

The GUARDIAN

News and Views From **WNC** Insurance Services, Inc.

2014 Edition Number 1

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Who is WNC?

For additional information or clarification regarding any of the articles published in *The Guardian*, please contact Ms. Paula Anders, WNC Marketing Manager at panders@wncfirst.com.



*Andy Williams, Senior Vice President,
Business Development*

WNC is happy to announce the return of Andy Williams as Senior Vice President, Business Development.

Andy previously worked for WNC from 1992-1997 and brings 20+ years of client management experience; all in the mortgage industry. He can be reached at Andy.Williams@WNCFirst.com or (214) 415-1336.

From The CEO

2014 Can't Come Too Soon

by Carl L. Herrmann III, CEO
President, Financial Services Division



*Carl L. Herrmann III, CEO
President, Financial
Services Division*

As we put 2013 behind us, I can't help but say "thank goodness it's over." In fact, I'll bet I'm joined by many of you in this sentiment. Maybe all of us for the same or different reasons, but there's no one in our industry(s) that hasn't felt 2013's winds of change.

I'm one of those who welcomes change and, in fact, WNC First is built to accommodate change quickly and effectively. But, please, you know it's too much when the winds of change are Cat 5 hurricane force winds and everything in their path is blown down or severely bent, and it appears the near future prediction is for more of the same.

What these winds have revealed to us is a new view of the future to plan for and many creative ways to move forward.

I want to thank those whom I've had the good fortune to talk to this year that have helped shape my view of the future. For those I haven't met with yet, I look forward to hopefully having the chance to discuss what's on your mind.

So with heartfelt enthusiasm, I want to wish you all a "Happy New Year"! Thank goodness.

From The Co-President

One Year Later

by Norman G. Heinrich
President, Voluntary Division



*Norman G. Heinrich
President, Voluntary
Division*

One year has gone by since Super Storm Sandy made landfall in the Northeast and so much still remains to be done to bring the affected areas back. It just takes so long to rebuild and get back on your feet after such a devastating event like Sandy.

Due to the Sandy losses and the National Flood Insurance Program (NFIP) debt of over \$25 billion, the NFIP implemented many changes that took effect in October 2013 that forced agents and insureds to look for alternative flood markets.

Numerous new primary flood programs surfaced to address the issues that the changes were causing in the marketplace. However, due to strong negative public reaction to the changes, in late October, key House and Senate members reached a deal to delay the changes that were raising premiums for many homeowners. The new legislation calls for a four-year delay in most rate increases and requires FEMA to complete an affordability study and propose regulations that address affordability issues.

At WNC, we believe in private flood insurance alternatives to the NFIP and have developed numerous programs for our clients and their customers. We will continue to look for ways to help provide the best possible flood related solutions while maintaining strong and consistent flood insurance programs.

I look back at the challenges all of us faced early on in 2013 and take pride in how we worked our way through the handling of the Super Storm Sandy losses. Our private flood programs not only survived the effects of Sandy but emerged stronger with significant growth in all areas. I look forward to 2014 and the many opportunities and challenges we will contend with.

Loans in Areas Having Special Flood Hazards

by Jordan N. Gray, Esq., Senior Vice President, Compliance and Legal Affairs

On October 30, 2013, the Office of the Comptroller of the Currency (“OCC”), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (“FDIC”), the Farm Credit Administration (“FCA”), and the National Credit Union Administration (“NCUA”) (collectively, the “Agencies”) issued a proposal to amend their regulations regarding loans in areas having special flood hazards. The proposed regulations would implement provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 (the “Act”).

The proposal establishes requirements under the Act for escrowing flood insurance payments, accepting private flood insurance coverage, and force-placing flood insurance. The proposal clarifies the Agencies’ flood insurance regulations with respect to other

amendments made by the Act and it makes technical corrections. The OCC and the FDIC are proposing to integrate their flood insurance regulations for national banks and Federal savings associations and for State non-member banks and State savings associations, respectively. Published in the Federal Register, Vol. 78, No. 210, beginning on page 65108, the proposal invites public comment, which must be received on or before December 10, 2013.

Here’s a summary of the proposal.

First, the proposal generally requires regulated lending institutions, or servicers acting on their behalf, to escrow premiums and fees for flood insurance for any loans secured by residential improved real estate or a mobile home, unless the institution qualifies for the statutory exception. Except as may be required under applicable State law, a regulated lending institution is not required to escrow if it has total assets of less than \$1 billion and, as of the Act’s date of enactment, July 6, 2012, was not required by Federal or State law to escrow taxes or insurance for the term of the loan and did not have a policy to require escrow of taxes and insurance. The

Agencies’ proposal implements the exception substantially as set forth in the Act.

Second, the proposal requires regulated lending institutions to accept private flood insurance that meets the statutory definition to satisfy the mandatory purchase requirement. The proposal also specifically requests comment on whether the Agencies should use their authority under the Flood Disaster Protection Act (“FDPA”) to include a provision in the final rules that expressly permits regulated lending institutions to accept a flood insurance policy issued by a private insurer that does not meet the Act’s definition of “private flood insurance” to satisfy the FDPA’s general mandatory purchase requirement. The Agencies are also soliciting comment on what criteria the Agencies might require for such a policy. Alternatively, the Agencies solicit comment on whether it is appropriate to include a provision in the final rules that specifically requires regulated lending institutions to accept only policies issued by private insurers that meet the statutory definition, and if included, what would be the effect of such a provision on the availability of privately issued flood insurance.

Third, the proposal includes new and revised sample notice forms and clauses. Specifically, the proposal amends the current Sample Form of Notice of Special Flood Hazards and Availability of Federal Disaster Relief Assistance, set forth as Appendix A in the Agencies’ respective regulations, to add language concerning the availability of private flood insurance coverage (pursuant to the notice requirements under section 100239 of the Act) and the escrow requirement. The proposal also adds an additional sample notice form, Notice of Requirement to Escrow for Outstanding Loans, as Appendix B to assist institutions in complying with the proposal’s requirement to inform existing borrowers about the new escrow requirement. An institution would provide this notice for existing loans when neither the Notice of Special Flood Hazards and Availability of Federal Disaster Relief Assistance nor the notice of force-placement is provided. Finally, as Appendix C, the Agencies are proposing a sample clause regarding the new escrow requirement that may be included with the force-placement notice.

