

“BW12 and HFIAA Changes to the NFIP”



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Calendar No. 317

113TH CONGRESS
2D SESSION

H. R. 3370

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2014

Received, read the first time

MARCH 6, 2014

Read the second time and placed on the calendar

AN ACT

To delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012,

H. R. 4348—512

TITLE II—FLOOD INSURANCE

Subtitle A—Flood Insurance Reform and Modernization

SEC. 100201. SHORT TITLE.

This subtitle may be cited as the “Biggert-Waters Flood Insurance Reform Act of 2012”.

SEC. 100202. DEFINITIONS.

(a) IN GENERAL.—In this subtitle, the following definitions shall apply:

(1) 100-YEAR FLOODPLAIN.—The term “100-year floodplain” means that area which is subject to inundation from a flood having a 1-percent chance of being equaled or exceeded in any given year.

(2) 500-YEAR FLOODPLAIN.—The term “500-year floodplain” means that area which is subject to inundation from a flood having a 0.2-percent chance of being equaled or exceeded in any given year.

(3) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

(4) NATIONAL FLOOD INSURANCE PROGRAM.—The term “National Flood Insurance Program” means the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.).

(5) WRITE YOUR OWN.—The term “Write Your Own” means the cooperative undertaking between the insurance industry and the Federal Insurance Administration which allows participating property and casualty insurance companies to write and service standard flood insurance policies.

Presented by:



David Thompson, CPCU, AAI, API
Chris Heidrick, CPCU, CFP, ANFI

Special Guests:

John Prible, VP, IIABA Federal Government Affairs
Jeff St. John, Big “I” Flood Program Manager

Author:

David Thompson, CPCU, AAI, API, CIN, BBQGM
Instructor, Florida Association of Insurance Agents
Certified Insurance Nerd
BBQ Grillmaster

 **Disclaimer** 

- FEMA has not issued complete guidance on HFIAA and nothing is final at this point. It took nearly nine months for guidance to be issued on BW12.
- No “absolute answers” should be given to any third party without FEMA guidance.
- Depending on FEMA guidance, some of the information presented here today might change.

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The Timeline

- NFIP began in 1968
- BW12 effective 7/6/12
 - That’s when “ugly hit the fan”
 - Massive outcries
 - A few huge premium increases
- Many bills introduced
- HFIAA changes some of BW12; signed by the president 3/21/14

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HFIAA

- “Homeowner Flood Insurance Affordability Act of 2014”
 - 44 pages long
 - References back to BW12; 584 pages long
 - References back to the National Flood Insurance Act of 1968; 101 pages long
 - References back to the U.S. Code; thousands of pages long

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Key Terms

- FIRM
 - Flood Insurance Rate Map
- FIRM Date
 - Date a community entered the NFIP
 - Available via NFIP Community Status Book
 - www.fema.gov

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Key Terms

- Pre-FIRM structure
 - Built before the community FIRM date
- Post-FIRM structure
 - Built after the community date
- EC
 - Elevation certificate
 - Used to determine flood rates in SFHA zones. Determines the “full rate.”

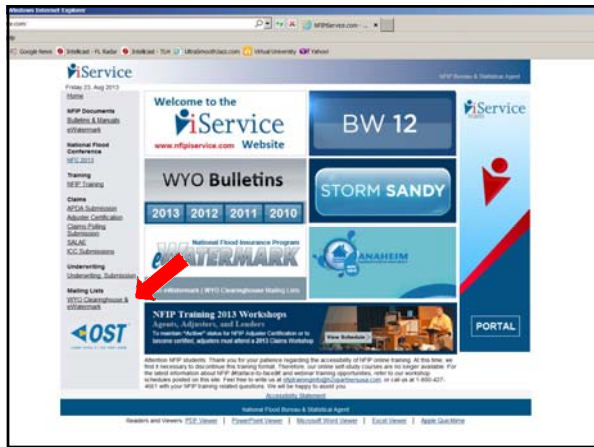
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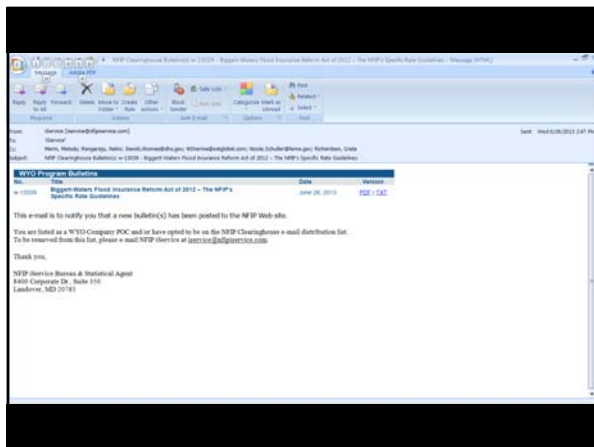
Key Terms

