

Flood Risk and Flood Insurance Implications in the Louisiana Seller's Disclosure

For Real Estate Professionals | April 2021



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AREA WITH REDUCED FLOOD RISK DUE TO LEVEE
Zone X

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*Presented in
partnership with
Louisiana REALTORS®,
FEMA, and the
Louisiana Department
of Transportation &
Development*



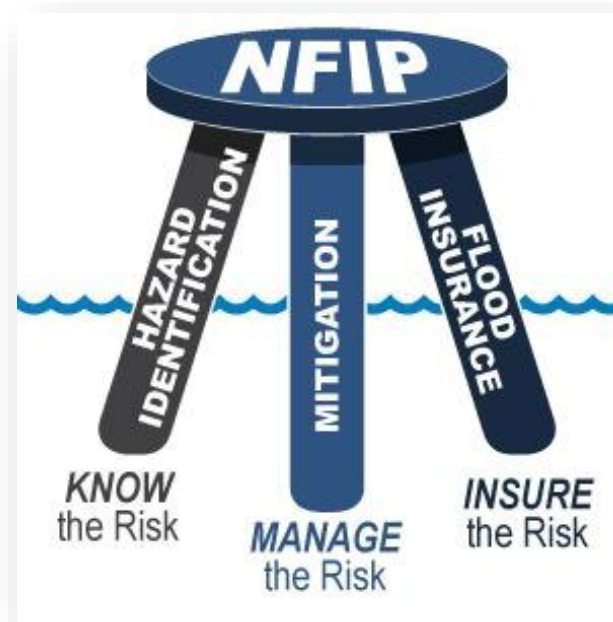
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What is the National Flood Insurance Program?

Established in 1968
Administered by FEMA

Risk identification: Flood maps & studies, flood hazard products, base flood elevations (anticipated flood heights for a 1% annual chance event).



Insurance: Policies sold through insurance companies, backed by the federal government; for homeowners, renters & business owners in all flood zones.

Floodplain management: Adopt and enforce minimum or higher standards, including elevating structures to or above the base flood elevation; permits for development in the high-risk flood zones.