Fourth, the proposal would amend the force-placement of flood insurance provisions to clarify that a lender or its servicer has the authority to charge a borrower for the cost of flood insurance coverage commencing on

Flood Insurance Escrow	<ul style="list-style-type: none"> › Requires regulated lenders or servicers to escrow for flood premiums and fees for loans secured by residential real estate or mobile home unless institution qualifies for exception, i.e. its total assets < \$1bn and, as of Biggert-Waters enactment on 7/6/2012, was not required by Federal or State law to escrow taxes or insurance for the term of the loan and did not have a policy to require such escrow.
Private Flood Insurance	<ul style="list-style-type: none"> › Requires regulated lenders to accept private flood insurance as defined by the Flood Disaster Protection Act (FDPA). › Requests comment if Agencies can invoke authority under FDPA to accept private flood that does not meet FDPA definition & criteria.
Flood Notices & Forms	<ul style="list-style-type: none"> › Proposes new and revised sample notice forms & clauses, specifically, Sample Notice of Special Flood Hazards and Availability of Federal Disaster Relief Assistance by mentioning availability of private flood insurance and the escrow requirement. › Adds Notice of Requirement to Escrow for Outstanding Loans to aid compliance and inform existing borrowers. › Proposes sample clause regarding the new escrow requirement to be included with the force-placement notice.
Force-Placed Flood	<ul style="list-style-type: none"> › Amends flood force-placement provisions to clarify that a lender or servicer has authority to charge a borrower for the cost of flood insurance coverage commencing on the date when borrower's coverage lapsed or became insufficient. › Stipulates circumstances under which a lender or its servicer must terminate force-placed flood and refund payments to a borrower.
Technical Corrections	<ul style="list-style-type: none"> › Proposes certain technical corrections, e.g. change references to the head of the Federal Emergency Management Agency (FEMA) from "Director" to "Administrator".
Flood Regulations Integration	<ul style="list-style-type: none"> › OCC and FDIC propose to integrate their flood insurance regulations for national banks and Federal savings associations and for State non-member banks and State savings associations, respectively.

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the date on which the borrower's coverage lapsed or became insufficient. The proposal also would stipulate the circumstances under which a lender or its servicer must terminate force-placed flood insurance coverage and refund payments to a borrower. It also sets forth the documentary evidence a lender must accept to confirm that a borrower has obtained an appropriate amount of flood insurance coverage.

Fifth, the Agencies propose needed technical corrections. For example, the Agencies' current flood insurance regulations refer to the "Director" of the Federal Emergency Management Agency ("FEMA"). The correct title for the head of that agency is "Administrator." The Agencies' proposal would correct all references to the head of FEMA.

Finally, the OCC and the FDIC propose to integrate their flood insurance regulations for national banks and Federal savings associations and for State non-member banks and State savings associations, respectively. Specifically, the OCC proposes to add language to its flood insurance regulation for national banks, 12 CFR part 22, to make it applicable to both national banks and Federal savings associations, and to remove its regulation for Federal savings associations, 12 CFR part 172. Similarly, the FDIC proposes to add language to 12 CFR part 339, its flood regulation for State non-member banks, to make it applicable to both State non-member banks and State savings associations and to remove its flood regulation for State savings associations, 12 CFR part 391 subpart D. Parts 22, 172, 339, and 391 subpart D, are nearly identical and contain no substantive differences, as they were originally adopted through an interagency rulemaking process.

To obtain a copy of the Agencies' proposal, please visit our website at <http://www.wncfirst.com/portal/news.asp>. Look for the link entitled "Loans in Areas Having Special Flood Hazards", dated October 30, 2013.

This article is a publication of WNC Insurance Services, Inc. and intended for informational use only. WNC Insurance Services, Inc. is not engaged in rendering legal advice or recommendation. If you require legal guidance, please consult your legal counsel or a professional law practitioner. For comments, please call your WNC representative or our offices at 1-800-423-2497 and ask for the Compliance Department.

Technology Bulletin WNC and the Cloud – we are building our own!

by Gregory Baltzer, Sr. Vice President, Information Technology

As part of our long-term project to make our processing systems more reliable and increase our availability, WNC is creating a new data center using the services of IO Corporation, one of the largest providers of co-location services in the country and one of the only commercially available data centers to have achieved Tier III Certification. After the completion of this project, all mission critical application systems will be located in the IO co-location facility in Phoenix, AZ.

This infrastructure will insure that our systems never go down due to any environmental factors including power failure, loss of internet connectivity, or network switching equipment. The facility in Phoenix has dual power supplies direct from utility

companies into separate sides of the building, circuits from the 16 largest providers of voice/data backbones in the country, full UPS batteries and generators on site, and state of the art access controls. We will be able to keep running during any event that would affect our current data centers in South Pasadena and Dallas, and provide uninterrupted service to our customers.

If you are interested in seeing for yourself, follow the link below to the IO web site:

<http://www.io.com/>

If you browse to Products & Services, then Colocation, and select the Phoenix facility, you can see for yourself the benefits of having our data center managed by one of the best facilities in the country.

At WNC, we are continually making the changes necessary to keep our systems able to handle the ever-evolving nature of the information technology required to satisfy our clients' needs.