- SFHA
 - Special Flood Hazard Area
 - High risk zone (“100 year flood”)
 - Zone starts with “A” or “V”
- Non-SFHA
 - Low to moderate risk zones (“500 year flood”)
 - Zones B, C, X

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Rumor Control

- BW12 has NOT been repealed
- The "new" BW12 (HFIAA) did not change everything under BW12
- You will not get a refund in a few days
- HFIAA did change parts of BW12

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Overview of Biggert-Waters Reform Act of 2012

- Eliminated short term reauthorizations
- Phase out of subsidized rates (Sec. 205)
- Non-primary dwelling changes
- Changes to grandfathering (Sec. 207)
- Installment payment option
- Requirement to escrow NFIP premium in most cases
- Private flood must be accepted at times

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Overview of HFIAA

- Restores subsidized rates in most cases
- Allows for assumption of subsidized policies in many cases
- Restores grandfathering
- Retains 25% annual increase for non-primary dwellings and non-residential
- Introduces surcharges of \$25 or \$250 on all policies continued...

These provisions are not all effective today. Wait for FEMA Guidance.

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Overview of HFIAA

- Modifies the 20% annual cap on increases to a lower number
- Retains the "PRPEE" program
- Clarifies installment pay options
- New deductible option
- Modifies mandatory purchase requirements for some detached structures

continued....

These provisions are not all effective today. Wait for FEMA Guidance.

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Overview of HFIAA

- Adjusts the substantially improved threshold
- Changes escrow requirement
- Does not change the private flood insurance requirement imposed on lenders
- Provides refunds to some policyholders

These provisions are not all effective today. Wait for FEMA Guidance.

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Eliminated Short Term Reauthorizations

- A long history of "hiatus"
- Reauthorized for five years
- BW12 effective date July 6, 2012 until September 30, 2017

HFIAA - No Change


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BW12
Phase out of Subsidized Rates

- What is a “subsidized rate?”
 - Pre-FIRM risk
 - Not utilizing an Elevation Certificate (EC)
- Effective date
 - 7/6/12
- ECs were required for **all** new, lapsed, assigned policies going forward.

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BW12
July 6, 2012



- Key point on ECs for pre-FIRM risks
 - Policy purchased prior to 7/6/12, EC not required if policy did not lapse or get assigned. Can continue to use subsidized rates.
 - Best interest of customer: Get an EC. Premium could be lower if at or above BFE. (Base Flood Elevation)

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Subsidized Rates – Summary

- Pre-FIRM structure, in a Special Flood Hazard Area (Zones starting with A or V) and D zones that are not rated using an EC.
- A subsidized rate is **not**:
 - Post-FIRM risks
 - Grandfathered risks
 - Any risk rated with an EC
 - Risks in Zones B, C, and X

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BW12 July 6, 2012

- BW-12 became effective
- Elevation certificates were required for all pre-FIRM risks
 - New purchases
 - Lapsed policies
 - Assigned policies

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The Potential Savings Under a Subsidized Rate...

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For a single-story structure:

	Subsidized Premium Rates before BW12 Pre-BW12 Subsidized Rates for \$250K/\$100K Building/Contents Policy in high risk, non-coastal AE zones (no elevation certificate).	Premium Rates following elimination of subsidies – on or after October 1, 2013 Post-BW12 non-subsidized Rates for \$250K/\$100K Building/Contents Policy in high-risk non-coastal AE zones (with Elevation Certificate).
Lowest floor of property is 4 feet above base flood elevation	\$1,600	\$553
Lowest floor of property is at base flood elevation	\$3,600	\$1,815
Lowest floor of property is 4 feet below base flood elevation	\$3,600	\$10,723

Rates based on a policy with a \$1,000 deductible and \$250,000 building coverage and \$100,000 contents coverage. The scenario is based on a single-story building with no basement, crawlspaces or enclosures. An AE zone is an area subject to inundation by the 1-percent annual chance flood event. Base Flood Elevations are shown on Flood Insurance Rate Maps in these zones. AE zones are used on new and revised maps in place of numbered A zones from A1 to A30.