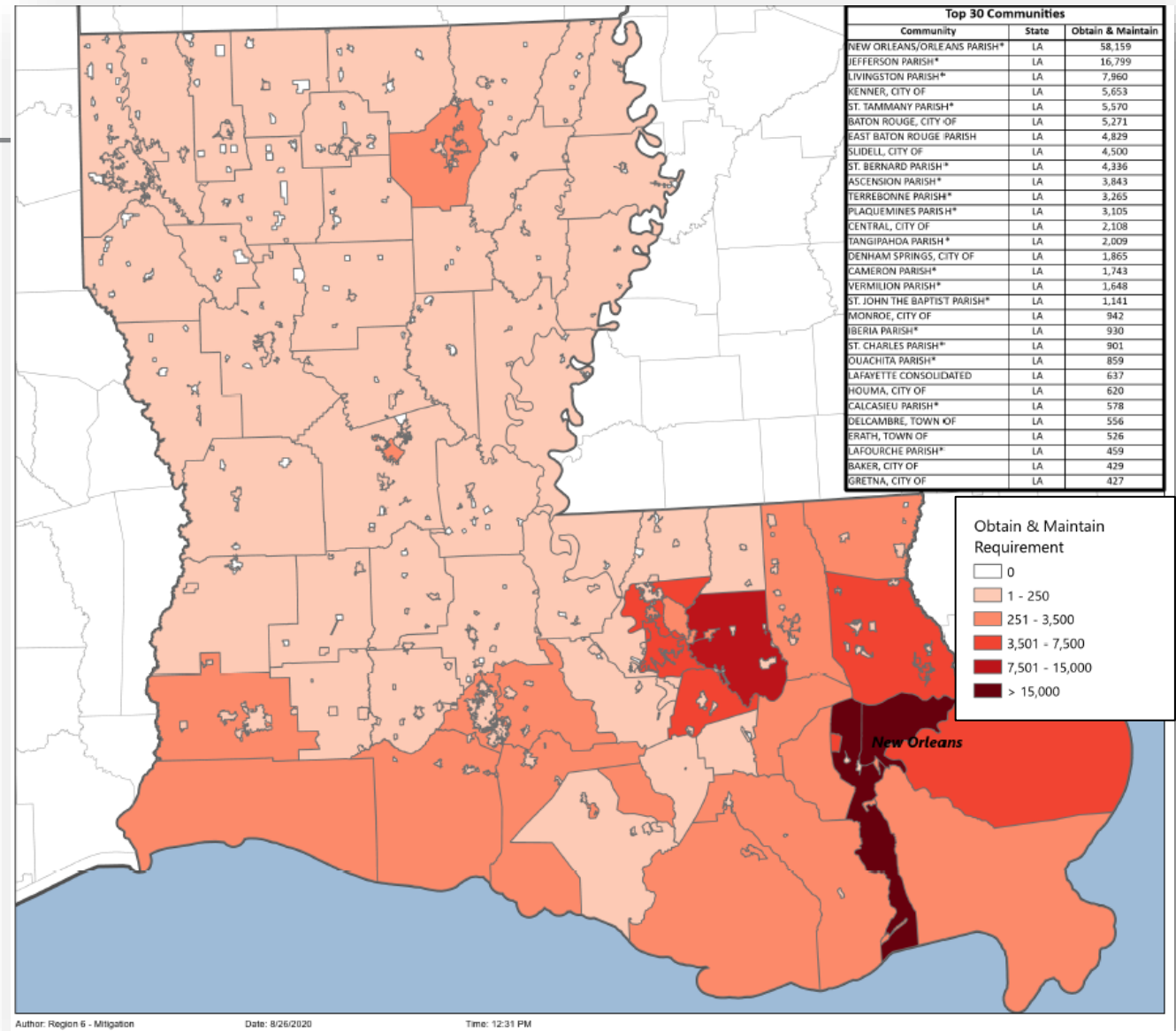


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Flood Insurance Requirement

- Purchase of flood insurance is a condition of federal disaster assistance for recipients in the Special Flood Hazard Area after flood events. For homeowners, the requirement stays with the address.
- FEMA estimates that over 150,000 households in Louisiana have the requirement.
- Not complying can make you ineligible for certain types of future disaster assistance in a flooding event.



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Group Flood Insurance Policies (GFIPs)

Three Year Certificates

Purchased for FEMA disaster survivors who:

- Live in an SFHA, and
- Get repair and replacement disaster assistance for a flood event, and
- Weren't required to apply for a disaster loan or were denied an SBA loan.

Can be transferred to the new owner. Cannot be renewed.

Over 7,000 GFIPs expired in 2019 after the 2016 flooding.
Currently there are 108 GFIPs after the 2020 hurricanes.



ACT NOW!
**Your flood insurance
policy has expired.**

Your coverage under FEMA's Group Flood Insurance Policy (GFIP) has now expired. But it is not too late to buy a new insurance policy!

Contact an insurance agent and purchase a new policy in the next 30 days, or you will have a lapse in coverage.

If your coverage lapses, a 30-day waiting period will apply, which may leave you unprotected from future flooding. Contact an insurance agent to discuss your options now.



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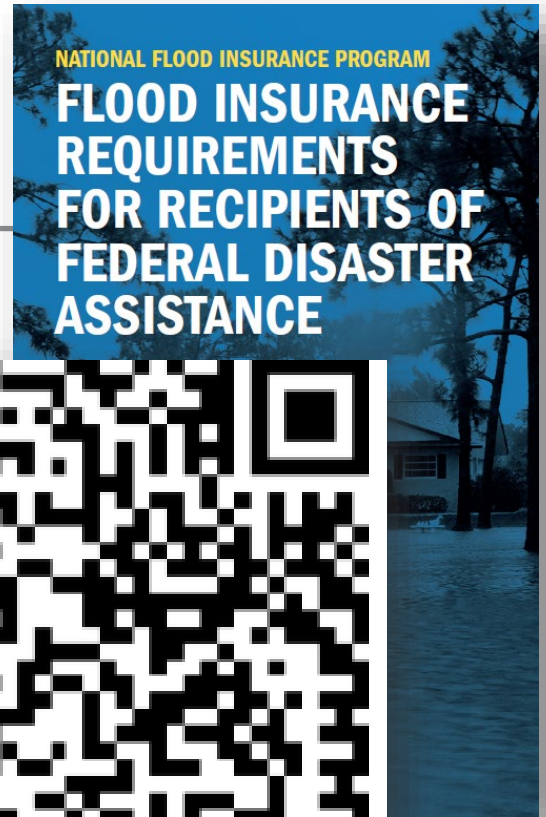
What Does This Mean: Obtain & Maintain After Disaster Assistance

Homeowners

- Flood insurance coverage must be maintained at the address of the home even if the damaged building is replaced by a new one.
- If home is sold, seller is required to inform the new owners that they must maintain flood insurance coverage on the building. The requirement follows the location.