For more information on our Data Center upgrade project, feel free to contact: Gregory Baltzer, Sr. Vice President, Information Technology, 626-463-6400, gbaltzer@wncfirst.com



The Quietest Atlantic Storm Season in 45 Years

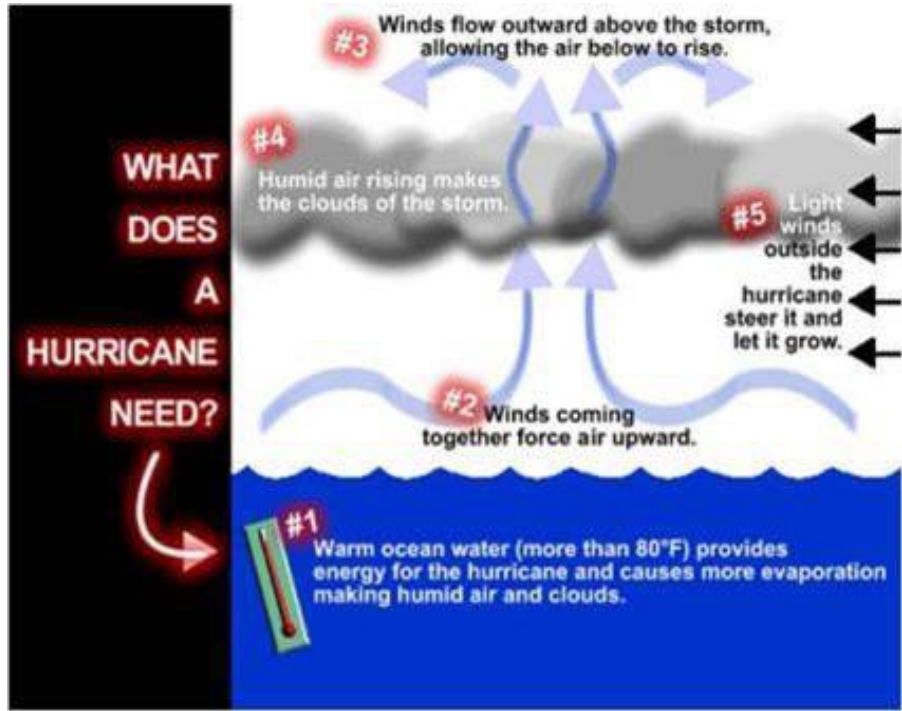
by Mark Sarrett, Chairman, Precise Adjustments, Inc.

After much anticipation of a very active Atlantic Storm season for 2013, the season may be a complete washout, and become the least active storm season since 1968. Therefore, the question is, "Why did this season become so inactive?" The answer is that a number of factors all occurred simultaneously.

One of the important factors was that instead of moist air coming off the African coast, this year the air masses were drier than normal, and they were sinking rather than billowing. Other factors were the lack of an El Niño, cooler waters than normal around Portugal, and a persistent wind shear from North America and over the Atlantic Ocean.

The season started early with Tropical Storm Andrea in early June, but there have been only eleven named storms overall, and none have made US landfall since Andrea.

This year may be an anomaly, and I am sure



that predictions for next year will be just as ominous as they were when the 2013 season began. We should never take anything for granted. As we have seen recently, the storms are more ferocious and larger than what

we have seen in the past. The best idea is to always be prepared by having flood and hazard policies in place to protect your properties from the damages that may happen with any Atlantic storm.

What Is "WWW"? (This time, it's not the Internet)



"WWW" means Winter Weather Warnings.

Before, during and after a storm, pay close attention to your local National Weather Service forecast for detailed information on the type of weather conditions expected, accumulations, possible impacts, as well as advisories, watches and warnings like these:

- **Winter Weather Advisory** – Any combination of snow, blowing snow, freezing rain and sleet that meets or exceeds a locally defined 12 and/or 24-hour advisory criteria, but remaining below warning criteria.

- **Winter Storm Watch** – Conditions are favorable for a winter storm event (any combination of heavy snow, heavy sleet, ice storm, and blowing snow) to meet or exceed local criteria.
- **Winter Storm Warning** – Winter weather event that includes: snow, ice, or sleet meeting or exceeding locally defined 12 and/or 24-hour warning criteria; or a combination of snow, ice, or sleet and blowing snow with at least one of the precipitation elements meeting or exceeding locally defined criteria.
- **Blizzard Warning** – Sustained wind or frequent gusts greater than or equal to 35 mph accompanied by falling and/or blowing snow, frequently reducing visibility to less than 1/4 mile for three hours or more.

Winter Weather Driving

To keep safe, consider doing the following before driving in winter weather conditions, especially if the National Weather Service has issued warnings or watches in your area:

- Keep the gas tank full to keep the fuel line from freezing.

- Let someone know your destination, route, and when you expect to arrive.
- Keep a cell phone or other emergency communication device with you.
- Pack your car with thermal blankets, extra winter clothes, basic tool kit, (including a good knife and jumper cables), an ice scraper and shovel, flashlights or battery-powered lanterns with extra batteries, and high calorie, nonperishable food, and water.
- Use sand or kitty litter under your tires for extra traction, especially if you find yourself stuck in a slippery spot.

(Source: www.noaa.gov).

Surviving Hurricanes: The SLOSH Way to Safety

by Stephen A. Heinrich, WNC-Miami Underwriting

Thousands of people were evacuated when Superstorm Sandy made landfall in the Northeast in October 2012. One of the models used by government officials to make evacuation decisions was the Sea, Lake and Overland Surges from Hurricanes (SLOSH) model. Developed by the National Weather

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Focus On Our Partners

Creating More Value with Newcourse Communications

by Jim Conde, President & CEO, Newcourse Communications

To increase the value of your relationship with WNC, we are excited to introduce Newcourse Communications – a full service print, creative & mail services provider to the banking, mortgage, credit union and mutual fund industries since 2005.

Based in Nashville, TN, Newcourse specializes in fast-turnaround, innovative and custom-designed customer communications in print or electronic media. Working closely with your communications specialists, Newcourse will deliver your organization's message and vision through thoughtfully designed account or billing statements, escrow analysis, year-end summaries, payment books, checkbooks, personalized customer letters, loss mitigation correspondence and more.

Led by a management team of former executives of Mortgage Companies, LPS and Check Printers, Newcourse services can complement or replace your current customer communications with improved and more effective pieces that speak to your customers.

