



FEMA

W-14016

April 24, 2014

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
Director, Risk Insurance Division
Federal Insurance and Mitigation Administration

SUBJECT: Section 3 of the Homeowner Flood Insurance Affordability
Act of 2014 (HR 3370) – Updated Information

This memorandum provides updated information for Bulletin W-14014, dated April 15, 2014, pertaining to the implementation of the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA). Specifically, the updated Attachment A–Summary of Phase I Implementation of the Homeowners Flood Insurance Affordability Act of 2014–revises the requirements and options for notifying policyholders of changes in premium resulting from restoring Pre-FIRM subsidies for policyholders affected by Section 3 of the HFIAA. It also provides for acceptance of a statement of primary residence in lieu of documentation. Change bars indicate the new information.

- In the “New Policy Procedures” section of Attachment A, information is added concerning accepting a signed statement from the insured instead of prescribed documentation of primary residence when such documentation is not available at the time of policy purchase for newly purchased properties.
- In the “Renewals” section of Attachment A, information is added detailing the requirements and options for Renewal Notices, Revised Renewal Notices, Revised Final Notices, and Notices of Revised Premium for Expired Policies for those policies with changes in premium resulting from restoring Pre-FIRM subsidies.
- Following the “Endorsement” section of Attachment A, added a new section to address tentatively- or provisionally rated policies that may be eligible for Pre-FIRM subsidized rates but have a claim.

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Please use this updated information when processing your system changes effective May 1, 2014. If you have any questions, please contact Joseph Cecil at (202) 212-2067.

Attachment

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Suggested Routing: Accounting, Claims, Data Processing, Marketing, Underwriting

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ATTACHMENT A

**Summary of Phase I Implementation of the
Homeowner Flood Insurance Affordability Act of 2014
Effective May 1, 2014**

(Revised April 24, 2014)

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Summary of Phase I Implementation of the
Homeowner Flood Insurance Affordability Act of 2014
Effective May 1, 2014
(Revised April 24, 2014)

Procedures for Pre-FIRM buildings newly insured or newly purchased, and reinstatements of lapsed subsidized policies on or after May 1, 2014:

The Homeowner Flood Insurance Affordability Act (HFIAA) of 2014 repeals certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert Waters) that eliminated eligibility for Pre-Flood Insurance Rate Map (FIRM) subsidies for buildings newly purchased or newly insured on or after July 6, 2012, as well as reinstatements of lapsed policies effective on or after October 4, 2012. The Federal Emergency Management Agency's (FEMA's) initial priority is to restore Pre-FIRM subsidies for policyholders covered by section 3 of the HFIAA.

Section 3 of the HFIAA requires FEMA and Write Your Own (WYO) companies to restore Pre-FIRM subsidized rates for the following properties: (a) Pre-FIRM properties that were not insured when Biggert Waters was enacted; (b) Pre-FIRM properties that were sold after Biggert Waters was enacted; and (c) policies for Pre-FIRM properties that were rated full-risk under Biggert Waters due to a lapse in coverage. Section 3 also requires FEMA and WYO Companies to refund premiums collected from these policyholders in excess of the Pre-FIRM subsidized rate.

To prevent policyholders eligible for the Pre-FIRM subsidized rates from paying the full-risk rates or the cost of purchasing an Elevation Certificate (EC) to determine full-risk rates, FEMA is requiring the WYO insurance companies and the Direct Servicing Agent (DSA) to use the October 1, 2013, Pre-FIRM subsidized rates when more favorable than full-risk rates. This impacts policies newly issued or renewed on or after May 1, 2014, in the following instances:

- New application for Pre-FIRM buildings rated in zones Unnumbered A, AE, A1-A30, AH, AO, V, VE, V1-V30 and D effective on or after October 1, 2013, and processed on or after May 1, 2014 (previously impacted by Section 100205 (g)(1) of Biggert Waters);
- Pre-FIRM subsidized policies assigned to a new building owner upon a purchase occurring on or after July 6, 2012, where the endorsement is effective on or after October 1, 2013, and processed on or after May 1, 2014 (previously impacted by Section 100205 (g)(2) of Biggert Waters);
- Reinstatement effective on or after October 4, 2012, of a lapsed Pre-FIRM subsidized policy processed on or after May 1, 2014 (previously impacted by Section 100205 (g)(3) of Biggert Waters);
- Renewal of all policies for Pre-FIRM buildings that were not insured when Biggert Waters was enacted in zones Unnumbered A, AE, A1-A30, AH, AO, V, VE, V1-V30 and D processed on or after May 1, 2014 (previously impacted by Section 100205 (g)(1) of Biggert Waters); and
- Renewal of all policies for Pre-FIRM buildings that were purchased after Biggert Waters was enacted in zones Unnumbered A, AE, A1-A30, AH, AO, V, VE, V1-V30 and D processed on or after May 1, 2014 (previously impacted by Section 100205 (g)(2) of Biggert Waters).