Renters

- Flood insurance coverage must be maintained on the contents for as long as you live at the flood-damaged rental property. The requirement for flood insurance is lifted once you move from the building.



www.fema.gov/sites/default/files/2020-05/FloodInsuranceRequirements-080119.pdf



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The Obtain & Maintain Requirement

- If...
 - Property owner receives federal financial assistance for a flood loss, **and**
 - The flooded property is in a Special Flood Hazard Area (SFHA) and insurable under the National Flood Insurance Program (NFIP)
- Then...
 - Owner must **obtain** flood insurance for the property
 - Insurance must be continually **maintained** regardless of change in ownership



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The Obtain & Maintain Requirement (continued)

Failure to Obtain & Maintain = ineligible for future assistance for real or personal property damaged by flood

- Other types of assistance may still be available, e.g., items not damaged by flood, uninsurable items



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How can the requirement be satisfied?

- Private insurance
- Policy through the NFIP
- Amount of insurance must be:
 - Equal to the amount of the FEMA Individual Assistance award (this applies only to real and personal property that can be insured under the National Flood Insurance Program)



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Notice Requirement

WHO?	transferor must notify transferee
WHAT?	notification must inform transferee of requirements to obtain and maintain
WHEN?	on or before date of property transfer
WHERE?	“Such written notification shall be contained in documents evidencing the transfer of ownership of the property.”
WHY?	if the property is damaged in a subsequent flood and the transferee receives Federal disaster assistance, “ transferor shall be required to reimburse the Federal Government ” in an amount equal to the amount of disaster assistance provided for the property



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Louisiana Flood Insurance Purchase Requirement Addendum

Makes clear:

- Location of structure in SHFA
- Obtain and maintain requirement for federal disaster assistance for a flood event
- Notification of subsequent owners

Not mandatory but, use it!

It's heartbreaking to find out too late that you are not eligible for certain types of FEMA disaster assistance in a flood event.

<http://lrec.gov/wp-content/uploads/2018/10/2019-Mandatory-Course-Exhibits.pdf>

EXHIBIT 3.e.

Property Description/Address: _____

FLOOD INSURANCE PURCHASE REQUIREMENT ADDENDUM

This addendum is made part of the attached Louisiana Residential Agreement to Buy or Sell.

The Property is located in a Special Flood Hazard Area as delineated on a map prepared by the Federal Emergency Management Agency.

The Seller or a former owner of the Property has previously received Federal financial assistance for acquisition or construction purposes (as defined in 42 U.S.C. §4003) in the amount of \$ _____ for flood-related damage. This assistance was conditioned upon obtaining and maintaining flood insurance on the Property (42 U.S.C. §4012a). The requirement of maintaining flood insurance applies to all owners of the Property, regardless of transfer of ownership.

Federal law (42 U.S.C. §5154a) requires that buyer/transferor of the property be notified in writing of the requirement to obtain flood insurance and maintain flood insurance in accordance with Federal law. The Buyer must maintain flood insurance coverage on the Property and contents in at least the amount of the disaster assistance previously received, \$ _____ and provide notice of this requirement to any party to whom he/she sells the Property.

Failure to obtain or maintain flood insurance as required may result in the property owner's ineligibility for Federal disaster assistance. Failure to comply with the notice requirement to subsequent Buyers/transferees may create an obligation on the Buyer (as a subsequent transferor) to reimburse the Federal government for disaster assistance provided to a subsequent Buyers/transferor.

All other terms and conditions contained within the Agreement remain unchanged.

<hr/> Buyer Signature Date	<hr/> Seller Signature Date
<hr/> Buyer Signature Date	<hr/> Seller Signature Date



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Louisiana Seller's Disclosure Notice

PROPERTY DISCLOSURE DOCUMENT

In accordance with LSA-R.S. 9:3196-3200, a SELLER of residential real property must furnish BUYERS with a Property Disclosure Document. A complete copy of these statutes can be found at www.legis.la.gov. The required Property Disclosure Document may be in the form promulgated by the Louisiana Real Estate Commission ("Commission") or in another form that contains substantially the same information. The Commission form can be found at www.lrec.state.la.us.

RIGHTS OF BUYER AND CONSEQUENCES FOR FAILURE TO DISCLOSE: If the Property Disclosure Document is delivered after the BUYER makes an offer, the BUYER can terminate any resulting real estate contract or withdraw the offer for up to 72 hours after receipt of the Property Disclosure Document. This termination or withdrawal will be without penalty to the BUYER and any deposit or earnest money must be promptly returned to the BUYER (despite any agreement to the contrary).