In the mortgage and credit union industries, Newcourse clients include Navy FCU, GMAC, HomeStreet Bank, Utah Housing, First Interstate, Landmark CU, AMS, Green Planet, SPS Pioneer Bank, Iserv Mortgage and America First. Additionally, Newcourse has multiple print and mail relationships with five of the country's top mutual fund companies.

The following are highlights of Newcourse's capabilities:

- 11,000 sq. ft. expandable facility in Nashville, TN
- Facilities and systems have passed all client security requirements
- SSAE-16 SOC-1, Type 2 compliant
- Two backup sites
- USPS receives mail directly from Newcourse facility
- Special arrangement with Federal Express for same day turnaround, traceable delivery and significant discounts for critical packages
- High volume automated inserting or your current manual jobs that require fast turnaround
- Mutually established service levels to meet your requirements

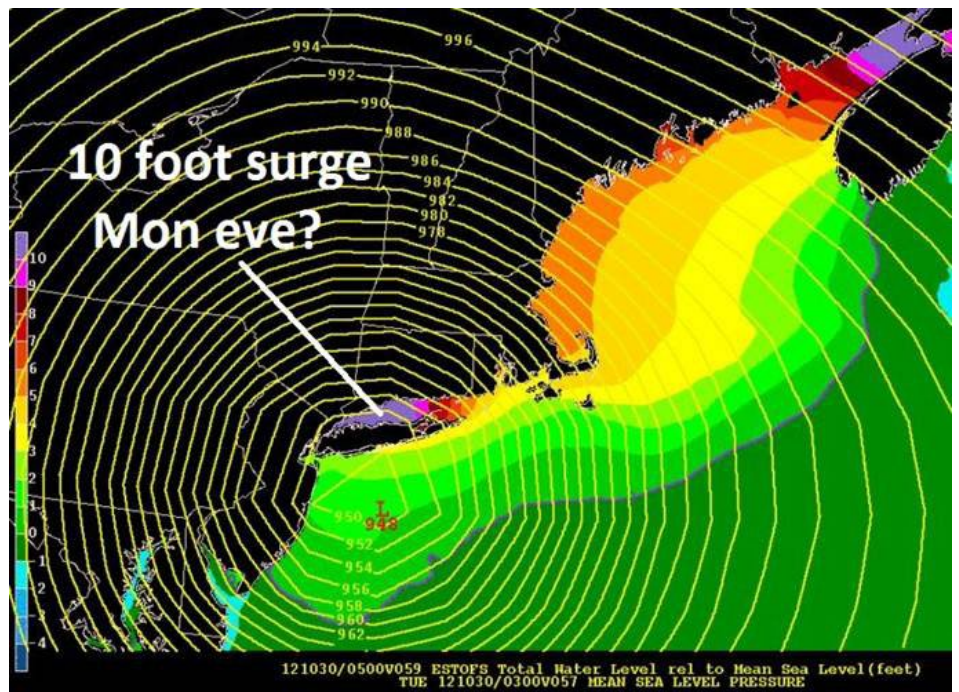
Claims Corner *continued from page 4*

Service, the SLOSH model approximates storm surge potential using computer simulations of a storm making landfall based on historical and hypothetical information.

Each simulation uses the different possible conditions of a storm including approach angles, strengths, sizes and numerous other factors. The computer projections have become so complex, they even factor in specific features of the geographic area, such as unique bay and river configurations, water depths, bridges, roads, levees and other physical features that can either amplify or reduce surge heights.

Forecasters, emergency management, government officials, and insurance professionals use the detailed computer simulations. At WNC, the SLOSH model is a mainstay at the Private Flood Services Division in Miami because it helps determine a property's susceptibility to storm surge. Tools like the SLOSH model are invaluable, but not perfect. Weather events like Superstorm Sandy can reveal new factors that can produce more precise modeling in the future.

But until then, the SLOSH model will continue to be a tool for government and industry to estimate the storm surge potential of hurricanes and lead a community's residents to safer and higher ground.



- Correspondence available online via Newcourse or transferred to client storage system
- On-demand web services for client ordering, status and reporting
- Dedicated lines and integrated processing systems with LPS
- Industry standard applications/formats for custom graphic design

To learn more about Newcourse Communications and the value that they offer, please contact: Jim Conde, President & CEO, Phone: (615) 812-0197, Email: jim.conde@newcoursecc.com

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Letter of Map Amendment (LOMA) Process

by *Laura E. Hosler, CFM, Operations Manager, LPS National Flood*

FEMA (Federal Emergency Management Agency) uses the most accurate flood hazard information available; however, limitations of scale or topographic definition of the source maps used to prepare the FIRM (Flood Insurance Rate Map) may cause small areas that are at or above the flood elevation to be inadvertently shown within the SFHA (Special Flood Hazard Area) boundaries. Additionally, the placement of fill may elevate small areas to an elevation at or above the flood elevation. When this happens, structures or parcels of land may be inadvertently included within the SFHA on the flood map.

In these instances, the property owner or lessee may apply for a LOMA. LOMAs are documents issued by FEMA that officially remove a property and/or structure from the SFHA. To obtain a LOMA, the applicant must submit mapping and survey data for the property, much of which is available from the municipality where the property is located (e.g., City Hall, County Courthouse). In most cases, the applicant would need to hire a land surveyor to prepare an Elevation Certificate for the property. Upon receiving a complete application, FEMA normally completes its review in 4-6 weeks.

To issue a LOMA and remove the structure from the SFHA, NFIP (National Flood Insurance Program) regulations require that the lowest adjacent grade (the lowest ground touching the structure) be at or above the 1% annual chance flood elevation. To remove the entire lot, the lowest point on the lot must be at or above the 1% annual chance flood elevation. There is no fee for FEMA's review of a LOMA request but the requester must provide all the required information.

Submit the following with a LOMA/eLOMA application:

1. Copy of a recorded Plat Map or recorded deed for the property and a copy of the local tax assessor's map of the neighborhood (or map that shows property lines, local roads and watercourses).
2. Elevation Certificate (EC) or other certified elevation survey.

