

January 21, 2021

Charlie Oppler
2021 President

Bob Goldberg
Chief Executive Officer

ADVOCACY GROUP

Shannon McGahn
Chief Advocacy Officer

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

RE: Acceptance of Private Flood Insurance for FHA-Insured Mortgages (85 Fed. Reg. 74630 [Nov. 23, 2020]):

The 1.4 million members of the National Association of REALTORS® strongly supports the proposed rule, enabling FHA borrowers to obtain private flood insurance. REALTORS® agree that this proposal will provide substantial benefit to consumers and urge HUD to finalize the regulation as quickly as possible.

Current FHA regulations, established two decades ago, do not allow private flood insurance options to meet the federal mandatory purchase requirement. As a result, FHA-insured home loans may not close in special flood hazard areas unless the insurance is provided by one and only one source: The National Flood Insurance Program (NFIP). While the NFIP remains an essential program, REALTORS® can also provide many examples where the private market offered higher quality coverage at lower cost. However, FHA's outdated rules have needlessly restricted consumer choice, created inequities between FHA and more conventional loan holders, and raised barriers to FHA loan products. Some first home loans have failed to close because of the cost of NFIP coverage, even as the FHA lender was forced to refuse a more affordable private plan offer with more comprehensive flood coverage. All consumers should be allowed to choose.

Compounding the situation, every other federal lending authority now allows and, in many cases, requires the acceptance of private flood insurance, leaving FHA lenders with an untenable choice: follow their regulator's private flood insurance requirement and risk the FHA insurance down the road, or walk away from FHA loan products entirely. This is unacceptable situation which fully explains the recent report by HUD's Office of Inspector General.¹ FHA's 21-year-old rule must be updated not only to serve consumers but also to reflect current market realities. Otherwise, more FHA lenders will be forced to deny access to affordable flood insurance options.

¹ See HUD OIG Report (Jan. 05, 2021) (including finding that some loans had private flood insurance instead of required national flood insurance program coverage); available at [Microsoft Word - 2021-KC-0002 FHA FLOOD INS 12052021 \(hudoig.gov\)](https://www.hudocig.gov/2021-KC-0002-FHA-FLOOD-INS-12052021).



REALTORS® applaud HUD for proposing a more permissive private flood insurance rule. In short, aligning FHA with other federal private flood lending rules is:

- Statutorily law – The Biggert-Waters Flood Insurance Reform Act clearly directs federal agency lenders to accept certain private flood insurance. Drawing a distinction between agencies that ‘insure’ versus ‘lend’ is a hyper-technical legal reading of the statute that does not comply with the spirit -- if not the exact letter -- of the law.
- Good governance – Laws should be uniformly and consistently applied across the entire federal government. An agency should not exploit a technical drafting error to avoid compliance with a statute, especially when Congressional intent is clear.
- Pro consumer – Once federal minimum coverage requirements are met, consumers are in the best position to decide whether the NFIP or the private market best meets their flood insurance needs. Locking FHA borrowers into a lower quality, higher cost government product serves no one.
- Affordable Housing – The current rule is not consistent with FHA housing goals. All consumers, regardless of income, should have the same opportunities to obtain affordable flood insurance. FHA borrowers should not be barred from options available to others.
- Fiscally prudent – Private flood insurance typically provides more coverage than an NFIP policy, making it less likely that FHA insurance will be required after floods. Providing for FHA lender acceptance of private policies not only bolsters the FHA Fund but also protects taxpayers.

Again, REALTORS® support FHA’s proposal and urge its immediate adoption. Thank you for the opportunity to assist with improving access to affordable flood insurance while furthering FHA housing goals and protecting taxpayers.

Sincerely,

A handwritten signature in black ink, appearing to read 'Charlie Oppler', with a long horizontal flourish extending to the right.

Charlie Oppler
2021 President, National Association of REALTORS®