DUTIES OF REAL ESTATE LICENSEES AND CONSEQUENCES FOR FAILURE TO FULFILL SUCH DUTIES: Louisiana law requires real estate licensees to inform their clients of those clients' duties and rights in connection with the Property Disclosure Document. Failure to inform could subject the licensee to censure or suspension or revocation of their license, as well as fines. The licensee is not liable for any error, inaccuracy, or omission in a Property Disclosure Document, unless the licensee has actual knowledge of the error, inaccuracy, or omission by the SELLER.

Louisiana Real
Estate
Commission
(LREC)

[https://lrec.gov/
consumers/fo
rms/](https://lrec.gov/consumers/forms/)



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Louisiana Seller's Disclosure Notice, Continued

- Integrity Matters
- What does the seller know to be the truth?
- Buyers should consider what the seller does not know.
- Buyers can request a full inspection.

OTHER IMPORTANT PROVISIONS OF THE LAW:

- A Property Disclosure Document shall NOT be considered a warranty by the SELLER.
- A Property Disclosure Document is for disclosure purposes only; it is not intended to be part of any contract between the SELLER and the BUYER.
- The Property Disclosure Document may not be used as a substitute for any inspections or warranties that the BUYERS or SELLER may obtain.
- Nothing in this law precludes the rights or duties of a BUYER to inspect the physical condition of the property.
- The SELLER shall not be liable for any error, inaccuracy, or omission, of any information required to be delivered to the BUYERS if the error, inaccuracy, or omission, was not a willful misrepresentation, according to the best of the SELLER's information, knowledge and belief or was based on information provided by a public body or another person with a professional license or special knowledge, who provided a written or oral report or opinion that the SELLER reasonably believed to be correct and which was transmitted by the SELLER to the BUYER.

The following representations are made by the SELLER and NOT by any real estate licensee.
It is not a substitute for any inspections or professional advice the BUYER may wish to obtain.
The following information is based only upon the SELLER's actual knowledge of the property. The SELLER can only disclose what the SELLER actually knows. The SELLER may not know about all material or significant items affecting the property.

Y = Yes

N = No

NK = No Knowledge



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Exemption to Seller's Disclosure

Seller transfer of property could be exempt from having to complete the disclosure document.

If not exempt, questions arise about the historic events and condition of the property.

Property Description (Address, City, State, Zip) _____

_____ **SELLER claims that he/she is exempt from filling out the Property Disclosure Document and warrants that SELLER has no knowledge of known defects to the property. SELLER is claiming exemption number(s) _____ above.**

SELLER (sign) _____ (print) _____ Date _____ Time _____

SELLER (sign) _____ (print) _____ Date _____ Time _____

BUYER (sign) _____ (print) _____ Date _____ Time _____

BUYER (sign) _____ (print) _____ Date _____ Time _____

OR

_____ **SELLER has reviewed this Exemption page. SELLER does not claim any of the Exemptions listed on this page. Accordingly, SELLER will complete the Property Disclosure Form.**

SELLER (sign) _____ (print) _____ Date _____ Time _____

SELLER (sign) _____ (print) _____ Date _____ Time _____

BUYER (sign) _____ (print) _____ Date _____ Time _____

BUYER (sign) _____ (print) _____ Date _____ Time _____



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Specific Questions on the Seller’s Disclosure Notice, 1.6

Section 1: Land, Question 6

- Asks whether the current seller is aware of any history of water on the land as well as if he or she is aware of the prior owner’s history of water on the land.
- Buyer should request the seller/owner’s NFIP flood loss history.

(6) Has any flooding, water intrusion, accumulation, or drainage problem been experienced with respect to the land:

(a) during the time the SELLER owned the property? ☐ Y ☐ N

If yes, indicate the nature and frequency of the defect at the end of this section.

(b) prior to the time the SELLER owned the property? ☐ Y ☐ N ☐ NK

If yes, indicate the nature and frequency of the defect at the end of this section.

Question Number	Explanation of "Yes" answers	<input type="checkbox"/> Additional sheet is attached
_____	_____	_____
_____	_____	_____
_____	_____	_____



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Specific Questions on the Seller's Disclosure Notice, 1.7

Section 1: Land, Question 7

- Asks for property flood zone. Note the land could be in multiple flood zones and the structure could be in multiple flood zones. The highest risk flood zone that any portion of the structure touches will be considered the structure's flood zone. If buyer wants to develop on other part of the land, those flood zone regulations will apply.

