

BUCKLEY SANDLER

Mandatory Purchase Requirements

June 27, 2017

Brandy A. Hood



Mandatory Purchase Requirements

- Certain lenders are prohibited from making, increasing, renewing or extending a loan secured by a building or mobile home
- Located in a special flood hazard area, as determined by FEMA, where flood insurance is available under the National Flood Insurance Program
- Unless each structure and any personal property securing the loan
- Covered by flood insurance
- For the term of the loan

Applicable Rules Depend on Lender and Loan

- Depends on entity that makes/owns loan and loan type
 - Federal banking agencies
 - Fannie Mae/Freddie Mac
 - FHA/VA/RHS
 - Insurance not required by Flood Act -- RESPA LPI rules
- Servicers assume responsibilities under servicing agreements
- States getting in the game
- Focus on federal banking agency requirements today

Lender/Service Obligations

- Determine if property is in high risk area
- Notice of Special Flood Hazards if in high risk area
- Ensure adequate coverage
- Escrow premiums, if not exempt
- Lender place insurance if borrower does not maintain adequate insurance

Example Challenges / Pitfalls

- Flood insurance is required if property is mapped into a high risk area after making, increasing, renewing or extending the loan
- Flood insurance is not required if NFIP coverage is not available or if lender/loan not subject to rules – even if property is in high risk area
- Limited coverage available under NFIP (co-op, non-residential condo, large commercial property challenges)
- Uncertainty relating to NFIP reauthorization (expiration, new requirements, new exclusions)