



## Agenda

- ▶ Emerging & Ongoing Compliance Challenges
- ▶ Florida Developments – Map Revisions, Disclosures, Citizens Mandate
- ▶ 2024 FDPA Enforcement Actions Overview
- ▶ Upcoming Developments to Watch
- ▶ Flood Compliance Resources
- ▶ Audience Q&A

## Emerging & Ongoing Flood Compliance Challenges

- ▶ Lender Placed Insurance – Map-Ins, Cancellations, Effective Date
- ▶ Detached Structures: Determinations & Notice Requirements
- ▶ Contents & Cross Collateralization Exclusions Provisions in Commercial Loans
- ▶ Determining Insurable Value
- ▶ Leaseholder Agreements
- ▶ Commercial Condos Requirements

## Force-Placement: Advance Map-Ins & Cancellations

- ▶ **Advance Map-Ins:** When a lender or its servicer receives advance notice that a property will be remapped into an SFHA, the effective date of the remapping becomes the date on which the lender or its servicer determines whether the property is covered by sufficient flood insurance. See [Force Placement Q&A 16](#).
  - ▶ There may be a lag between the date of the map-in (even if advance notice provided) and when your institution determines sufficiency, especially if your portfolio contains a lot of affected properties.
  - ▶ Be careful of backdating these policies as it may constitute a UDAAP violation to have the borrower pay for coverage when they did not know they were required to have insurance and because LPI typically only covers the lender's liability (which is different from a lapse). See [Force Placement Q&A 9](#).
- ▶ **LOMA:** If you have a Letter of Map Amendment (LOMA), determining the cancellation date for the LPI can be tricky if there is a lag between the LOMA effective date and when notified by the vendor. The LOMA effective date may be best because it is more favorable to the consumer. Same for map-out notifications. If delays are consistent, need to speak with your vendor about expectations.

## Force-Placement: Cancellations and Effective Dates

- ▶ When is coverage required if the servicer receives advance notice of a map-in?
  - ▶ When a lender or its servicer receives advance notice that a property will be remapped into an SFHA, the effective date of the remapping becomes the date on which the lender or its servicer must determine whether the property is covered by sufficient flood insurance. See [Force Placement Q&A 16](#).
  - ▶ But given the long process that goes with reacting to a map change and determining insufficiency for entire loan portfolios, it is impractical to require that lenders align the timing of their determination to coincide with a future effective date of a map change. A lender's response to a map change should follow the cadence described in the Reform Act where placement of coverage follows the notice to the borrower which follows the determination of insufficiency. We have relayed this to the agencies for consideration.
- ▶ If the map change was in the past be careful with backdating the policies. While the Q&As do allow a lender to backdate to the date of no or insufficient coverage, it may constitute an UDAAP (unfair) to have the borrower pay for coverage when they did not know they were required to have insurance. See [Force Placement Q&A 9](#).
  - ▶ "A lender's or servicer's frequent need to purchase policies on a borrower's behalf having coverage that precedes the date of purchase may, depending upon the facts and circumstances, indicate that there are weaknesses within the lender's or servicer's compliance management system."
  - ▶ Want to treat map-ins and lapses in coverage different because one is outside of the borrower's control (map-ins) v. within the borrower's control (lapses).

## Contents & Cross Collateralization Exclusions Provisions in Commercial Loans

- ▶ When a loan is secured by a building and its contents, and the building is in an SFHA in a participating community, flood insurance is required for both the building and its contents. See [Other Security Interest Q&A 7](#).
- ▶ Typically, in commercial contracts, lenders take all contents as collateral.
- ▶ But some lenders do not want to require the borrower to procure flood insurance for contents and have developed ways to get around the FDPA requirement.
- ▶ Previously, lenders asserted that because they were only taking contents as security only out of an abundance of caution and they did not perfect the security interest through a UCC filing, the FDPA obligations were not triggered. But regulators struck down that argument in the 2022 Q&As, as stated in [Other Security Interest Q&A 9](#).
- ▶ As an alternative, some lenders are attaching a rider to the loan documents that amends the language of a loan agreement if the improved real property is located in an SFHA.
- ▶ There is no written guidance on this issue. But some lenders have been penalized by federal regulators (mainly FDIC) for not obtaining contents coverage in these instances, stating that they can not use these riders to avoid their obligations under the FDPA.
- ▶ ABA has reached out to the other regulators for additional guidance on this issue.