(7) What is/are the flood zone classification(s) of the property? _____ What is the source and date of this information? Check all that apply.
☐ Survey/Date _____ ☐ Elevation Certificate/Date _____ ☐ Other/Date _____
☐ FEMA Flood Map - <https://msc.fema.gov/portal>

Question Number	Explanation of "Yes" answers	<input type="checkbox"/> Additional sheet is attached
_____	_____	_____
_____	_____	_____
_____	_____	_____

RPDI Rev. 1/1/20

BUYER'S Initials: _____

SELLER'S Initials: _____

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Specific Questions on the Seller's Disclosure Notice, 3.10 and 3.11

Section 3: Structure, Questions 10 and 11

- 10, Age:
 - In general, the older the structure, the more likely it does not meet current building/floodplain codes.
 - Substantial damage or substantial improvement could be triggered by damage or renovations.
 - Other structures may need a separate flood insurance policy.
- 11, Alterations and permits/inspections:
 - Floodplain development permits required for all development in the SFHA.
 - If the structure was substantially improved and was not elevated, if needed, the community could come back and require elevation. Flood insurance premium could be negatively rated and rise greatly.

(10) What is the approximate age of all structures on property? Main structure _____
Other structures _____

(11) Have there been any additions or alterations made to the structures during the time the SELLER owned the property? ☐ Y ☐ N
If yes, were the necessary permits and inspections obtained for all additions or alterations? ☐ Y ☐ N ☐ NK



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Specific Questions on the Seller’s Disclosure Notice, 3.14

Section 3: Structure, Question 14

- Going to want to see an explanation if marked yes. What was the source?
 - Structure’s pipe bursting or sewage backflow could signify damage, but not covered by flood insurance.
 - Explanation could signify drainage issues, nearby waterway, nearby flood control structures, etc. Could be covered by flood insurance.

(14) Has any structure on the property ever flooded, by rising water or otherwise?

(a) during the time the SELLER owned the property?

☐ Y

☐ N

(b) prior to the time the SELLER owned the property?

☐ Y

☐ N

☐ NK

If yes, give the nature and frequency of the defect at the end of this section.

Question Number

Explanation of “Yes” answers

☐ Additional sheet is attached



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Specific Questions on the Seller's Disclosure Notice, 3.15

Section 3: Structure, Question 15

- Declaration page: term, coverage limits, premium and deductible. What would the buyer want to adjust? For example: Is contents covered by the current policy?
- What type of policy is it?
 - Group Flood Insurance Policy (GFIP) certificate signals past federal disaster assistance for a flood event/the insurance requirement.
 - Standard policies can be transferred, including any grandfathered rates, if completed before closing.

(15) Is there flood insurance on the property?

☐ Y ☐ N

If yes, attach a copy of the policy declarations page.

Question Number

Explanation of "Yes" answers

☐ Additional sheet is attached



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Specific Questions on the Seller's Disclosure Notice, 3.16

Section 3: Structure, Question 16

- Ask the sellers to give you their EC. If they don't have one, ask if they can provide one before settlement. How long ago was the EC completed?
- Ask your local floodplain manager if there is already one on file. Or check to see if an EC is included in the property deed. In a high-risk area, the developer or builder may have been required to get an EC at the time of construction.
- Hire a licensed land surveyor, professional engineer, or certified architect who is authorized by law to certify elevation information.

(16) Does SELLER have a flood elevation certificate that will be shared with BUYER? ☐ Y ☐ N

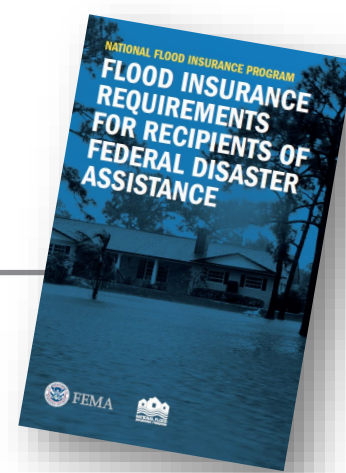
Question Number	Explanation of "Yes" answers	<input type="checkbox"/> Additional sheet is attached
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Specific Questions on the Seller's Disclosure Notice, 6.45



Section 6: Miscellaneous, Question 45

- Remember, past federal disaster assistance for a flood event (and structure being in the SFHA) will trigger a mandatory obtain and maintain flood insurance requirement. Failure to obtain and maintain at least the amount of flood insurance coverage as assistance received can make you ineligible for certain types of future disaster assistance for a flood event.
- For FEMA disaster assistance, only the applicant who received the assistance can call FEMA to request that information.