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New Policy Procedures

New policy applications for Pre-FIRM buildings rated in zones Unnumbered A, AE, A1-A30, AH, AO, V, VE, V1-V30 and D that are received and/or processed on or after May 1, 2014, are eligible for Pre-FIRM subsidized rates. The applicable rates are located in the Rating Section of the Flood Insurance Manual (FIM) in Tables 2A (Regular Program – Pre-FIRM Construction Rates), 2B (Regular Program – Pre-FIRM Construction Rates (Effective January 1, 2013, or January 1, 2014, depending on the policy effective date, Non-Principal/Non-Primary Residence)), and 2C (Regular Program – Pre-FIRM Construction Rates Severe Repetitive Loss Properties), and in the Condominium Section of the FIM in Tables 3A (RCBAP High-Rise Condominium Rates), 4A (RCBAP Low-Rise Condominium Rates), and 4B (RCBAP Low-Rise Condominium Rates (1-4 Family Severe Repetitive Loss Properties)).

When selecting a Pre-FIRM subsidized rate for a policy rated as a single-family dwelling, or a condominium unit covered under the Dwelling form within a 2-4 family dwelling or other-residential building, the non-primary residence rates available in the June 1, 2014, edition of the NFIP FIM must be used if there is no documentation of primary residence. The WYO Companies and DSA must mail to the affected policyholders the Notice to Residential Policyholders provided with Bulletin W-14001 issued on January 16, 2014.

For rating as a primary residence, if documentation of primary residence is not available when a policy is applied for on a newly purchased dwelling, insurers must obtain a signed and dated statement from the insured with the text below:

“<Insured Property Address>

The above address is my primary residence, and I and/or my spouse will live at this location for more than 50 percent of the 365 days following the policy effective date.

PURSUANT TO 28 U.S.C. § 1746 I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. I UNDERSTAND THAT ANY FALSE STATEMENTS MAY CAUSE MY POLICY TO BE VOID, AND MAY BE PUNISHABLE BY FINE OR IMPRISONMENT UNDER APPLICABLE FEDERAL LAW.”

Renewals

Renewals for Pre-FIRM buildings rated in zones Unnumbered A, AE, A1-A30, AH, AO, V, VE, V1-V30 and D that are received and/or processed on or after May 1, 2014, are eligible for Pre-FIRM rates. The applicable rates are located in the Rating Section of the FIM in Tables 2A (Regular Program – Pre-FIRM Construction Rates), 2B (Regular Program – Pre-FIRM Construction Rates (Effective January 1, 2013, or January 1, 2014, depending on the policy effective date, Non-Principal/Non-Primary Residence)), and 2C (Regular Program – Pre-FIRM Construction Rates Severe Repetitive Loss Properties), and in the Condominium Section of the FIM in Tables 3A (RCBAP High-Rise Condominium Rates), 4A (RCBAP Low-Rise

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Condominium Rates), and 4B (RCBAP Low-Rise Condominium Rates (1-4 Family Severe Repetitive Loss Properties)).

- Renewal Notice

On or after May 1, 2014, for all policy renewals eligible for Pre-FIRM subsidized rates, the Renewal Notice must reflect premiums based on Pre-FIRM subsidized rates. The Renewal Notice is to be mailed no less than 45 days prior to the policy expiration date.

- Revised Renewal Notice

On or after May 1, 2014, for any policy renewal eligible for Pre-FIRM subsidized rates, a revised Renewal Notice that reflects premiums based on Pre-FIRM subsidized rates can be mailed before the policy expiration date.

- Revised Final Notice

On or after May 1, 2014, for any policy renewal eligible for Pre-FIRM subsidized rates, a revised Final Notice that reflects premiums based on Pre-FIRM subsidized rates can be mailed within 10 days of the policy expiration date.

- Notice of Revised Premium for Expired Policies

On or after May 1, 2014, for any expired policy renewal eligible for Pre-FIRM subsidized rates that expired on or after October 1, 2013, a Notice of Revised Premium may be mailed to the policyholder to inform them about the eligibility of the Pre-FIRM subsidized rates. The effective date of any policy issued resulting from this notice must follow the Policy Effective Date procedures outlined in the FIM.

Renewal payments received for Pre-FIRM subsidized policies that have not issued with full-risk, tentative, or provisional rates may renew with Pre-FIRM subsidized rates unless full-risk rates are more favorable.

Rollover and transfer renewals of Pre-FIRM subsidized policies from one insurer to another may be documented with only the expiring Declarations. There is no need to establish subsidy eligibility prior to July 6, 2012.