## Detached Structures: Determinations & Notice Requirements

- ▶ Must a lender obtain a flood determination for detached structures? – YES
- ▶ When an institution makes, increases, extends, or renews any loan secured by improved real estate or by a mobile home, it must use the standard flood hazard determination form (SFHDF) developed by FEMA to determine whether the building or mobile home offered as security property is or will be located in an SFHA.
- ▶ The detached exemption applies to the purchase of flood insurance, not to the other requirements under the FDPA. (See 12 CFR 339.4)
- ▶ Lender must also still provide notice to the borrower. It may be confusing to the borrower to send a notice that says you are required to have flood insurance, while also saying it does not apply due to the detached structure exemption.
- ▶ But there is language in the notice that states: *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 not to maintain flood insurance on a structure and it floods, you are responsible for all flood losses relating to that structure.*

## Other Flood Compliance Challenges

- ▶ **Determining Insurable Value:** In calculating insurable value, may use an appraisal based on a cost-value (not market-value) approach, a construction-cost calculation, the insurable value used on a hazard insurance policy (recognizing adjustments may be necessary), the replacement cost value listed on the flood insurance policy declarations page, or any other reasonable approach, so long as it can be supported. [Q&A Amount 2.](#)
  - ▶ Some states, like Florida, do not allow lenders/servicers to request RC estimator.
  - ▶ Regulators have also stated that lenders should not rely on FEMA's RCV listed on dec page because it "is not intended to be used as a basis for determining the property's insurable value."
- ▶ **Commercial Condos:** Since NFIP does not offer policies, not subject to mandatory purchase requirement. But still need to consider safety and soundness.
- ▶ **Leaseholder Agreements:** Since the bank does not take an interest in the actual building, and instead is taking an interest in the lease and the rights associated with it, not subject to the MPR. But bank may be contractually required to obtain flood insurance.

## Florida Developments – Map Revisions

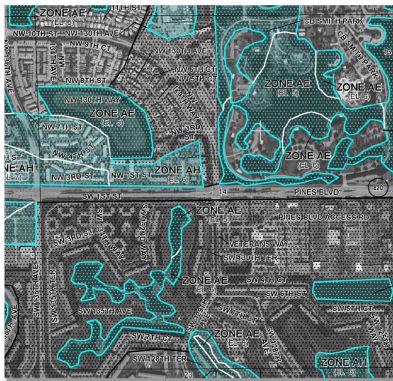
- ▶ Since 2018, 65% of Florida counties have received revised FEMA flood maps, 25 of these counties in the last 3 years. *Note:* Map revisions only revise a part of the county.
- ▶ July 2024: FEMA [remapped hundreds of thousands of properties](#) into special flood hazard areas across Florida, but mainly in Southeast.
  - ▶ Miami-Dade County: Map revisions put about 252,015 structures into SFHA, an increase of 45,420 structures from previous maps.
  - ▶ Palm Beach County: Map revisions put about 34,154 properties in the flood zone, an increase of 5,800 properties.
  - ▶ [Broward County](#): adds about 89,000 parcels into SFHA.
- ▶ Sarasota, Indian River (Vero Beach area), Collier (Naples area) saw a reduction in 2024.
- ▶ Lee County, FL was [stripped of community-wide flood insurance discounts](#) due to their failure to rebuild based on FEMA's flood damage prevention measures.
- ▶ Magnitude of change is unprecedented.
- ▶ More may be on the way (including Miami-Dade in 2025).

## Top 10 Map Revisions by Rank of # Properties Added to the SFHA (2018 – 2025, YTD)

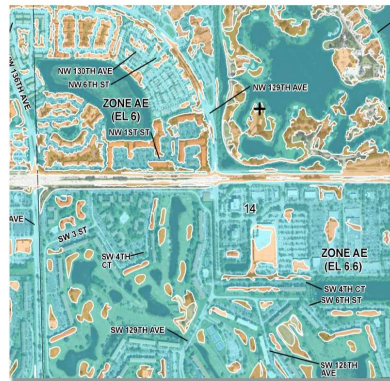
State	Date of Revision	County	Properties Mapped In
FL	7/31/2024	BROWARD COUNTY	118,310
FL	11/17/2022	LEE COUNTY	15,372
FL	12/20/2024	PALM BEACH COUNTY	12,732
TX	8/15/2019	GALVESTON COUNTY	12,224
LA	9/7/2023	TERREBONNE PARISH	10,335
FL	12/15/2022	CHARLOTTE COUNTY	9,286
TX	12/30/2020	BRAZORIA COUNTY	9,268
FL	10/24/2024	BAY COUNTY	8,389
FL	10/7/2021	HILLSBOROUGH COUNTY	8,328
FL	3/27/2024	SARASOTA COUNTY	7,536

Information courtesy of CoreLogic

## Map Revisions: Broward County, FL



Before: 08/18/2014



After: 10/31/2024

Graphics courtesy of CoreLogic

## Top 10 Map Revisions by Rank of # Properties Removed from the SFHA (2018 – 2025, YTD)

State	Date of Revision	County	Properties Mapped Out
LA	2/2/2018	JEFFERSON PARISH	55,927
SC	3/23/2021	BEAUFORT COUNTY	32,503
SC	1/29/2021	CHARLESTON COUNTY	26,265
<b>FL</b>	<b>2/8/2024</b>	<b>COLLIER COUNTY</b>	<b>22,595</b>
<b>FL</b>	<b>7/31/2024</b>	<b>BROWARD COUNTY</b>	<b>21,211</b>
<b>FL</b>	<b>3/27/2024</b>	<b>SARASOTA COUNTY</b>	<b>19,360</b>
NC	6/19/2020	DARE COUNTY	16,423
GA	1/5/2018	GLYNN COUNTY	15,512
<b>FL</b>	<b>11/17/2022</b>	<b>LEE COUNTY</b>	<b>15,139</b>
<b>FL</b>	<b>12/15/2022</b>	<b>CHARLOTTE COUNTY</b>	<b>14,637</b>

