MULTIFAMILY RISK ADVISORS
A DIVISION OF TANNER, BALLEW AND MALOOF, INC.

Biggert Waters Flood Insurance Reform Act of 2012

Affects on Apartment Property Owners

Basic Overview:

In July of 2012, the U.S. Congress passed the Biggert-Waters Flood Insurance Reform Act of 2012 which uses FEMA and other agencies as the implementers of several changes to how the National Flood Insurance Program operates. The main provisions of this legislation will be used to mitigate the debt ridden program and ensure that property owners are paying their fair share of premium that reflects their "true flood risk". These changes will help to make the program more fiscally stable and change the way Flood Insurance Rate Map (FIRM) updates affect policy holders. Prior to this legislation being passed, the NFIP was $30 billion in debt. By implementing the changes to Flood Insurance the hopes are that it will stabilize the market and reduce deficits. These changes will mean premium rate increases for some policyholders but not all will feel the impact immediately.

The main purpose of this legislation is to increase the fiscal soundness of the NFIP. It will change rates on subsidized properties, address coverage modifications, establish a new Reserve Fund charge, and alter premium rates to more accurately depict flood risk. This legislation will affect about 20% of all NFIP policies. These are the percentage of policy holders that pay subsidized rates. About 5% of that 20% (non-primary residences and business properties) will see a 25% annual increase in premiums until their premiums reach full-risk premiums. The other 15% of the subsidized policyholders will see no immediate change until they sell their property or have a lapse in coverage. The remaining 80% of policy holders will not see a significant difference in premiums other than a new charge to cover the Reserve Fund. However, once remapping occurs in the latter half of 2014, many more will see changes to their premium rates.

How Are Rates/Premiums Calculated?

The NFIP calculates a property's potential premium for Flood Insurance based upon many factors including the type of building, number of floors, whether a building has a basement or enclosure, flood mitigation techniques, the elevation of the lowest floor of the building, and the property's geographic location in relation to flood hazards identified by the community and FEMA.

Rates are calculated using what is called the Base Flood Elevation in relation to the lowest floor elevation of a structure. The BFE is the flood level that has a 1% or greater chance of being equaled or exceeded in a given year. Therefore rates will reflect how far above or below the lowest floor elevation is in relation to the BFE.

What Determines a Change in Premium and Rates?

Rate changes will have the largest effect on properties located in the Special Flood Hazard Area that were constructed before a community adopted its first Flood Insurance Rate Map (FIRM). The initial FIRM maps were established in the 1970's and early 1980's. The properties built before the maps were established are called pre-FIRM and they have been receiving subsidized rates. These subsidized rates are the ones being phased out for non-primary residences. This fall subsidies will be phased out for:

- Businesses
- Properties of one to four residences with severe repetitive loss experiences
- Properties that have incurred flood-related damages where claims payment exceed market value
- **Note: Condominiums and non-condo multifamily structures will remain subsidized until FEMA develops guidance for their removal.**

Subsidies are not being phased out for existing policies covering primary residences and multifamily residences. This can change however upon:

- A new or lapsed policy (Results in an increase to full risk rates immediately)
- A change of ownership (Results in an increase to full risk rates immediately)
- A community is remapped (Provision still under review)

Full risk rates mean that the premium will reflect both the risk assumed by the program (expected average claim payout) and all administrative expenses.

What about NFIP Grandfathering:

Before this legislation was passed, when revised or updated maps showed higher risk zones or BFEs, policyholders were able to "grandfather" in the zone and elevation of an older map. This will be phased out and when a community acquires a new FIRM the rates will reflect the most recent effective map. This will happen gradually, with new rates increasing by 20% per year for five years. These provisions will not be implemented until the latter half of 2014.

Immediate Ways around Significantly Higher Premiums:

- If purchasing a new property that is in a Special Flood Hazard Area and it was originally constructed Pre-FIRM, think about buying the entity that owns the property so that actual ownership of the property doesn't change hands in regards to the NFIP.
- **Be particularly aware of locations that were built before 1980 and are located in Flood Zone A or V. Have your agent get a flood quote based on current elevation certificates.**
- Renovate structures to reflect guidelines set by the NFIP and do even more to reduce the risk of loss due to flooding.
- Consider the purchase of properties outside of the Special Flood Hazard Areas.

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