(45) Was SELLER and/or previous owner a recipient of any of the following:

☐ **NK**

- ☐ Road Home grant \$ _____ (amount received)
- ☐ FEMA \$ _____ (amount received)
- ☐ SBA \$ _____ (amount received)
- ☐ Other Federal disaster flood assistance \$ _____ (amount received)



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Specific Questions on the Seller's Disclosure Notice, 6.45 Continued

Section 6: Miscellaneous, Question 45, Continued

- What type of grant was it? Different grants, different requirements.
- FEMA mitigation grants and insurance requirements must be recorded on the deed.
- FEMA Flood Mitigation Assistance: Flood insurance must be maintained, no matter flood zone.
- FEMA Hazard Mitigation Grant Program, structures in the SFHA must maintain flood insurance.

If YES, complete (a) - (e.i.) below.

- a. Is the property subject to the Road Home Declaration of Covenants Running with the Land or other requirements to obtain and maintain flood insurance on the property? ☐ Y ☐ NK
- b. If YES, attach a copy of the Road Home Program Declaration of Covenants other requirements to obtain and maintain flood insurance on the property.
- c. Has SELLER personally assumed any terms of the Road Home Program Grant Agreement? ☐ Y ☐ NK
- d. Has the SELLER been a recipient of any elevation grants for this property? ☐ Y ☐ N
- i. If YES, what is the amount received? _____
- e. Was the previous owner of the property a recipient of any elevation grants for this property? ☐ Y ☐ N ☐ NK
- i. If YES, what was the amount received? _____

Question Number Explanation of "Yes" answers ☐ Additional sheet is attached



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Tips for Buyers & Sellers



Buyers

- Flooding can happen anywhere. Get flood insurance. Add the annual cost of flood insurance to the asking price to see if the home is in your price point.
- Do your own research: flood risk information, title, disclosure, and ask the local community.
- Request the seller's Elevation Certificate, if they have one.
- Inquire with seller about previous flooding and require a flood loss history from the seller.
- Know the waiting period before the policy will take effect. See if the seller's policy can be transferred to the buyer.

Sellers

- If receiving a subsidized rate, transfer it to the buyer at closing.
- Consider mitigation projects that will reduce the flood risk and, in turn, reduce the premium before putting a property on the market.
- Provide an Elevation Certificate.
- Disclose flood history and flood risk information.



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Requesting NFIP Flood Loss History

- Flood losses remain with the address.
- Policyholder/current homeowner can call the FEMA Mapping and Insurance eXchange at: 877-336-2627, option 4
- Only homeowners can request the history. Must prove ownership.
- Loss history will be mailed to the owner or can be email upon request.
- Policyholders may also receive this in a packet of policy information each year.

NATIONAL FLOOD INSURANCE PROGRAM PROPERTY LOSS HISTORY

CURRENT COMPANY/POLICY NUMBER: [REDACTED]
CURRENT PROPERTY ADDRESS: [REDACTED]

THE INFORMATION PROVIDED BELOW IS THE FLOOD INSURANCE LOSS PAYMENT HISTORY FOR CLAIMS PAID BY THE NATIONAL FLOOD INSURANCE PROGRAM SINCE 1978 FOR THE ABOVE PROPERTY ADDRESS. LOSSES OCCURRING WITHIN 180 DAYS PRIOR TO THIS LOSS HISTORY MAY NOT BE INCLUDED IN THIS REPORT. IF YOU HAVE ANY QUESTIONS ABOUT THIS INFORMATION PLEASE CONTACT THE NFIP AT 866-395-7496.

DATE OF LOSS	BUILDING PAYMENTS	CONTENTS PAYMENTS	TOTAL PAYMENTS
NO LOSSES ON FILE			

THE FLOOD MITIGATION ASSISTANCE (FMA) PROGRAM WAS AUTHORIZED BY THE NATIONAL FLOOD INSURANCE REFORM ACT OF 1994 AND AMENDED BY THE BIGGEST WATERS FLOOD INSURANCE REFORM ACT OF 2012. THE FMA PROGRAM PROVIDES FUNDS ON AN ANNUAL BASIS TO STATES AND LOCAL COMMUNITIES FOR PROJECTS THAT EITHER REDUCE OR ELIMINATE THE LONG-TERM RISK OF FLOOD DAMAGE TO BUILDINGS, HOMES, AS WELL AS OTHER STRUCTURES THAT ARE INSURED UNDER THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP). THE FMA PROGRAM PROVIDES FEDERAL GRANT FUNDS FOR ELIGIBLE MITIGATION ACTIVITIES, SUCH AS ELEVATING AN NFIP-INSURED STRUCTURE. MITIGATED PROPERTIES MAY ALSO QUALIFY FOR REDUCED FLOOD INSURANCE RATES. AS AN INDIVIDUAL, YOU MAY NOT APPLY FOR AN FMA GRANT ON YOUR OWN, BUT YOUR LOCAL COMMUNITY OR COUNTY MAY APPLY FOR A GRANT ON YOUR BEHALF. TO OBTAIN ADDITIONAL INFORMATION ON THE FMA PROGRAM AND OTHER MITIGATION GRANT PROGRAMS, PLEASE CONTACT YOUR LOCAL FLOODPLAIN MANAGER OR STATE HAZARD MITIGATION OFFICER, OR GO TO THE FEMA HAZARD MITIGATION ASSISTANCE WEBSITE AT www.fema.gov/hazard-mitigation-assistance.



