP Reauthorization

1. How does the “hiatus” in authority for the NFIP affect me and how long will it last?

Most of the 5.6 million flood insurance policyholders nationwide will not be affected. Policies that are in force will remain in force, and claims under those policies can continue to be paid after May 31, 2012. However, during the hiatus there are limits on our ability to issue new policies, issue increased coverage on existing policies, or issue renewal policies. The limited interruption is of concern to property owners who need to renew policies that were not renewed prior to the end of the 30-day grace period, homebuyers who must purchase flood insurance as a condition for obtaining mortgages from federally regulated lenders, and property owners refinancing existing mortgages who must purchase or renew coverage.

The hiatus is expected to be brief. We are doing everything we can to communicate with our insurance and lending industry partners to see that this issue is resolved with as little disruption of insurance operations as possible.

2. Has this lapse in Congressional authority for the NFIP ever happened before? Did Congress make the reauthorization retroactive before?

Yes, there have been several lapses in authority for the NFIP in the past. In most of those cases, Congress reauthorized the NFIP retroactively.

3. If I purchased flood insurance coverage, as required by my federally regulated lender, for a loan closing on or before May 31, 2012, will my policy be issued?

If the application is dated on or before May 31, 2012, and the premium payment was part of the loan closing and made from the escrow account (lender's check), title company or settlement attorney, and is received by the insurance company within 30 days from the closing, the policy will be issued.

If the premium was not part of the closing, meaning the borrower wrote his/her check and the application is dated on or before May 31, 2012, both the application and premium must be received within 10 days of the closing date in order for the policy to be issued.

4. If I purchased flood insurance coverage on or before May 31, 2012, but was not required to do so by my lender, will my policy be issued?

If the application was made prior to June 1, 2012, and the application and premium payment are received within 10 days from the application date, the policy will be issued.

5. My flood insurance policy is set to expire on June 2, 2012. I received my renewal notice on May 3, 2012, but did not send my payment to my insurance company until May 31, 2012. Will my insurance policy be renewed?

Yes. As long as the renewal notice was issued prior to June 1, 2012, and the payment is received before the end of the 30-day renewal grace period, the company is authorized to renew the policy.

NOTE: Effective June 1, 2012, insurance companies are no longer authorized to issue renewal notices until Congress reauthorizes the program.

6. I have a loan closing on June 2, 2012, and have been told by my lender to purchase flood insurance before settlement. Will I be able to purchase a new flood insurance policy?

Insurance companies cannot issue new flood insurance policies for loans closing on or after June 1, 2012, until the NFIP is reauthorized, unless the application and presentment of premium were made on or before May 31, 2012, and the application and premium payment were received within 10 days of the closing date. If the above requirements are followed, a new policy may be issued.

For applications and premium payments made on or after June 1, 2012, it is recommended that the companies hold new applications and premium payments for processing until the reauthorization is received. If Congress retroactively reauthorizes the program, then these policies may be issued with effective dates as early as June 1, 2012. If Congress does not retroactively reauthorize the program, the earliest effective date for these policies will be the date the NFIP is reauthorized.

7. If I suffer a loss during this hiatus, will my claim be paid?

Claims for existing policies and for new policies issued based on applications and premium payments made prior to the hiatus are not affected, and the claims will be processed. Claims for new policies where the premiums were received and held by the company during the hiatus will not be paid until Congress reauthorizes the NFIP. However, your insurance company can proceed with investigating your claim under a “non-waiver” agreement or reservation of rights letter, up to the point of payment. Under the “non-waiver” agreement or reservation of rights letter, the company would reserve the right not to pay the claim if Congress does not reauthorize the NFIP or if Congress reauthorizes the NFIP only prospectively, and not retroactively.

8. What happens if my premium for a new policy or an endorsement for added coverage is received by the company after May 31, 2012, and I suffer a flood loss before Congress reauthorizes the Program?

If the application for a new policy or endorsement request adding coverage is made on or before May 31, 2012, and the application and premium are received by the company within 10 days of the date of application, the policy or coverage increase will be effective on the applicable date, based on the NFIP waiting period rules. Claim payments can be made for these policies for losses occurring during the period that the coverage is in force.

For applications or endorsements and premium payments made on or after June 1, 2012, the NFIP has suggested that the insurance companies hold premium payments for new or increased policies received during the hiatus. Claim payments for losses suffered during that time cannot be made until Congress retroactively extends the NFIP authority. However, your insurance company can proceed with investigating your claim under a “non-waiver” agreement or reservation of rights letter, up to the point of payment. Under the “non-waiver” agreement, the company would reserve the right not to pay the claim if Congress does not reauthorize the NFIP or if Congress reauthorizes the NFIP only prospectively, and not retroactively.

9. I have a mortgage loan closing late May, and the lender has told me I have to have flood insurance at closing. What will happen if my premium and application are not received by my insurance company by May 31, 2012?

If the application is dated on or before May 31, 2012, and the application and premium payment are received by the company within 10 days of the closing date, the policy will be issued.