A LOMA/eLOMA eliminates the Federal

flood insurance requirement as a condition of Federal or federally backed financing; however, the mortgage lender retains the prerogative to require flood insurance as a condition of the loan, regardless of the location of the structure.

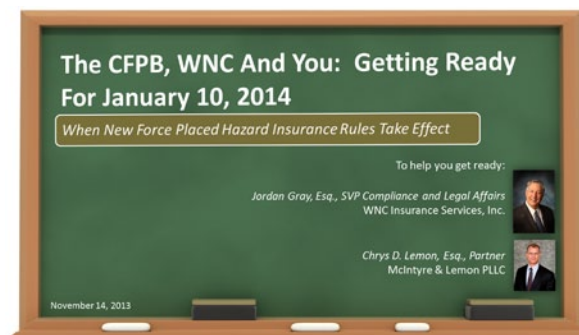
eLOMA PROCEDURE for LPS National Flood clients:

- Client provides EC, recorded deed with the recordation stamp and request for eLOMA to the Dispute department via email: flood.disputes@lpsvcs.com or fax: (866) 743-1773

- LPS eLOMA specialist enters the mandatory information into the eLOMA tool
- LPS returns the results to the client upon receipt from FEMA

EXPECTED TURN TIME

LPS will return the final eLOMA results within 10 business days from receipt of the request. This turn time includes 5 business days if FEMA selects to audit the file. To learn more about LPS flood certification services, please contact LPS National Flood at 800-833-6347 (Option 4) or email us at floodinfo@lpsvcs.com.



Webinar Questions & Answers

The following is a compilation of the questions we received during our webinar held on November 14, 2013. Our presenters Jordan Gray and Chrys Lemon provided the answers (contact details at end of Q&A).

If you have further questions, please e-mail them to fcinco@wncfirst.com or your WNC representative.

1. What are the notice requirements before force placing?

When a servicer has reasonable evidence of a borrower's inadequate hazard insurance

coverage, the servicer may force place insurance after giving two notices. The first notice must be given at least 45 days before force placing insurance, and the second notice must be given at least 15 days before force placing insurance. 12 C.F.R. § 1024.37(c)-(d). See Appendix MS-3 to 12 C.F.R. Part 1024.

2. What is the 30-day period you referred to - 1st notice 45 days, 2nd notice 15 days before placing and final notice 15 days after 2nd notice?

Two notices are required before a servicer may force place insurance. The first must be sent at least 45 days before force placing insurance, and the second notice must be sent at least 15 days before force placing insurance. Therefore, there must be at least 30 days between the sending of the two notices. 12 C.F.R. § 1024.37(c)(1), (d)(1). In other words – send the first notice, wait at least 30 days, send the second notice, wait at least 15 days, and then place the coverage, after a total of at least 45

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days. This is the way Dodd-Frank Section 1463 is written. (See, 12 U.S.C. 2605(l))

3. Do the CFPB's force-placed insurance regulations apply to mortgages that are not escrowed?

Yes, the force placed notice requirements still apply to mortgage loans even when borrowers have not escrowed for hazard insurance. However, the requirement that a servicer maintain a borrower's hazard insurance coverage by advancing funds through escrow does not apply. 12 U.S.C. § 2605(g) (Section 6(g) of RESPA); 12 C.F.R. §§ 1024.17(k); 1024.34(a).

4. If we receive a notice of cancellation with a cancellation date, we send a letter to the borrower and receive no reply, can we force place the insurance on that cancellation date?

In the Official Bureau Interpretations, the comment on Paragraph 37(c)(1)(i) states that, "Subject to the requirements of § 1024.37(c)(1)(i) through (iii), if not prohibited by State or other applicable law, a servicer may charge a borrower for force-placed insurance the servicer purchased, retroactive to the first day of any period of time in which the borrower did not have hazard insurance in place. (Comment to Paragraph 37(c)(1)(i), *1. Assessing premium charge or fee.*) This means that after a property is determined to be uninsured, and each of the two notice letters have been sent, insurance can be placed, retroactive back to the lapse date of the borrower's coverage.

5. Our borrowers are not charged until 45 days after CPI is placed. Can we place by cancellation date as long as borrower is not charged until after 45 days?

Why would we not put the forced placed insurance on at cancellation date, and then send the notices, since we have 60 days to cancel the forced placed insurance without being charged?

When should we make a request for coverage, during the letter process or after?

A lender may (1) buy insurance coverage, (2) provide notice to the borrower, and then (3) charge the borrower "retroactively" for the insurance. Alternatively, a lender may (1) provide notice, (2) buy insurance that provides "retroactive" coverage, and then (3) charge the borrower for the insurance. (Comment to Paragraph 37(c)(1)(i), *1. Assessing premium charge or fee.*) The Model form notice letters provide the option of choosing either "we bought" or "we plan to buy" to express this difference in process. (See Model Forms MS-3(A)-(C).) In either event, the desired

goal is the same – continuous coverage.

6. If Binders are accepted at closing, will they be acceptable afterwards?

In the Official Bureau Interpretations, the comment on Paragraph 37(c)(1)(iii) states that, "As evidence of continuous hazard insurance coverage that complies with the loan contract's requirements, a servicer may require a copy of the borrower's hazard insurance policy declaration page, the borrower's insurance certificate, the borrower's insurance policy, or other similar forms of written confirmation." (Comment to Paragraph 37(c)(1)(iii), 2. Evidence demonstrating insurance.) A binder would be "written confirmation" that is acceptable, if it provides all of the information needed to prove compliant coverage.

7. What is the time limit for a servicer to refund a borrower's force-placed insurance premiums for a period of overlapping insurance coverage?

Within 15 days of receiving evidence demonstrating that a borrower has in place hazard insurance coverage that complies with the loan contract's requirements to maintain hazard insurance, the servicer must refund all force-placed insurance premium charges and related fees paid by the borrower for any period of overlapping insurance coverage. 12 C.F.R. 1024.37(g)(2).

