Federal Banking Agencies Issue Guidance on Flood Insurance Requirements

May 30, 2014

As we have previously advised, the maximum amount of flood insurance available under the National Flood Insurance Program ("NFIP") for multi-family residential buildings with five or more units will increase from $250,000 to $500,000 effective as of June 1, 2014. An important issue raised by this increase in available insurance is the impact the change will have on existing multi-family loans where the amount of insurance in place is at the old maximum amount of $250,000. Federal banking agencies have now addressed this issue in an Interagency Statement issued on May 30, 2014.

According to the Interagency Statement, a copy of which can be accessed here, if a financial institution or its servicer "receives notification" of the increased flood insurance limits available for a multi-family residential building with five or more units securing a designated loan, the agencies expect the institution "to take any steps necessary to determine whether the property will require increased flood insurance coverage."

The Interagency Statement states that a lender is not required to perform an immediate full file search of its loan portfolio, but that "for safety and soundness purposes a lender may want to review its loan portfolio to determine whether additional flood insurance coverage is required for certain properties in light of the availability of increased flood insurance coverage" for multi-family residential buildings with five or more units.

According to the Interagency Statement, if a lender becomes aware that a building securing a designated loan is covered by flood insurance in an amount less than required, the lender should take steps to ensure that the borrower obtains sufficient coverage. If an affected borrower has not provided evidence of the increased flood insurance, the lender or its servicer must notify the borrower that the borrower should obtain additional flood insurance at the borrower's expense for the remaining term of the loan. If the borrower fails to obtain sufficient coverage within 45 days after notification, the lender or its servicer must purchase coverage on the borrower's behalf. The lender or its servicer may charge the borrower for the cost of premiums and fees incurred in purchasing the insurance, including premiums and fees incurred for coverage beginning on the date on which flood insurance coverage did not provide a sufficient coverage amount.

If you have any questions regarding flood insurance issues, please feel free to contact Joseph D. Simon at 516-357-3710 or via email at jsimon@cullenanddykman.com, Kevin Patterson at 516-296-9196 or via email at kpatterson@cullenanddykman.com, or Elizabeth A. Murphy at 516-296-9154 or via email at emurphy@cullenanddykman.com.

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