For renewal offers, insurers must use the non-primary residence Pre-FIRM subsidized rates available in the June 1, 2014, edition of the NFIP FIM if the policy is rated as a single-family dwelling, or a condominium unit covered under the Dwelling form within a 2-4 family dwelling or other-residential building, if there is no documentation of primary residence. The WYO Companies and DSA must mail to the affected policyholders the Notice to Residential Policyholders provided with Bulletin W-14001 issued on January 16, 2014.

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Endorsements

Pre-FIRM subsidized policies assigned to a new building owner upon a purchase occurring on or after October 1, 2013, are eligible for subsidized rates provided the endorsement request is received and/or processed on or after May 1, 2014.

Pursuant to Section VII.G of the Standard Flood Insurance Policy, if a new or renewal policy covering a Pre-FIRM building originally issued with reduced coverage and an underpayment notice determined with full-risk, tentative, or provisional rates, the policy may be endorsed with Pre-FIRM subsidized rates if more favorable to the insured, and coverage may be increased up to the originally requested amount, so long as the endorsement is processed within 30 days of the original underpayment notice.

Unless there is a claim for a tentative or provisional rated policy (see below), until further instruction is provided, under no other circumstances may an endorsement that changes the rating from full-risk, tentative, or provisional rates with no claim to Pre-FIRM subsidized rates be used to generate a refund. Guidance for refunds compliant with the HFIAA will be provided through a separate Bulletin. A non-premium-related endorsement transaction triggering a return premium based on eligibility for Pre-FIRM subsidized rates must be held in suspense until the refund guidance is provided.

Tentatively- or Provisionally Rated Policies with a Claim

Policies effective on or after October 1, 2013, that are rated with tentative or provisional rates, but become eligible for a Pre-FIRM subsidized rate as a result of HFIAA, can be endorsed to the Pre-FIRM subsidized rate in order to process a claim. In this case, a refund may be issued.

Reporting

Edits developed for the implementation of Section 100205 (g)(1), (2), and (3) of Biggert Waters and applied to policy transactions reported to the NFIP by insurers in the Transaction Record Reporting and Processing (TRRP) Plan and Edit Specifications will be cancelled effective October 1, 2013. The edits that will be cancelled are the following: PL036075, PL036090, and PL036095 for Elevation Difference; PL 041130 for Risk Rating Method; and edits PL004180 and PL004190 requiring elevations for assignments and lapsed policies. Updated Edit Specifications are attached (Attachment B).

To apply Pre-FIRM subsidized rates, insurers must use Risk Rating Method '1' for Pre-FIRM buildings rated in zones Unnumbered A, AE, A1-A30, AH, AO, V, VE, V1-V30, and D. The default elevation difference value of "+999" may be reported if the insurer has not provided an Elevation Certificate (EC) for Flood Insurance providing the structure specific elevation information.

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When the full-risk premium is more favorable to the insured than the Pre-FIRM subsidized rate the Risk Rating Method must be changed to a “B” if the elevation of the lowest floor is at or above the Base Flood Elevation (BFE), or to a “W” if the elevation of the lowest floor is below the BFE. Special Rate Consideration provided to certain buildings with the lowest floor below BFE should be reported with a Risk Rating Method of “E” as outlined in the Specific Rating Guidelines (SRG).

Optional Full-Risk Rating

If elevation information is optionally provided to the insurer, the information must be retained in the policy records even when not used for rating in the current policy year. A comparison between full-risk premium rates and Pre-FIRM subsidized rates must be performed with each renewal or endorsement until the full-risk premium is more favorable to the insured. Optional full-risk rating may not be applied to policy years prior to presentation of the EC.

Insurers must compare Pre-FIRM subsidized rates to the full-risk rates, including full-risk rates currently published in the SRG, and use the more favorable rates. The SRG is a supplemental set of tables to the FIM used for buildings of higher-than-average risk due to factors such as construction below the BFE in an SFHA. Like the FIM, the June 1, 2014, version of the SRG was issued prior to enactment of the HFIAA, and may contain procedural guidance contrary to this Bulletin. Where there is conflict, this Bulletin takes precedence.

Additional Information

The June 1, 2014, FIM and SRG were prepared prior to the passage of the HFIAA and contain instructions contrary to this Bulletin (including attachments). Revised FIM and SRG pages will be issued as soon as possible. If there is a conflict, the procedures in this document take precedence.

Refunds

In a separate bulletin, FEMA will issue new rate tables and separate guidance to the WYO insurance companies and the DSA to begin issuing refunds as outlined in HFIAA for some policyholders who were paid full-risk premiums under Biggert Waters. No HFIAA premium refund change endorsement is to be issued until these new tables are released with the technical guidance for implementation of the refund process.