8. If the force placed policy premium was paid to the carrier and the borrower provides evidence but there is a lapse, how long will it take the carrier to refund the difference so the difference can be credited to the borrower account within the 15 days?

All force-placed insurance transactions involve two distinct parts: (1) the lender ordering and paying the carrier for the insurance and (2) the lender charging the borrower for the insurance cost as a reimbursement. Many carriers will provide an online report or other accounting of the earned premium or projected refund to allow a lender to credit the borrower's account in a timely manner.

9. Refund of monies to borrower would only be in the case of borrower actually paying for the force placed insurance?

Yes, if after the servicer has force placed insurance, the borrower sends the servicer evidence of adequate hazard insurance, the servicer must cancel the force-placed insurance and refund the borrower any force-placed charges for overlapping insurance coverage – both within 15 days. 12 C.F.R. § 1024.37(g).

10. If, by the time the notices have been sent we are past any "grace period" allowed

by the insurance carrier, is there any problem with effective dating the force-placed coverage back to the cancellation date?

Any "grace period" allowed by the borrower's carrier is always contingent upon the borrower maintaining or renewing the coverage according to the terms of the policy. Such "grace periods" are not coverage, but rather a promise of coverage if the terms of the policy are fulfilled. Once the "grace period" has passed, it is as if there had been no coverage at all and any claim would be denied. Therefore, it is vital for a lender to purchase insurance that will provide continuous coverage, even coverage during any stated "grace period".

11. If a borrower is deceased and the lender does not know who the person responsible for the decedent's estate is, how does the servicer force place insurance to ensure hazard insurance coverage is in place if something happens to the home?

The rules require that servicers maintain policies and procedures that are reasonably designed, upon notification of the death of a borrower, to promptly identify and facilitate communication with the successor in interest of the deceased borrower with respect to property secured by the deceased borrower's mortgage loan. 12 C.F.R. § 1024.38 (b) (1) (vi). The CFPB has not given any official guidance on what those policies and procedures should be. Given the practical obstacles inherent in identifying a deceased borrower's successor in interest, a servicer may be able to identify an appropriate recipient by sending the required force placed notices to the borrower's address of record with the expectation that an interested person, such as an executor, would receive the deceased borrower's mail.

12. If we are not adding the premium to the loan how should we collect the premium?

A borrower may be charged for the cost of the force-placed insurance after all of the notice requirements under the rules have been met. Like any other debt of the borrower, this debt may be collected through any lawful and contractually permissible means.

13. Is it still allowable to have only one force place carrier?

Each lender should maintain only one carrier per loan per collateral for each type of coverage. In other words, a property can have a separate hazard and flood carrier, but not two hazard carriers or two flood carriers on the same property for the same lender. Likewise, a first lien holder will often have a different carrier than the second lien holder. The goal is to avoid over insuring a property and conflicting coverage.

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14. How does a lender go about determining whether their charges are bona fide and reasonable?

The CFPB rules require “all charges related to force-placed insurance assessed to a borrower by or through the servicer must be bona fide and reasonable.” (12 C.F.R. § 1024.37(h)(1).) The CFPB rules state: “A bona fide and reasonable charge is a charge for a service actually performed that bears a reasonable relationship to the servicer’s cost of providing the service, and is not otherwise prohibited by applicable law.” (12 C.F.R. § 1024.37(h)(1).) Thus, insurance premium charges would be bona fide and reasonable if the rates are set by applicable regulation or are reasonably comparable to such rates.

15. Number of loans 5,000, does that refer just to real estate loans or loans in total?

When you say 5,000 loans, is that only mortgage loans or all mortgages including consumer loans? Alternatively, just serviced mortgage loans?

Do loans we sold but are still servicing count towards the maximum 5,000 mortgage loans?

The “small servicer exemption” applies to residential real estate loans only. It refers to a servicer that “services, together with any affiliates, 5,000 or fewer mortgage loans [defined to exclude business loans and HELOCs], for all of which the servicer (or an affiliate) is the creditor or assignee.” 12 C.F.R. §§ 1024.17(k)(5)(iii); 1026.41(e)(4) (emphasis added). Consequently, if neither the servicer nor one of its affiliates were the creditor or assignee of a particular loan, that loan would not be included in the 5,000 mortgage loans.

16. We have less than 5,000 mortgage loans. At this time when we force place we add the premium to the existing loan balance. Can we still do that?

Whether the insurance premium is added to the loan balance is not a factor of loan portfolio size. Standard loan agreements permit a lender to add the insurance premium to the loan balance. The new CFPB rules do not prohibit this.

17. Question regarding timing of the notices. Example: If we receive a notice on 12/1 indicating that insurance will be cancelled on 12/10, does the 45 days begin on the 1st or the 10th?

Can you send notice when you receive notice of pending cancellation or do you have to wait until cancelled?

A servicer is permitted to send the first notice

– the 45-day notice – when it has a reasonable basis to believe that the borrower has failed to maintain the required hazard insurance coverage. A notice from a borrower’s insurer or insurance agent indicating that insurance will be canceled on a date-certain would likely constitute a reasonable basis. (12 C.F.R. § 37(b); Official Bureau Commentary 37(b)1., 12 C.F.R. Part 1024 Supplement I.) The effective date of the force-placed coverage would always be the actual cancellation date, regardless when the 45 day notice-letter cycle was started. For this reason, it is recommended that actual cancellation occur because the borrower may either reinstate the coverage or provide replacement coverage within the notice time period; moreover, the property remains insured until the cancellation actually occurs. It is permissible to send an “early” or “pre-cancellation” notice letter, but this is an added cost that will likely produce no real benefit. The required force-placed insurance notice-letters will still be required. If the borrower allows the coverage to non-renew or expire, the borrower will have already failed to respond to at least two notices sent by the carrier. In such a case, it is doubtful that an early notice letter sent by a lender will make a difference.

