

March 18, 2019

The Honorable Peter Gaynor
Administrator (Acting)
Federal Emergency Management Agency (FEMA)
500 C Street, SW
Washington, DC 20472

Dear Acting Administrator Gaynor:

We, the undersigned organizations, respectfully request that FEMA issue formal guidance making clear that private flood insurance policies may satisfy the continuous coverage requirements of §42 U.S.C. 4014(g). Without this clarification, certain policyholders under the National Flood Insurance Program (NFIP) could be penalized for exercising the options provided to them under new federal lending regulations to purchase private flood insurance policies, if they later return to the NFIP for insurance. These new federal lending regulations are scheduled to take effect on July 1, and therefore clarity on the eligibility of private flood insurance as it relates to continuous coverage is urgently needed.

As you know, Congress passed the Biggert-Waters Flood insurance Reform Act (Biggert-Waters) to, among other things, encourage the development of the private market. In that vein, the federal lending regulators recently finalized regulations to implement section 239 of Biggert-Waters requiring lenders to accept certain private flood insurance policies, while reinforcing the fact that other private flood insurance policies can be used to satisfy the mandatory purchase requirement. While the implementation of these new regulations are welcome news to consumers and stakeholders, the failure to clarify continuous coverage could harm consumers who wish to consider private insurance policies.

Based on the extensive legislative history of Biggert-Waters and the Homeowner Flood Insurance Affordability Act (HFIAA), we believe that FEMA has the clear statutory authority to consider private flood insurance when determining continuous coverage. Additionally, such guidance would also be consistent with the stated public policy goals of FEMA to increase take-up rates of flood insurance across the United States—a goal that FEMA has stated would require private market participation to achieve.

For these reasons, the undersigned stakeholders urge FEMA to make clear as soon as possible that private flood insurance policies are eligible to count toward the continuous coverage requirements of §42 U.S.C. 4014(g). We thank you for consideration of this important issue.

Sincerely,

American Bankers Association
American Property Casualty Insurance Association
Council of Insurance Agents and Brokers
Independent Community Bankers of America
Independent Insurance Agents and Brokers of America
National Association of REALTORS®
Wholesale & Specialty Insurance Association