

New York Enacts Law Imposing Limits on the Amount of Flood Insurance Lenders May Require on Certain Loans and Requiring a Notice to Borrowers

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New York State Governor Kathy Hochul has signed a new law that prohibits mortgagees from requiring mortgagors of improved residential real property to purchase flood insurance exceeding a certain amount, or that includes coverage for contents. The law also requires mortgagees to provide a notice to mortgagors subject to flood insurance purchase requirements. The law became effective on December 13, 2024, the date it was signed by the Governor.

[Assembly Bill A5073A](#) amends the New York Real Property Law by adding a new Section 283, prohibiting any mortgagee from requiring that a mortgagor to whom the mortgagee makes, increases, extends, or renews any loan or line of credit secured by improved residential real property to purchase or pay for flood insurance on such residential real property:

1. at a coverage amount that exceeds the outstanding principal mortgage balance as of the beginning of the year for which the policy shall be in effect; or
2. that includes coverage for contents.

The law further requires that, for each instance where a mortgagee requires a mortgagor to purchase or pay for flood insurance on such residential real property, the mortgagee shall provide notice to the mortgagor at the time the mortgagee is notified of the need to purchase or pay for flood insurance. Such notice must state the following in clear and conspicuous print:

“Please note that the flood insurance we are requiring you to purchase will only protect your creditor or lender’s interest in your property. The insurance may not be sufficient to pay for many needed repairs after a flood and may not compensate you for your losses in the property due to the flood. If you wish to protect your home or investment, you may wish to purchase more flood insurance than the amount we are requiring you to buy.”

This new law appears to conflict with federal flood insurance requirements applicable to lenders. Among other things, federal regulations generally require lenders to require borrowers to obtain flood insurance on contents when the contents are taken as collateral, the contents are located in a building that is also collateral for the loan, and the building is in a special flood hazard area. The Governor's approval message of this new law states that certain amendments to the law are necessary and it is possible the legislature may enact such amendments in the upcoming term.

Clarifying amendments are warranted to enable affected mortgagees to update their procedures to comply with the new law. It appears that the law may require affected mortgagees to reprogram their loan servicing platforms to incorporate a new calculation of the "coverage amount" for flood insurance, and compliance with a rule that was effective immediately may not be feasible as a practical matter for several months. Further, should the calculation of the coverage amount be revised by the anticipated necessary amendments, a further update of loan servicing platforms might again be required.

This advisory is a general overview of the new law and is not intended as legal advice. If you have any questions about the new law, please feel free to contact Joseph D. Simon at (516) 357-3710 or via email at jsimon@cullenllp.com, Elizabeth A. Murphy at (516) 296-9154, or via email at emurphy@cullenllp.com, David Curatolo at (516) 357-3733 or via email at dcuratolo@cullenllp.com, or Gabriela Morales at (516) 357-3850 or via email at gmorales@cullenllp.com.

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