

## 209 CMR 57.00: FLOOD INSURANCE

### Section

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#### 57.01: Purpose and Scope

(1) Purpose. The purpose of 209 CMR 57.00 *et seq.* is to implement the requirements of M.G.L. c. 183, § 69 when you require a purchaser or owner of residential property to purchase or pay for flood insurance coverage on residential property located in a designated special flood hazard area.

(2) Model Form. You must use the form of notice prescribed under 209 CMR 57.05(3) and provide such information as required under the notice by 209 CMR 57.00 *et seq.*

#### 57.02: Definitions

The following definitions apply to 209 CMR 57.00 *et seq.* and the notice prescribed under 209 CMR 57.05:

Commonwealth means the Commonwealth of Massachusetts.

Creditor means a person or entity that holds or controls, partially, wholly, indirectly, directly or in a nominee capacity, a mortgage loan securing a residential property, including, but not limited to, an originator, holder, investor, assignee, successor, trust, trustee, nominee holder, Mortgage Electronic Registration System or mortgage servicer, including the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; provided that “creditor” shall also include any servant, employee or agent of a creditor; and provided, further, that the Massachusetts Housing Finance Agency and the Massachusetts Housing Partnership Fund established in chapter 708 of the acts of 1966 and in section 35 of chapter 405 of the acts of 1985 respectively, shall not be a creditor.

Creditor’s Representative means a person who has the authority to negotiate and approve the terms of and modify a mortgage loan, or a person who, under a servicing agreement, has the authority to negotiate and approve the terms of and modify a mortgage loan.

Designated Loan means a mortgage loan secured wholly or partially by a mortgage on residential property located in a special flood hazard area and in which the sale of flood

insurance is available under the National Flood Insurance Act of 1968 (42 U.S.C. §§4001-4131).

Division of Insurance means the Division of Insurance, including the Commissioner of Insurance, established under M.G.L. c. 26, § 1.

Flood shall have the same meaning as set forth under the Federal Emergency Management Agency's National Flood Insurance Program Standard Flood Insurance Policy Dwelling Form.

Full Value means the maximum amount of credit available to the borrower under the terms of the home equity line of credit agreement.

Insurance Producer means an insurance producer as defined in section 162H of chapter 175 of the General Laws.

Mortgage Loan means a loan to a natural person made primarily for personal, family, or household purposes secured wholly or partially by a mortgage on residential property.

National Flood Insurance Program means the flood insurance program established under the National Flood Insurance Act of 1968 (42 U.S.C. §§ 4001-4131).

Notice of Flood Insurance Coverage means the written notice prescribed under 209 CMR 57.05 including such information as required under the notice by 209 CMR 57.00 *et seq.*

Principal Mortgage Balance means the portion of the original mortgage loan that remains unpaid, which does not include accrued interest or any other charges.

Residential Property means real property located in the Commonwealth, on which there is a dwelling house with accommodations of 4 or fewer separate households and occupied, or to be occupied, in whole or in part by the obligor on the mortgage debt; provided that "residential property" shall include residential property in which the creditor or creditor's representative will take a security interest, in whole or in part, as collateral for a commercial loan.

Special Flood Hazard Area means the area in the flood plain within a community having at least a 1 percent chance of flooding in any given year, as designated by the Director of the Federal Emergency Management Agency.

You means any association or corporation chartered by the Commonwealth under the provisions of M.G.L. chs. 168, 170, 171, or 172 or by similar authority of any state of the United States other than the Commonwealth; a national banking association, savings and loan association, or savings bank which exists by authority of the United States; a credit union organized under the provisions of the Federal Credit Union Act; a mortgage lender licensed under M.G.L. c. 255E, § 2; or any other creditor or creditor's representative.

#### 57.03: Limitations on Required Flood Insurance

(1) Limitations on Required Coverage. You cannot require in a mortgage, note, or otherwise a purchaser or owner of residential property to purchase or pay for flood insurance on the property that:

- (a) is at a coverage amount exceeding the outstanding principal mortgage balance at the beginning of the year that the flood insurance policy shall be in effect and, in the case of a home equity line of credit, home equity loan, or second or subsequent mortgage, the full value of the credit line, outstanding principal on the equity loan, or second or subsequent mortgage on that property at the beginning of the year that the flood insurance policy shall be in effect;
- (b) includes coverage for contents; or
- (c) includes a deductible of less than \$5,000.

(2) Coverage Adjustment upon Policy Renewal. The owner of the residential property may request a reduction in the amount of flood insurance coverage upon renewal of the flood insurance policy to an amount equal to the outstanding principal mortgage balance at the beginning of the year that the policy shall be in effect. You are required to accept such reduction upon request by the owner.

#### 57.04: When to Provide the Notice of Flood Insurance Coverage

(1) Notice Requirement. At the time you require a purchaser or owner of a residential property to purchase or pay for flood insurance on the property in a designated loan transaction, you must provide a Notice of Flood Insurance Coverage to the purchaser or owner in accordance with 209 CMR 57.05.