Information  
courtesy of  
CoreLogic

## Florida Developments – Disclosures

- ▶ As of October 1, 2024, Florida law mandates that sellers of residential real estate provide buyers with a "Flood Disclosure" form before executing a sales contract.
- ▶ Flood Disclosure Forms must include:
  - ▶ **Flood Insurance Disclaimer:** A statement clarifying that homeowners' insurance policies do not cover flood-related damage and encouraging buyers to consider obtaining separate flood insurance.
  - ▶ **Disclosure of Past Flood Claims:** Information on whether the seller has filed any insurance claims related to flood damage on the property, including claims with the National Flood Insurance Program.
  - ▶ **Disclosure of Federal Assistance:** Information on whether the seller has received federal assistance for flood damage to the property, such as aid from the Federal Emergency Management Agency (FEMA).

## Florida Developments – Citizens Mandate

- ▶ Citizens Property Insurance Corporation, Florida's state-backed insurer of last resort, has implemented phased requirements mandating flood insurance coverage for its personal residential policyholders with wind coverage.
- ▶ Aimed at enhancing financial protection against flood-related damages.
- ▶ Implementation Timeline
  - ▶ January 1, 2024: policies insuring properties with a dwelling replacement cost of \$600,000 or more are required to have flood insurance.
  - ▶ January 1, 2025: extends to policies with replacement cost of \$500,000 or more.
  - ▶ January 1, 2026: extends to policies with replacement cost of \$400,000 or more.
  - ▶ January 1, 2027: all personal residential policies with wind coverage, regardless of value.
- ▶ Exemptions: condos unit owner policies, tenant contents policies, policies that exclude windstorm or hail coverage.
- ▶ Required flood insurance coverage must be equal to or greater than the dwelling value (Coverage A) specified in the Citizens policy up to the limit of the NFIP at \$250k.

## Upcoming Developments to Watch

- ▶ [FEMA's NFIP Installment Payment Plan](#) Implementation
- ▶ [FEMA's Direct to Consumer Quoting Tool](#)
- ▶ [FEMA's New NFIP Standard Flood Insurance Policy \(SFIP\) Form](#)
- ▶ FEMA/NFIP Reforms
  - ▶ Senate Banking Committee: [Addressing America's National Flood Insurance Program](#)
  - ▶ Executive Order Establishes [Council to Assess the Federal Emergency Management Agency](#)
- ▶ Agencies Response to [EGRPRA Comment Letter \(Flood Insurance\)](#)
- ▶ State Developments
  - ▶ [New York](#)
  - ▶ [Connecticut](#)



## 2024 FDPA Enforcement Actions Overview

AGENCY	DATE	AMOUNT
FDIC	11/26/2024	\$6,000
FDIC	11/20/2024	\$10,000
FDIC	10/28/2024	\$1,500
FDIC	10/09/2024	\$5,250
FDIC	05/15/2024	\$1,500
FDIC	05/07/2024	\$447,125
FDIC	04/04/2024	\$13,000
FDIC	02/12/2024	\$80,500
FDIC	01/18/2024	\$2,000
FRB	09/30/2024	\$31,000
FRB	08/28/2024	\$70,000
FRB	07/18/2024	\$4,800
FRB	02/09/2024	\$9,600

### Reasons for CMPs:

- Failure to follow force placement procedures.\*
- Failure to provide timely notice to borrower and/or servicer as to whether flood insurance was available for the collateral.
- Failure to require borrowers to obtain flood insurance covering contents pledged as security for the loan when contents are owned by a guarantor who is not the borrower.
- Failure to obtain *adequate* flood insurance.
- Failure to provide borrower with notice following a MIRE event.
- Failure to provide timely notice of force placement to the borrower.

*\*most common violation*

## Flood Compliance Resources

- ▶ Agency Resources
  - ▶ [2022 Interagency Questions and Answers Regarding Flood Insurance](#)
  - ▶ [FEMA Flood Insurance Manual](#) – Effective April 1, 2024
  - ▶ [Federal Reserve: Regulation H Flood Disaster Protection Act](#)
  - ▶ [FDIC: Flood Disaster Protection Act](#)
  - ▶ [OCC: Flood Disaster Protection Act](#)
- ▶ ABA Resources
  - ▶ [ABA Reference Guide to Flood Compliance](#)
  - ▶ [ABA Training: Flood Disaster Protection Act for Compliance Professionals](#)
  - ▶ [ABA Webinar: Ensuring Flood Compliance for Commercial Loans](#)
- ▶ Conferences
  - ▶ [National Flood Association Annual Conference](#)
  - ▶ [APCIA National Flood Conference](#)