

# NAR Issue Summaries

## Insurance / Private Flood Insurance Options

### NAR Committee:

Insurance Committee

### What is the fundamental issue?

Congress must remove federal regulatory barriers to more affordable private flood insurance options.

### I am a real estate professional. What does this mean for my business?

According to NAR research, approximately 40,000 property sales each month depend on flood insurance. While the National Flood Insurance Program (NFIP) was the only source for this insurance for many years, the private market is now offering the same or better coverage at lower cost in many parts of the country. In addition, private flood insurance is not affected by NFIP lapses which could offer additional options to consumers especially where flood insurance is required for a mortgage.

### NAR Policy:

Supports:

- Development of private market options where cost effective, provided that NFIP remains a viable option for property owners;
- Expanding the definition of continuous coverage to include coverage under a private market or NFIP policy;
- Removing duplicative, overlapping or unnecessary federal requirements for private flood insurers that states already license and regulate; and
- Maintaining federal mortgage regulatory authority to set requirements on the financial strength of private flood insurers.

### Opposition Arguments:

Opponents warn that the private market will "cherry pick" the best risks and leave the worst to the National Flood Insurance Program (NFIP). However, private market supporters counter that there are no "cherries" in the NFIP and many of its "prunes" are obtaining more affordable coverage in the private market as well.

## Legislative/Regulatory Status/Outlook

Many federal agencies have made efforts to remove barriers to private flood insurance options, but several issues persist. One significant issue is FEMA's continuous coverage rules, which exclude most private flood insurance policies.

On November 21, 2022, the Department of Housing and Urban Development (HUD) issued a final rule allowing lenders to accept private flood insurance policies for FHA-insured mortgages in Special Flood Hazard Areas. However, these policies must meet a strict definition of "private flood insurance" under the Biggert-Waters Flood Insurance Reform Act.

Earlier, on January 24, 2019, most of the federal lending regulators issued final rules requiring lenders to accept private flood insurance policies that meet the Biggert-Waters Act definition. These rules also clarify that lenders may accept private policies that do not meet this definition, as long as the policies provide sufficient protection for the mortgage loan and adhere to safety and soundness principles.

NAR will continue working to address these issues as part of broader NFIP reform legislation.

## Current Legislation/Regulation (bill number or regulation)

- H.R. 900, To amend the National Flood Insurance Act to allow for the consideration of private flood insurance for purposes of applying continuous coverage requirements
- FHA final rule re: "Acceptance of Private Flood Insurance for FHA-Insured Mortgages" (87 FR 70733 [Nov. 21, 2022])

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