



FEMA

W-13032

June 11, 2013

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 L. Kuhns".

FROM: Dennis L. Kuhns
Director, Risk Insurance
Federal Insurance and Mitigation Administration

SUBJECT: Available Coverage for Cooperatives

A number of questions have arisen recently concerning the coverage that the National Flood Insurance Program (NFIP) provides for buildings in a cooperative form of ownership (also referred to by FEMA as "cooperative buildings"). Specifically, the issue is whether a Standard Flood Insurance Policy (SFIP) could be purchased solely in a shareholder's name, which would provide building coverage to the shareholder instead of the cooperative itself.

Cooperative buildings are typically owned and managed by a corporation, and their ownership is different from the condominium form of ownership. Residents within cooperative buildings typically buy shares of the corporation, rather than the real estate (building, land, or both building and land) itself. Shareholders of the cooperative corporation are provided a preferential lease agreement from the corporation, which affords them the right to occupy a specific space or "unit" within the cooperative building. Under the rules of the NFIP, cooperative-owned buildings where at least 75 percent of the area is used for residential purposes are considered residential occupancies. These buildings in a Regular Program community can be insured for the maximum building coverage of \$250,000 under the General Property Form in the cooperative corporation's name. Because they are not in the condominium form of ownership, these cooperative buildings are not eligible for insurance under the SFIP's Residential Condominium Building Association Policy (RCBAP) Form.

A shareholder in a cooperative building typically does not receive a real estate interest in the building or unit, but rather shares of stock in the cooperative corporation with the right to occupy a particular "unit" under a lease or rental agreement. Similar to tenants of non-condominium apartment buildings, the shareholders of a cooperative building cannot purchase building coverage under an SFIP Dwelling Form to cover their individual units. Only the maximum \$100,000 contents coverage is available to shareholders of a residential cooperative building in Regular Program communities under the Dwelling Form. Under certain circumstances, at the insured's option, 10 percent of the contents

coverage may be applied to betterments or improvements to the unit made at the insured shareholder's expense.

However, based on documentation provided during the claims adjusting process for cooperative-owned property in New York following Superstorm Sandy, we have learned that there may be unusual forms of cooperative ownership. In some cooperatives, a large number of the structures are owned by the individual shareholders through an arrangement whereby the shareholders lease the buildings to the cooperative, and the cooperative leases the buildings back to the shareholders, and the land on which the buildings are located is owned by the cooperative corporation. At the termination of a lease, the owner of the building may remove the structure from the land owned by the cooperative. Under this arrangement, the shareholders have an ownership interest in the buildings. Based on this information, such owner-shareholders are eligible to purchase building coverage under the appropriate SFIP.

In this situation, the cooperative corporation may be named as an additional loss payee, as its interest may appear, and any mortgagee should also be named as an additional payee. Claims on existing SFIPs issued to individuals or businesses owning buildings in such cooperatives are payable, subject to all other requirements and limitations.

FEMA encourages insurance agents and the Write Your Own companies to review the underlying cooperative documents to determine how cooperative buildings are owned, as it may be that other cooperative arrangements exist that allow an individual to actually own the building, and thus be able to purchase building coverage.

Thank you for your attention and cooperation in this matter. If you have any questions, please contact Joe Cecil of my staff at Joseph.Cecil@fema.dhs.gov.

cc: Vendors, IBHS, FIPNC, Government Technical Representatives

Required Routing: Claims, Marketing, Underwriting