If the application and premium payment are dated on or after June 1, 2012, it is expected that your premium will be held by your insurance company in order that your policy can go into effect at the earliest possible date.

10. If my application and premium for the scenario in question (9) above was in the mail, with a postmark before May 31, 2012, did I meet the deadline?

The controlling factors are the date the application is made and the receipt of the application and premium by the insurance company, not the postmark. However, if your application and premium payment are mailed by certified mail or third-party delivery services such as Federal Express (FedEx), United Parcel Service (UPS), and courier services and the like that provide proof of mailing, the premium receipt date is the postmark date or the third-party receipt date as long as this takes place within 4 days from the date of application.

11. If I suffer a loss during the hiatus, and I met the May 31, 2012, deadline, will I be covered for the loss?

If, based on the waiting period rules of the NFIP your coverage was in effect at the time of the date of loss, your claim would be covered.

12. What happens if my premium payment for a policy renewal was received by the company after May 31, 2012, and I suffer a flood loss before Congress reauthorizes the NFIP? Will I be covered?

If the renewal premium was received prior to the end of the 30-day renewal grace period, the policy will be renewed without a lapse in coverage and coverage will be in effect at the time of the loss. (Note: A 30-day waiting period applies to policies for which premium payments were received after the 30-day renewal grace period.)

For renewal premiums received after the end of the 30-day renewal grace period, the NFIP has suggested that the insurance companies hold in abeyance renewal premium payments received during the hiatus. Claim payments for losses suffered during that time cannot be made until Congress retroactively extends the NFIP authority. However, your insurance company can proceed with investigating your claim under a “non-waiver” agreement, up to the point of payment. Under the “non-waiver” agreement, the company would reserve the right not to pay the claim if Congress does not reauthorize the NFIP or if Congress reauthorizes the NFIP only prospectively, and not retroactively.

13. My policy was up for renewal in late June. Was my policy renewed?

If your renewal premium payment was received by your insurance company on or before May 31, 2012, or received prior to or within the 30-day renewal grace period, your policy was renewed. Check with your insurance agent to make certain your policy was renewed.

If your renewal premium payment was received by your insurance company on or after June 1, 2012, and after the end of the 30-day renewal grace period, your policy will not be renewed until Congress extends the NFIP authority. The effective date of the renewal will depend on the date of the extension of NFIP authority, whether or not the reauthorization is retroactive, and the application of the 30-day waiting period.

14. What happens if Congress does not make reauthorization retroactive to May 31, 2012?

If Congress authorizes only the sale of policies prospectively, policies that do not have a 30-day waiting period would become effective on the date the reauthorization is effective. Policies that are available only with a 30-day waiting period would become effective 30 days after Congress has reauthorized the NFIP.

15. What happens if the hiatus is lengthy?

If authorization is not granted within a reasonable period of time, premium payments will be refunded and the NFIP will not be able to issue the policies that were not effective prior to the lapse of authorization.

16. How will I know when the NFIP has been reauthorized?

FEMA will notify NFIP stakeholders so they can pass the information on to their customers.

SAMPLE LETTER

Dear prospective policyholder:

We have received your application and premium/renewal premium for a flood insurance policy issued under the National Flood Insurance Program (NFIP), which is administered by the Federal Emergency Management Agency (FEMA). At this time, we are unable to issue your new policy or renewal policy because the NFIP's authority from Congress to enter into new flood insurance contracts expired at midnight on May 31, 2012.

Until Congress reauthorizes the NFIP and we are again able to issue policies, the following options are available.

1. We can hold your application and premium/renewal premium pending reauthorization. If Congress reauthorizes the NFIP, we will issue your policy with the earliest effective date consistent with the rules and regulations of the NFIP and the provisions of the reauthorization.

To choose this option, no action on your part is necessary. We will hold your application and premium/renewal premium pending reauthorization. If Congress does not reauthorize the NFIP, we will return your premium.

If you incur a flood loss prior to the reauthorization, we can proceed with investigating your claim up to the point of payment. We reserve the right not to pay the claim if Congress does not reauthorize the NFIP, or if Congress reauthorizes the NFIP only prospectively, and not retroactively.

If Congress retroactively reauthorizes the NFIP, then policies may be issued with effective dates as early as June 1, 2012. If Congress does not retroactively reauthorize the NFIP, the earliest effective date for policies will be the date the NFIP is reauthorized.

2. If you want us to return your premium, advise us accordingly. You may send your request to <company contact person> at <company address> or via e-mail to <_____>. However, if you ask for return of your premium, we will be unable to provide coverage retroactively, and any loss suffered may not be covered. In addition, if you decide to secure NFIP coverage in the future, we will apply the appropriate waiting period and other requirements based on the future date that we receive your application and premium/renewal premium. An alternative is to seek flood insurance coverage outside of the NFIP.

The NFIP has been in hiatus previously when the authority to issue policies expired. In most of these cases, Congress reauthorized the Program retroactively. However, until Congress acts, we are unable to provide coverage, and we want to fully inform you of your options during this period.

If you need more information, please contact your flood insurance agent. Thank you for your patience and understanding.