

Options available to a borrower for appealing a lender's determination of SFHA

Letter of Determination Review (LODR) request can be made to FEMA, at a current cost of \$80, jointly by the lender and borrower within 45 days of notice of SFHA by the lender. The LODR review process enables FEMA to verify whether the building's location was correctly identified on the applicable Flood Insurance Rate Map (FIRM). A successful LODR releases the lender from the obligation to require the purchase of flood insurance and identifies the building in a low to moderate flood risk area.

The lender has the option of asking its flood zone determination company to review its determination, especially if the borrower has compelling information to show that the building is not in an SFHA. A plat survey, tax map, or elevation certificate may enable the lender's determination company to better identify the location of building on a FIRM. If the lender's flood zone determination company revises its certification or provides a new Standard Flood Hazard Determination Form (SFHDF) showing the building as out of the SFHA, the mandatory purchase requirement is waived. However, the lender's flood zone determination company may still identify the building in a SFHA and then only the LODR, Letter of Map Amendment (LOMA) or Letter of Map Revision-Fill (LOMR-F) appeals can be attempted. Insurance clients should be urged to call a FEMA map specialist at (877) 336-2627 for information about these options, the forms necessary to apply, and to discuss whether the property owner might be a candidate for these appeal options. Only FEMA, via the LODR, LOMA or LOMR, can change a lender's flood zone determination.

The LOMA applies where a borrower can provide an Elevation Certificate to show that the building's lowest adjacent grade is at or above the base flood elevation. The LOMA suits a situation where the building is within the boundaries of the SFHA, but is on natural high ground. A property owner can view the FIRMs that are located in the community and may be wise to discuss options with community officials. Some communities collect elevation information, which is available to the property owner, and is the required supporting documentation for the LOMA.

A successful LOMA releases the lender from the obligation to require the purchase of flood insurance and identifies the building in a low-to-moderate flood risk area.

There is an Out-As-Shown LOMA that addresses the location of a building that may apply after the LODR 45-day notice period has ended and an E-LOMA may be possible. Property owners should call the FEMA Mapping Specialist at (877) 336-2627 for information.

The Letter of Map Revision - Fill (LOMR-F) applies when the community has permitted the use of fill to raise the ground beneath the building and requires the community's assistance to apply for a LOMR-F. A successful LOMR-F releases the lender from the obligation to require the purchase of flood insurance and identifies the building in a low-to-moderate flood risk area.

More detailed information concerning the LODR is available at http://www.fema.gov/plan/prevent/fhm/fq_proc.shtm#fldproc81

Information about additional options available to a property owner to appeal the lender's flood zone determination is available at

<http://www.fema.gov/plan/prevent/floodplain/nfipkeywords/lomr.shtm> and
<http://www.fema.gov/plan/prevent/floodplain/nfipkeywords/loma.shtm>

If clients dispute the lender's SFHA determination, agents/companies are prudent to advise their clients that information is available from the community and from FEMA to help a property owner decide whether these appeal procedures might apply. If FEMA grants a LODR, LOMA, or LOMR, it agrees with the property owner's contention that the building is currently not in a high-risk flood area and is instead in a low-to-moderate flood risk area. These Letters of Map Change waive the lender's obligation under the law to require the purchase of flood insurance. It should be noted that lenders may, based on loan agreements, require flood insurance to protect their collateral also in low-to-moderate flood risk areas, zones B, C or X. This is because about 25% of the NFIP claims are paid in low-to-moderate flood risk areas. Based on these Letters of Map Change and the lender's verification that the flood insurance is no longer required because the building was removed from the SFHA, the flood insurance policy can be cancelled. See the Cancellation Section of the Flood Insurance Manual. An additional benefit to a property owner in obtaining a Letter of Map Change is that flood insurance coverage is far more reasonable in low-to-moderate flood risk areas, where flood insurance is "not required by law" but may still be "needed." The client may be eligible for the Preferred Risk Policy (PRP) and should be encouraged to protect his or her property.

Why is flood insurance mandated?

Whenever taxpayer money is involved and collateral is located in a high-risk flood zone, flood insurance requirements apply. Flood insurance requirements apply to all federal financial assistance for the acquisition or repair of buildings in high-risk flood areas, including to certain recipients of FEMA disaster assistance. It applies to recipients of disaster relief loans issued by the Small Business Administration (SBA) and various federal mitigation grant programs.

Regulated lenders are being required by regulators to resolve zone discrepancies!

Producers should be aware that regulated lenders will be required to resolve zone discrepancies by requesting documentation to show that a policy qualifies for the Grandfathered zone, if applicable. If such documentation is not available, or if FEMA has not overturned the lender's determination via one of the letters of map change, the loan will be considered non-compliant. As a result, the lender will require that, within 45 days of the lender's notice, the policy is rated in accordance with the SFHA determination. Immediately after the 45-day notice, the lender will force place flood insurance, if the borrower has not complied with the lender's requirement. The forced flood insurance may be more costly than if your client's policy is changed to reflect the higher-risk determination. Agents must take care to avoid placing themselves and their clients at financial risk and burdening their clients with a higher than necessary flood insurance premium under a force placed flood policy, via the private market.