18. Do notices need to go out to borrowers who already have forced placed insurance? For renewal of force placed, do you need to follow the standard two letter 45 day notice-letter process?

A single renewal notice must be sent at least 45 days before assessing a fee related to force placed insurance and it must be sent at least 45 days before each anniversary of a servicer’s purchasing force-placed insurance. 12 C.F.R. § 1024.37(e)(1), (5). However, nothing in the CFPB rules prohibits a lender from sending two renewal notices (at 45 days and 15 days) before renewal.

19. We have a borrower who wants us to renew his force-placed insurance every year. Do we need to send the notices to him when he is requesting us to force place?

Yes, because the notice requirement in connection with the renewal of force-placed insurance has nothing to do with whether the borrower has requested the servicer to renew the force-placed coverage. 12 C.F.R. § 1024.37(e).

20. How should we proceed if a mortgage loan is under insured? Example, customer has insurance, but the roof is excluded.

Each lender sets its own insurance requirements within the bounds of the law. At a minimum, for safety and soundness reasons,

insurance limits are recommended to be sufficient to cover the outstanding principal loan balance, but most lenders require full replacement cost coverage. Significant exclusions of perils or portions of the structure may warrant placement of deficiency coverage or force-placement if the policy is non-compliant.

21. Do the CFPB force-placed insurance rules apply to investment properties or non-owner occupied?

Yes, the rules apply to a “federally related mortgage loan,” which is generally defined as any loan secured by residential real property upon which is located a one to four family home (including individual units of condominiums and cooperatives) or a manufactured home. 12 C.F.R. § 1024.2(b). As a result, if the loan secures residential property, the CFPB’s rules apply and the property’s status as an investment property or secondary home is immaterial.

22. Do these rules apply to business loans secured by a principal dwelling?

No, the force-placed insurance rules do not apply to business purpose loans: loans for business, commercial or agricultural purposes. It does not matter that the business purpose loan is secured by a principal dwelling. 12 C.F.R. §§ 1024.5(b)(2); 1026.3(a)(1).

23. Should similar notices be sent for commercial properties?

Business purpose loans are not subject to the force placed notice requirements under the CFPB rules. A business loan is defined as the extension of credit primarily for a business, commercial or agricultural purpose. 12 C.F.R. §§ 1024.5(b)(2); 1026.3(a)(1). However, it is a best practice to follow a standard 45 day (two notices) letter-cycle for business loans.

24. Can we force place insurance if the only borrower on loan is deceased?

Yes, but the requirements will apply to the servicer with respect to the successor in interest. The rules require that servicers maintain policies and procedures that are reasonably designed, upon notification of the death of a borrower, to promptly identify – and facilitate communication with – the successor in interest of the deceased borrower with respect to the property. 12 C.F.R. § 1024.38(b)(1)(vi).

25. What happens if the house burns during the 45 days prior to setting force placed insurance? How do we get coverage for that period if we just found out the house is uninsured and then have to wait 45 days before we can cover?

Many carriers provide coverage during the notice period through a binder, through

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retroactive placement or through automatic coverage. This scenario is why the new CFPB rules specifically allow coverage to be placed and/or charged on a retroactive basis. (See Comment to Paragraph 37(c)(1)(i), *I. Assessing premium charge or fee.*)

26. Regarding the Notices: What if the first notice is sent and the customer sends proof of coverage that does not have a sufficient coverage amount? There does not seem to be a model form for this situation. What is recommended?

The servicer may reject evidence of hazard insurance coverage if the terms of the policy do not comply with the requirements of the borrower's loan contract. (12 C.F.R. § 1024.37(c)(1)(iii), (d)(2)(ii).) In that case, the second notice should reasonably explain the problem in a short and concise manner while still providing the required information. (See Model Form MS-3(B)-(C), in Appendix MS-3 to 12 C.F.R. Part 1024.) However, it is important to note that a servicer is not required to restart a second notice letter cycle upon receipt of non-compliant coverage or to send a new second notice (replacement notice) after a second notice was already sent. Here is the Official Bureau Commentary: "If the notice has already been put into production, the servicer is not required to update the notice with new insurance information received about the borrower so long as the written notice was put into production within a reasonable time prior to the servicer delivering or placing the notice in the mail. For purposes of § 1024.37(d)(4), five days (excluding legal holidays, Saturdays, and Sundays) is a reasonable time. (See Comment to Paragraph 37(d)(4), *I. Reasonable time.*)"

27. We have a customer whose insurance canceled due to repairs that were not made; we did NOT force place insurance. However, we have a general hazard insurance policy that covers the lender in the event the house is destroyed. Should we force place insurance anyway?

Lenders can manage their hazard risks through force-placed insurance, blanket insurance or a combination of both. Unrepaired properties cannot suffer the same damage twice, but can suffer new damage, which may cause coverage difficulties should a new loss occur. If there is an existing structure remaining after the first loss it can be insured, but the value and exposure will be reduced by the pre-existing damage. Determining when to purchase force-placed coverage will be difficult in such

circumstances. The real issue is whether the damaged collateral is still sufficient to secure the loan.

28. Do the CFPB's force-placed insurance rules (12 C.F.R. § 1024.37), which become effective January 10, 2014, cover HELOCs?

Most of our real estate loans are home equity loans. How does this affect us?

HELOCs are expressly outside the scope of the governing regulation; moreover, the term "forced placed insurance" is defined to exclude HELOCs. (12 C.F.R. §§ 1024.2(b); 1024.30(a); 1024.31.)

29. Do the force placement rules apply ONLY to closed end, consumer, and principal dwelling loans?

The force placed insurance requirements apply to loans secured by residential real property (including loans secured by a first or subordinate liens) but do not apply to business loans, loans secured by commercial property, or home equity lines of credit (HELOCs). 12 C.F.R. §§ 1024.2(b); 1024.30(a); 1024.31.