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Website and Publication Resources



Resources

- [Homeowners, Renters & Business Owners: Know Your Risk & Take Action](#)
- [Floodsmart](#)
- [FEMA Map Service Center](#)
- A Real Estate Professional's [Guide to Discussing Flood Insurance](#)
- [FEMA Flood Insurance Requirements for Recipients of Federal Disaster Assistance](#)
- [Answers to Questions About Substantially Improved/Substantially Damaged Buildings](#)
- FEMA Mapping and Insurance eXchange (FMIX): General flood mapping and insurance questions, call 877-FEMA-MAP (877-336-2627)



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Resources, Continued

- [LADOTD State and Federal NFIP Floodplain Coordination](#)
- [LADOTD NFIP Parish and Community Floodplain Administrators](#)
- [Louisiana Real Estate Commission Disclosure Forms](#)
- [LA Flood Insurance Purchase Requirement Addendum](#)
- [Understanding the Duty to Notify of Obtain and Maintain \(larealtors.org\)](#), 2019
- [Obtain and Maintain Insurance Requirements \(larealtors.org\)](#), 2018
- [Why-Homeowners-Should-Consider-Purchasing-Flood-Insurance-LA REALTORS](#)
 - Note the NFIP number has been updated to (877) FEMA-MAP or (877) 336-2627
- [Realtor.com® Flood Risk Data Tool \(larealtors.org\)](#)



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Thank you. Any questions?

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For more information about the NFIP and flood insurance,
visit [Agents.FloodSmart.gov](https://agents.floodsmart.gov).

