

FLASH BULLETIN

MAIA Bulletin # 2015-12

September 17, 2015

Mandatory Notice Requirement for Licensed Producers Selling Flood Insurance

Insurance Commissioner Daniel R. Judson has issued Bulletin 2015-07 - Mandatory Notice Requirement for Licensed Producers Selling Flood Insurance. Below is the text of the entire bulletin:

This Bulletin is to notify insurance producers licensed in Massachusetts of new requirements regarding the sale of flood insurance on properties located in the Commonwealth.

Chapter 177 of the Acts of 2014, An Act Further Regulating Flood Insurance (the "Act"), was signed into law on July 23, 2014 and became effective on November 20, 2014. The Act amends Massachusetts General Laws Chapter 183 by adding a new Section 69 ("Section 69"), which prohibits creditors and creditors' representatives from requiring flood insurance coverage in an amount greater than the balance of a residential mortgage loan, or that includes coverage for contents, or that includes a deductible of less than \$5,000. The provisions of Section 69 apply to residential first mortgage loans, subordinate liens, home equity lines of credit, and home equity loans. Section 69 also requires creditors, creditors' representatives, and insurance producers to provide borrowers with a notice about flood insurance coverage before it is purchased.

As noted above, the Act mandates that insurance producers licensed by the Division of Insurance ("Division"), who are engaged in the sale of flood insurance to an owner or a purchaser of residential property of one to four units in Massachusetts who are required by a creditor or creditor's representative to purchase or pay for flood insurance on the property, must provide to the owner or purchaser of the property in question a notice regarding the flood insurance coverage requirements set forth in Section 69 at the time the purchaser or owner submits an application for flood insurance.

In order to implement the provisions of the Act, the Division of Banks issued regulation 209 CMR 57.00, Flood Insurance, (the "Regulation"), which will become effective on September 11, 2015. Pursuant to the Regulation, an insurance producer must provide written notice to the purchaser or owner of the residential property in clear and conspicuous print of the flood insurance coverage requirements set forth in Section 69. The Regulation further provides that the Division of Insurance will administer and enforce the requirements set forth in 209 CMR 57.04(7), including the determination of the form of notice to be provided by an insurance producer to the purchaser or owner of the residential property where flood insurance is being required.



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Therefore, pursuant to the Regulation and this Bulletin, any insurance producer who is providing flood insurance to a purchaser or owner must notify the purchaser or owner in writing of the flood insurance coverage requirements set forth in Section 69 at the time the purchaser or owner submits an application for flood insurance to the producer. The producer must have the applicant sign an acknowledgement indicating that the applicant received the required disclosure information and the producer must retain a copy of the signed acknowledgement form.

In order to comply with this requirement, producers must use the Division's "Flood Insurance Notice and Acknowledgement Form" (the "Notice Form"), a copy of which is attached to this Bulletin. A copy of the Notice Form can also be downloaded from the Division's website. Please note that while the Notice Form has a section requiring the signature of the purchaser or owner to acknowledge receipt of the Notice Form from the producer, the producer is not required to obtain such signature from the purchaser or owner when the producer is providing the Notice Form prior to the forced placement of flood insurance pursuant to 209 CMR 57.04(5).

While the Act prohibits a lender from requiring an owner or purchaser of residential property to purchase flood insurance coverage over the amount of the outstanding principal mortgage balance, purchase contents coverage, or require a deductible of less than \$5,000, the Division anticipates that all insurance producers engaged in the sale of flood insurance will explain fully the potential ramifications of underinsuring a property, failing to purchase contents coverage, and the impact of a high deductible to all prospective purchasers of flood insurance. The failure of producers to comply with the requirements of Section 69 and this Bulletin may subject such producers to fines and other enforcement proceedings by the Division.

Questions regarding this Bulletin should be directed to Robert A. Whitney, Deputy Commissioner and General Counsel, at 617-521-7308, robert.a.whitney@state.ma.us.

Editor's Note: We have included an image of the Flood Insurance Notice and Acknowledgement Form on the following pages. For a higher quality, printable version of the form, please click [here](http://www.massagent.com/info/floodform.pdf) (www.massagent.com/info/floodform.pdf).

**DIVISION OF INSURANCE
FLOOD INSURANCE NOTICE AND
ACKNOWLEDGEMENT FORM**

Purchaser/Owner(s): _____

Property Address: _____

This Notice is being provided by:

Insurance Producer: _____ MA License No. _____

Insurance Agency: _____ MA License No. _____

NOTICE:

Licensed insurance producers in Massachusetts who are engaged in the sale of flood insurance on properties located in the Commonwealth are required to provide the following notice to owners or purchasers of residential property of 1-4 units who apply to purchase flood insurance, where such insurance is being required by their lender or their lender's representative. This Notice is being provided by your insurance producer and/or insurance agency.

PLEASE NOTE: Your lender has determined that the above address is located in a flood hazard area. As a result, your lender is requiring that you purchase a minimum level of flood insurance on the property. This notice provides important information about what protection this insurance will and will not provide.

- The flood insurance your lender is requiring you to purchase will *only* protect your creditor's or lender's interest in your property; it will not protect your interest in the 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.
- Purchasing flood insurance only to these limits may not be sufficient to pay for many needed repairs after a flood and may not fully 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 that your lender is requiring you to buy.

ACKNOWLEDGEMENT:

I understand that my lender cannot require me to purchase flood insurance above the amount of my principal mortgage balance, or purchase coverage for the contents of my property, or require a deductible of less than \$5,000. I understand that if I choose to purchase flood insurance only to the limit of my principal mortgage balance, that I, and not the lender or insurance producer, will be responsible for any loss over that amount. I also understand that having a high deductible or failing to purchase coverage for the contents of my property could expose me to a significant loss should a flood event occur. My insurance producer has explained my flood insurance options and I understand that I am free to purchase flood insurance in an amount above the principal mortgage balance, with a lower deductible, and contents coverage.

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 on Flood Insurance Coverage Requirements.	
_____	_____
Purchaser/Owner Signature	Date
_____	_____
Co Borrower/Co-Owner Signature	Date