It is important to note that a small number of flood insurance policies protecting properties in very high risk coastal areas (VE Zones) ... where wave action combined with high water causes increased damage ... will be

BW12 – Who is Impacted



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Subsidized Rates

- Countrywide: 19% (1,075,000)
- Florida: 13% (268,000)
- New Jersey: 37% (88,000)
- Louisiana: 17% (82,000)
- Texas: 9% (61,000)
- Nebraska: 41% (5,796)

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HFIAA Subsidized Rates Effective 5/1/14

- Use of subsidized rates reinstated **except**:
 - "...unless the decision of the policy holder to permit a lapse in flood insurance coverage was as a result of the property covered by the policy no longer being required to retain such coverage."
 - "...any prospective insured who refuses to accept any offer for mitigation assistance by the Administrator."

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HFIAA
Subsidized Rates – When **NOT** Permitted

- Policy lapse any reason other than, "... no longer required." Examples:
 - Non-payment of premium
 - Left NFIP for private market, came back to NFIP
- Refusing offer of mitigation assistance

This provision is not completely effective today. Wait for FEMA Guidance.


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HFIAA
Subsidized Rates – When Permitted

- Effective 5/1/14
 - Assignment of a subsidized policy
 - New property purchase
 - New voluntary purchase
 - "...property covered by the policy no longer being required to retain such coverage."

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HFIAA
Subsidized Rates




- Who gets one? (Per FEMA)
 - Policyholders in high-risk areas who were required to pay their full-risk rate after purchasing a new flood insurance policy on or after July 6, 2012.
 - Policyholders who renewed their policy after the Homeowner Flood Insurance Affordability Act was enacted on March 21, 2014 and whose premium increased more than 18 percent.

This provision is not effective today. Wait for FEMA Guidance.

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HFIAA Subsidized Rates



- Who does **NOT** get a refund?
 - Those paying the 25% “surcharge”
 - Non-primary homes, business, SRL properties
 - Those whose full risk premium is less than a pre-FIRM subsidized rate

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HFIAA “When Do I Get It?”



- Per FEMA on 5/19/14:
 - “We hope to begin to issue refunds to some policyholders in late 2014.”

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HFIAA Subsidized Rates

- HFIAA subsidized rate change applies to all policies, 5/1/14 and later:
 - Primary dwellings
 - Non-primary dwellings
 - Non-residential
 - RCBAP (“Condo master flood policy”)


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Non-Primary Dwelling Changes


- What is a "primary dwelling?"

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BW12 Non-Primary Dwelling Changes

- Non-primary:
 - Not occupied at least 80% of the year (292 days) by named insured and/or spouse
 - Changes to 50% 6/1/14 
- There has always been an issue for RCV vs. ACV (Primary vs. principal)
- **New:** Premium increases of 25% on pre-FIRM, non-primary dwellings (1/1/13) 35

BW12 Non-Primary Dwelling Changes

- Key point.. 
- 25% applies to pre-FIRM, non-primary
- Does not apply to primary dwellings
- Does not apply to Zone B,C, and X risks
- Does not apply to RCBAP
- Best interest of customer: Get an EC

HFIAA: No change. Get an EC!!!!


BW12
January 1, 2013

- PRP premiums increase 13%
- PRP Eligibility Extension remains valid
 - Two-year limit waived...for now
- Pre-FIRM, non-primary dwellings increase 25% per year until the full rate is reached.
EC required to determine full rate.

HFIAA: No change.


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BW12
Grandfathering



- BW12 removed the grandfather provision; planned for 2014
- NFIP Bulletin W-13043, 8/2/13

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Disclaimer

HFIAA
Grandfathering

- Repealed Section 207 of BW12 that dealt with grandfathering
- Grandfathering is alive and well! But...
 - Continuous coverage (pre-FIRM & post FIRM)
 - Private flood example
 - “Built in compliance” (Post-FIRM only)

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BW12
October 1, 2013

- Owners of business properties with subsidized premiums (Pre-FIRM buildings in a Special Flood Hazard Area or Zone D) receive 25% annual increases until the full rate is reached.
- "Business" includes all non-residential

HFIAA: No change.

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BW12
October 1, 2013

- Owners of severe repetitive loss (SRL) properties consisting of 1-4 residences with subsidized premiums (Pre-FIRM buildings in a Special Flood Hazard Area or Zone D) receive 25% annual increases until the full rate is reached

HFIAA: No change.