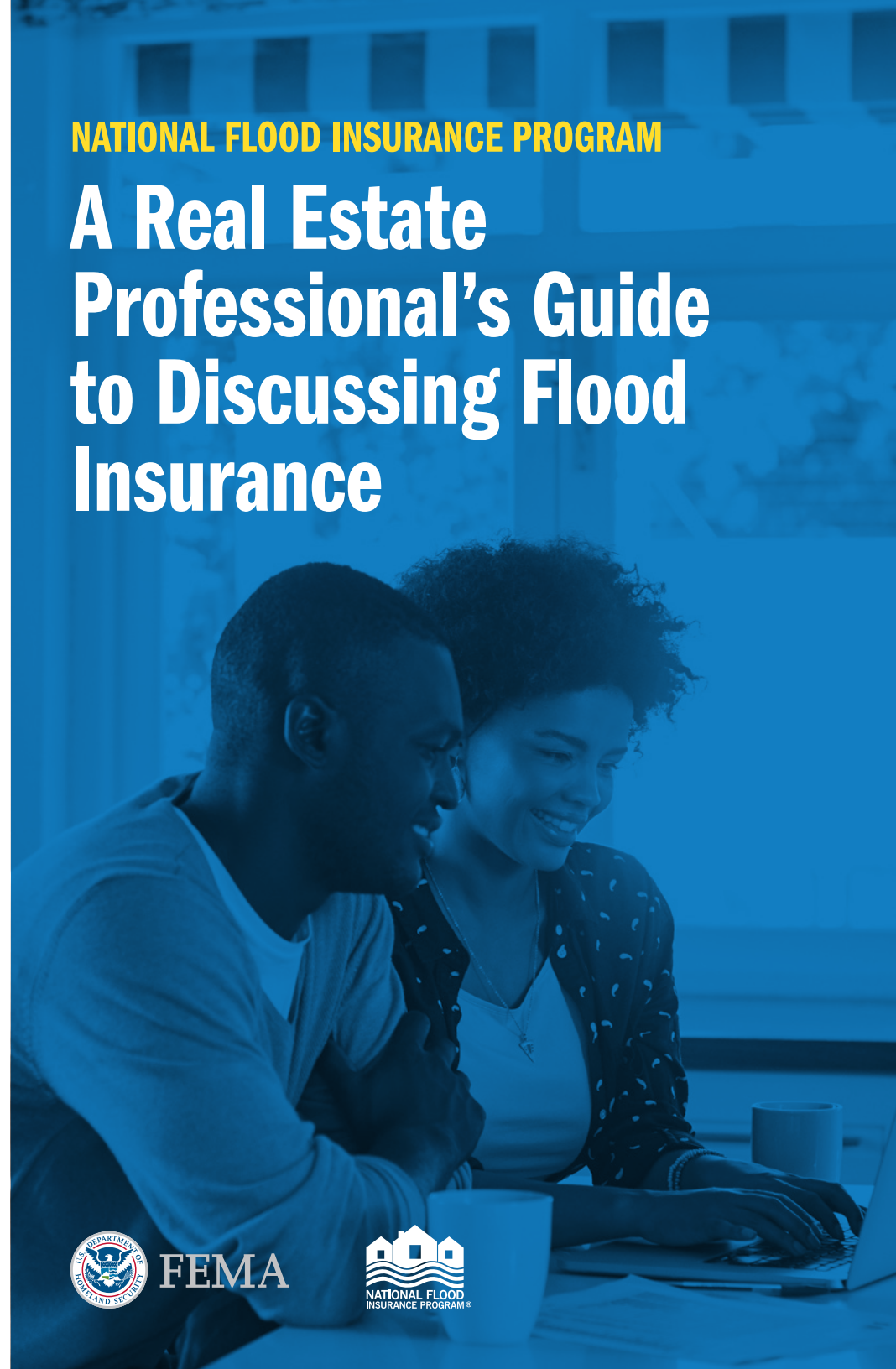
FEMA P-2092 | March 2020

NATIONAL FLOOD INSURANCE PROGRAM

A Real Estate Professional's Guide to Discussing Flood Insurance



FEMA



1

Most homeowners insurance policies don't cover flooding.

Where it can rain, it can flood. And just one inch of water in an average-sized home can cause \$25,000 of damage. Talking with your clients about flood insurance—even if it's not required—could inform their decision to protect their properties from flood damage and the economic devastation it can bring.

2

They need to know their options before flooding happens.

Expect a 30-day waiting period between purchasing the policy and the start date, with some exceptions. For example, if the initial purchase of a flood insurance policy is done in connection with a loan closing, there is no waiting period. Also, if a seller transfers their policy to the new property owner, coverage continues uninterrupted upon sale.

3

Flood insurance can protect the lives they are building.

Your clients trust you to help them navigate the exciting—yet sometimes overwhelming—home-buying process. Being informed and sharing information on ways your customers can protect their investments builds your credibility and eases their minds.

DID YOU KNOW?

A property does not need to be near water to flood. In fact, more than 40% of all National Flood Insurance Program (NFIP) flood claims come from outside high-risk areas. Floods can be a result of storms, melting snow, hurricanes, water backup, broken water mains, and changes to land as the result of new construction, among other things.

Many states have disclosure laws for real estate professionals that address natural hazards, including floods. **Check with your state or local real estate professionals association for disclosure laws.**



Transferring policies

If the seller of a property has NFIP coverage on that building, that policy can usually be assigned to the buyer upon the sale. Let your client know that they have to work with the seller and the seller's insurance agent to assign the policy over to the buyer, and it has to be done on or before the closing date. Working with your client to facilitate this assignment of the flood insurance policy can often save premium money and/or make the purchasing process easier for the buyer.

Generally, if a mortgage company requires flood insurance as a condition of a loan, and the borrower has an escrow account for other insurance premiums, the lender must also escrow flood insurance premiums.



What should my client expect to pay?

Flood insurance premiums vary depending on the construction date and flooding risk, among other things, for each building. The average property owner can purchase an NFIP policy for as little as \$2 a day. A licensed insurance agent can provide quotes for both building and contents coverage. In most cases, they are separate coverages with separate deductibles.



Dispel the myth: Federal disaster assistance might not cover all damage.

Disaster assistance may be available to community members under a Presidential Disaster Declaration, but it is unlikely to cover the cost of all damages and often must be repaid. This assistance comes in two forms: a U.S. Small Business Administration loan, which must be paid back with interest, or a FEMA disaster grant, which averages about \$5,000 per household. By comparison, the average flood insurance claim payment in the past five years was about \$69,000 and does not have to be repaid.

Encourage your clients to visit the resources below for more information:

- **FloodSmart.gov:** Find an agent, understand flood risk, and find useful resources, including the interactive Cost of Flooding tool.
- **MSC.FEMA.gov:** View and download flood maps.