(2) Delivery and Timing of Notice. You must mail or deliver the Notice of Flood Insurance Coverage to the purchaser or owner of the residential property by the same method, and at the same time, that the Notice of Special Flood Hazards issued pursuant to 42 U.S.C. § 4012a(b)(6) is provided to such purchaser or owner.

(3) Alternate Method of Notice. If the creditor's representative has provided the Notice of Flood Insurance Coverage to the purchaser or owner, the creditor will not be required to provide an additional Notice of Flood Insurance Coverage for the same transaction. The creditor is responsible for ascertaining whether the creditor's representative has provided the Notice of Flood Insurance Coverage and must retain a record of a written assurance from the creditor's representative that, within a reasonable time before the completion of the transaction, the creditor's representative provided such notice to the purchaser or owner.

(4) Insurance Producers.

- (a) An insurance producer required to provide notice as set forth in M.G.L. c. 183, § 69 must provide such notice to the purchaser or owner of the residential property in clear and conspicuous print at the time the purchaser or owner is

notified of the need to purchase or pay for flood insurance or at the time the purchaser or owner submits an application for flood insurance.

- (b) The Division of Insurance shall administer and enforce the requirements set forth in 209 CMR 57.04(4)(a), including the determination of the form of notice to be provided by an insurance producer.

(5) Notice Not Required at Policy Renewal.

- (a) Except as provided under 209 CMR 57.04(5)(b), you are not required to provide the Notice of Flood Insurance Coverage to the insured owner of the residential property on an annual basis at the time the owner is notified of the need to renew the existing flood insurance policy.
- (b) You must provide the Notice of Flood Insurance Coverage to the insured owner of the residential property at the time the owner is notified of the need to renew the existing flood insurance policy if there is an increase, extension, or renewal of the existing mortgage loan, or a new mortgage loan, made at that time, or the addition of new coverage or an increase in the amount of flood insurance coverage in excess of the policy amount which was in effect for the expiring policy period.

(6) Lender Placed Insurance. If during the term of the designated loan, you determine that the designated loan is not covered by flood insurance, or if the flood insurance coverage is determined to be deficient pursuant to applicable guidelines for the National Flood Insurance Program, you must provide the Notice of Flood Insurance Coverage to each owner of the property at the time you provide notice to such owner of the requirement to obtain the necessary amount of flood insurance prior to the forced placement of insurance.

57.05 Format of Notice of Flood Insurance Coverage

(1) Clear and Conspicuous Standard. You must make the Notice of Flood Insurance Coverage clearly and conspicuously.

(2) Contents of the Notice. You must include the following in the Notice of Flood Insurance Coverage:

- (a) the name of the applicant(s);
- (b) the address of the residential property to be insured;
- (c) your name and address as the provider of the notice;
- (d) a statement on the limitations on required flood insurance coverage as set forth in M.G.L. c. 183, § 69; and
- (e) a section for the applicant(s) to provide their signature to acknowledge receipt of the Notice of Flood Insurance Coverage.

(3) Form of Notice. If you require in a mortgage, note, or otherwise a purchaser or owner of a residential property to purchase or pay for flood insurance on the property, you must provide a Notice of Flood Insurance Coverage to each purchaser or owner of the property which strictly conforms to the following:

**MASSACHUSETTS  
NOTICE OF FLOOD INSURANCE COVERAGE**

Applicant(s): \_\_\_\_\_

Property Address: \_\_\_\_\_

This Notice of Flood Insurance Coverage (Notice) is being provided by:

Creditor: \_\_\_\_\_

Creditor's Representative: \_\_\_\_\_

In this Notice, the term 'we' refers to [CREDITOR].

- Please note that the flood insurance we are requiring you to purchase will only protect your creditor's or lender's interest in your property.
- Massachusetts law prohibits a creditor or lender from requiring you to purchase flood insurance in excess of the amount of your principal mortgage and, in the case of a home equity line of credit, home equity loan or second and subsequent mortgage, the full value of the credit line, outstanding principal on the equity loan or second or subsequent mortgage on that property at the beginning of the year for which the policy will be in effect.
- **The insurance may not be sufficient to pay for many needed repairs after a flood and may not compensate you for your losses in the property due to the flood.**
- **If you wish to protect your home or investment, you may want to purchase more flood insurance than the amount we are requiring you to buy.**

You should review your flood insurance coverage with a licensed insurance professional to determine if additional coverage is appropriate for your circumstances.

Please retain a copy of this Notice because it contains important information about your flood insurance coverage.

**ACKNOWLEDGMENT OF RECEIPT**

Each of the undersigned acknowledges receipt of a copy of the above Notice of Flood Insurance Coverage.

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Co-Applicant Signature

\_\_\_\_\_  
Date

REGULATORY AUTHORITY:

209 CMR 57.00: M.G.L. c. 183, § 69.