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BW12
October 1, 2013

- Owners of any property with subsidized premiums that has incurred flood-related damage in which the cumulative amounts of claims payments exceeded the fair market value of such property (Pre-FIRM buildings in a Special Flood Hazard Area or Zone D) receive 25% annual increases until the full rate is reached

HFIAA: No change.

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BW12
October 1, 2013

- Maximum premium increase allowed under the NFIP is increasing from 10% per year to...

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BW12
October 1, 2013

- Maximum premium increase allowed under the NFIP increased from 10%
-to 20%.

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HFIAA
October 1, 2013

- Maximum premium increase allowed under the NFIP is increasing from 10% to:
 - 15% per class
 - 18% any one policy
 - Exception: 25% non-primary, business, SRL
 - FEMA shall “strive” to minimize policies with a premium in excess of 1% of the coverage
 - Example: \$200,000 of coverage; max premium of \$2,000

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October 1, 2013

- V Zone (Post-FIRM): 11%
- V Zone (Pre-FIRM): **17%**
- A Zone (Post-FIRM): 6%
- A Zone (Pre-FIRM): **16%**
- AO/AH/AOB/AHB: 6%
- Un-number A Zone: 8%
- A99: 9%
- B, C or X Zone Standard: 8%
- PRP EE: 20%
- PRP: 1%

**HFIAA
No Change**

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October 1, 2013

- Federal Policy Fee is increasing from \$20 to \$22 for PRP policies and from \$40 to \$44 for non-PRP policies.

**HFIAA
No Change**

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October 1, 2013

- Elimination of No Waiting Period Due to Lender Requirement: The 30-day waiting period applies to a new application when the lender determines that a loan on a building in an SFHA that requires flood insurance does not have it.
– Remember, however, 13-month rule for map changes. One-day wait.

HFIAA --No Change

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October 1, 2013

- A Reserve Fund ratio will be applied to each NFIP policy, except PRPs and GFIPs. The Reserve Fund for policies effective on or after October 1, 2013, is 5% of the total premium.
 - Commission not paid on this
- Key point:  Money goes into safe location:
 - The U.S. Treasury!!!! ☺

**HFIAA
No Change**

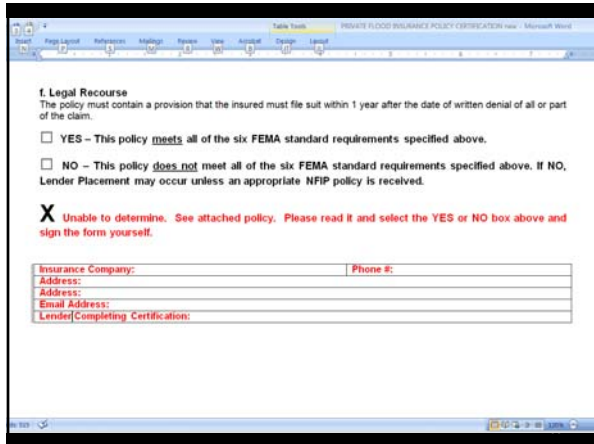
Private Flood Insurance

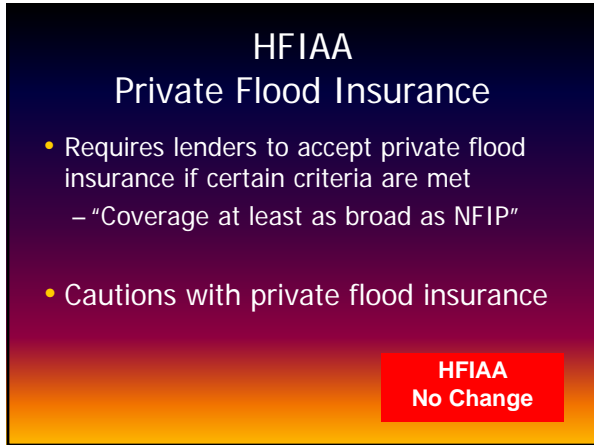


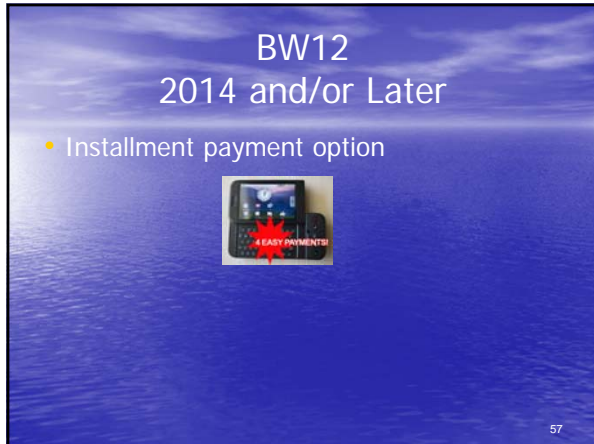
The illustration shows a soldier in green fatigues holding a rifle on the left. In the center, a house is partially submerged in blue water, with a blue diamond shape above it. On the right, there is a red folder containing white papers with a house icon on one of them.