30. Are lenders permitted to force-place insurance on a HELOC?

There appears to be no prohibition. The CFPB's force-placed insurance rules are in Subpart C (which governs mortgage servicing) of Regulation X (which implements RESPA), beginning at 12 C.F.R. § 1024.30. With several exceptions not relevant here, Subpart C "applies to any mortgage loan, as that term is defined in § 1024.31." (See 12 C.F.R. § 1024.30(a)) And the CFPB's force-placed insurance rules define "force-placed insurance" as "hazard insurance obtained by a servicer on behalf of the owner or assignee of a mortgage loan that insures the property securing such loan." (See 12 C.F.R. § 1024.37(a)(1)) Finally, the term "mortgage loan" is defined to mean "any federally related mortgage loan, but does not include open-end lines of credit (home equity plans)." (See 12 C.F.R. § 1024.31) (All emphases added.) Consequently, HELOCs are not covered by any of the CFPB's force-placed insurance requirements; however, servicers should consider whether compliance with the requirements is warranted as a best practice.

31. Yesterday we rec'd a notice on a HELOC that insurance was cancelling today. We do not escrow for this. Upon calling the insurance company there is no lienholder coverage to cover us for even 30 days from cancellation. How can we make sure the asset is covered and stay in compliance with this law?

Lenders can manage their hazard risks through force-placed insurance, blanket insurance or a combination of both. HELOCs are not covered by the new CFPB rules but do present a hazard risk when funded. (12 C.F.R. §§ 1024.2(b); 1024.30(a); 1024.31.) If the risk is insured through force-placed insurance, compliance with a standard notice letter cycle is recommended.

32. Do the notice requirements apply to HELOCs and Second Mortgages? Currently we only service in house Seconds & HELOCs.

The force placed insurance requirements apply to loans secured by residential real property (including loans secured by a first or subordinate lien on residential real property) but do not apply to home equity lines of credit (HELOCs). (12 C.F.R. §§ 1024.2(b); 1024.30(a); 1024.31.) However, we recommend following the CFPB rules for HELOCs as a "best practice" if you force-place coverage on HELOCs.

33. Do these new rules also apply to a wind/hail/hurricane only policy?

Yes, but only if the terms of the loan require the borrower to maintain wind/hail/hurricane only coverage for the property. The CFPB's force placed insurance notice rules apply to hazard insurance, which is "insurance on the property securing a mortgage loan that protects the property against loss caused by fire, wind, flood, earthquake, theft, falling objects, freezing, and other similar hazards for which the owner or assignee of such loan requires insurance." 12 C.F.R. § 1024.31 (emphasis added).

34. If we can't place insurance on a foreclosure and something happens to the house we could potentially lose more money.

The Lender placed insurance transaction has two parts, (1) Purchasing the insurance coverage and (2) charging the borrower for the coverage. The foreclosure process does not prevent insurance from being purchased, but may result in an uncollectible debt. After a foreclosure has occurred, insurance coverage is still available for foreclosed property. It would not be lender placed insurance; it would be REO insurance coverage. In any event, coverage is always available for any property.

35. If a loan is in foreclosure, is that an acceptable instance to implement force placed insurance upon renewal?

Not in and of itself. If a consumer has an escrow account for payment of hazard

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insurance, a servicer may not force place insurance unless the servicer is unable to disburse funds from the borrower's escrow account to maintain existing hazard insurance. This inability to disburse funds exists only if the servicer has a reasonable basis to believe either that the borrower's hazard insurance has been canceled (or was not renewed) for reasons other than nonpayment of premium charges or that the borrower's property is vacant. (12 C.F.R. § 1024.17(k)(5).)

36. If you don't receive a renewal notice on an escrow loan and you contact the insurer or agent, and the response is that borrower did not want to renew with them, what is the notice process?

Under this circumstance, a lender is advised to wait until the existing coverage expires, causing the property to become uninsured. The borrower may be in the process of purchasing replacement coverage with another carrier. Once the borrower's coverage has expired, without renewal or replacement, the property has become uninsured. At that point, a lender should begin a standard 45 day notice-letter cycle.

37. We don't receive notice from the insurance companies that insurance will be cancelled 45 days or even 30 days before that happens. Are you saying we have to wait the 45 days from notification before we can even force place and risk a time that there is no coverage?

Force-placed insurance coverage is only required when a loan becomes uninsured. Once a lender has determined that a loan is uninsured, the lender should start the 45 day notice-letter cycle and then place the coverage at the conclusion of the cycle. At origination, and during the term of the loan, each lender should review the borrower's coverage to determine whether the lender is properly listed as a mortgage holder by the borrower's carrier. A properly listed mortgage holder is entitled to receive notice of a cancellation or non-renewal. Most force-placed insurance carriers provide coverage during the notice letter cycle.

We hope this compiled Q&A clarifies the CFPB rules for you. If you have further questions or need information about WNC's lender protection programs and services, please send an e-mail to feinco@wncfirst.com or your WNC representative.

Special thanks go to our co-presenter Chrys Lemon, Esq. and Partner at McIntyre and Lemon PLLC for his time and expertise. Chrys specializes in financial services, insurance, privacy and marketing. He has counseled financial institutions concerning lender-insurance arrangements, insurance licensing, consumer protection and telemarketing issues, and federal and state privacy regulations.

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Who is WNC?



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Meet Richard Espinosa

Richard Espinosa is Vice President of Account Management for WNC based in Dallas, Texas. He is currently part of the Partnership Development Team (PDT) and is responsible for managing most of the Texas and other regional accounts.

Before joining WNC in 2013, Richard worked at Lender Processing Services (LPS) in their Account Management Team and handled some of LPS's largest clients including Bank of America, Wells Fargo, and JPM Chase. Much of his work experience includes pre- and post-implementations, training, and project management. Richard brings energy and enthusiasm to the WNC Team, and he is excited to learn a new area of the industry.

Richard has two Bachelor of Arts degrees in History and Political Science from Texas State University and holds a teaching certificate. When not in the office, he enjoys long distance running, and spending time with friends and family.



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