BW12
Private Flood Insurance

- Requires lenders to accept private flood insurance if certain criteria are met
 - “Coverage at least as broad as NFIP”







HFIAA 2014 and/or Later

- Installment payment option; monthly



This provision is not effective today. Wait for FEMA Guidance.

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BW12 2014 and/or Later

- July 6, 2014 – escrow requirement for residential and mobile homes
- Some exceptions (\$1B assets, etc)
- Applies only when lender requires coverage
- “Stay tuned”



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HFIAA 2014 and/or Later



- ~~July 6, 2014~~ – 1/1/16 escrow requirement for residential and mobile homes
- Some exceptions (\$1B assets, etc)
 - More exceptions: Short term loans, home equity loans
- Applies only when lender requires coverage
- Applies only to new loans, 1/1/16
- Lender must offer voluntary escrow

This provision is not effective today. Wait for FEMA Guidance.

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BW12 Effective 6/1/14



- Multi-family properties of five or more residences
 - Increased limits available to \$500,000 building and \$100,000 contents
 - Apartment buildings, cooperatives
 - RCBAP still limited to \$250,000 x the number of units

HFIAA --No Change

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BW12 2014 and/or Later

- New Deductible Limits:
 - Minimum pre-FIRM
 - \$1,500 if coverage is \$100,000 or less;
 - \$2,000 if coverage over \$100,000
 - Minimum post-FIRM property
 - \$1,000 for coverage \$100,000 less;
 - \$1,250 if coverage is greater than \$100,000

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HFIAA 2014 and/or Later

- New Deductible Limits:
 - Minimum pre-FIRM
 - \$1,500 if coverage is \$100,000 or less;
 - \$2,000 if coverage over \$100,000
 - Minimum post-FIRM property
 - \$1,000 for coverage \$100,000 less;
 - \$1,250 if coverage is greater than \$100,000
 - \$10,000 deductible for residential risks

This provision is not effective today. Wait for FEMA Guidance.

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2014 and Later


- Lender penalty increases from \$350 to \$2,000 with no annual cap



**HFIAA
No Change**

HFIAA Surcharge of \$25 or \$250

- Not addressed in BW12
- Under HFIAA:
 - \$25 surcharge for primary residential
 - \$250 surcharge for non-primary residential and all non-residential risks
- Per FEMA on 5/19/14
 - Plan to implement this spring of 2015
 - Surcharge not part of the 18% max
 - You can have 18% plus \$250



This provision is not effective today. Wait for FEMA Guidance.

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HFIAA Detached Structures



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HFIAA Detached Structures

- "...flood insurance shall not be required, in the case of any residential property, for any structure that is a part of such property but is detached from the primary residential structure of such property and does not serve as a residence"
- But, the policy must state a waiver....

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HFIAA Detached Structures

- "Although you may not be required to maintain flood insurance on all structures, you may still wish to do so, and your mortgage lender may still require you to do so to protect the collateral securing the mortgage. If you choose to not maintain flood insurance on a structure, and it floods, you are responsible for all flood losses relating to that structure."

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HFIAA Detached Structures



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HFIAA Substantial Improvement

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HFIAA Substantial Improvement


- "Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed.

HFIAA Substantial Damage


- "Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred."

HFIAA Substantial Improvement

- How “substantial improvement” affects a policyholder
- Pre-BW12 threshold
 - 50%
- BW12 threshold
 - 30%
- HFIAA threshold
 - 50%




Big "I" FLOOD
in, Above and Outside of the NFIP




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Response is everything.

How do Big "I" Flood and Selective work for me?

- Voice in NFIP Legislation:
 - Selective is the only WYO to support Big "I" advocacy efforts
 - Revenue goes towards funding Big "I" legislative efforts relating to the NFIP
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 - Unique, state of the art, online processing and quoting system
 - On site book roll-over assistance



Big "I" FLOOD
in, Above and Outside of the NFIP



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