



FEMA

W-09068

October 27, 2009

MEMORANDUM FOR: Write Your Own Company Principal Coordinators and the
National Flood Insurance Program Servicing Agent

FROM: 
Dennis L. Kuhns
Director, Risk Insurance Division
National Flood Insurance Program

SUBJECT: Recommendations/Guidance for Possible NFIP Authority Lapse and
Hiatus

As Congress continues passing resolutions for short-term extensions of the National Flood Insurance Program (NFIP), the possibility of an NFIP authority lapse remains. Therefore, FEMA has developed the attached set of guidelines and recommendations for Write Your Own (WYO) Companies and their agents to consider.

In the unlikely event that a hiatus occurs, the NFIP will not be able to: (a) issue new policies, (b) increase coverage on existing policies, or (c) issue renewal policies. Again, the Program is not likely to lapse, but as reauthorization dates approach, our partners need as much information as possible in order to effectively make decisions that will have the least amount of impact on their operations and, most importantly, their customers.

As always, we will keep you informed of NFIP-related activities on Capitol Hill, and we will let you know when Congress takes any action related to the NFIP's statutory authority. Finally, we will continue to do all we can to help WYO Companies and agents operate smoothly through fiscal year 2010 and beyond.

Attachment

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Suggested Routing: All Departments



FEMA

**NFIP Reauthorization
Information for WYO Companies and Agents
2009**

NFIP Authorization

- If Congress does not reauthorize the NFIP by midnight of the last day of effective authorization, the Program will experience a hiatus – a period without authority to:
 - issue new policies,
 - issue increased coverage on existing policies, or
 - issue renewal policies until Congress reauthorizes it.
- If there is a lapse in NFIP authorization, any hiatus period should be brief, and most of the nearly 5.6 million flood insurance policyholders nationwide will not be affected.

New Policies

Payments received before midnight of the last day of effective Program authorization

- New policies for which premium payment is received by the insurance company on or before midnight of the last day of effective Program authorization will be issued for coverage and will become effective after the last day of effective authorization, regardless of the policy effective dates.
- For loans closing prior to the first day of hiatus, when the premium payment is from the escrow account (lender's check), title company, or settlement attorney, and the application date is on or before the closing, the policy can be issued even if the premium and application are received after the last day of effective Program authorization.
- As always, the starting dates of NFIP coverage depend on the applicable flood insurance waiting period.

Claims for Policies-in-Force

Policies-in-Force before midnight, last day of effective authorization

- Policies that are in force before midnight of the last day of effective Program authorization will remain in force, and claims under those policies are to be processed and paid as usual afterwards (once hiatus begins).
- Claims for covered losses occurring during a hiatus, on existing policies and on policies issued effective after the last day of effective authorization, are to be processed and paid as usual.

New Policy Premiums, Renewal Policy Premiums, or Added Coverage Endorsements

Received on or after NFIP Authorization expiration (during possible hiatus)

Financials

- If there is an NFIP hiatus – Congress does not reauthorize the Program by midnight of the last day of effective Program authorization – the NFIP recommends that WYO Companies hold, in abeyance, any new policy premiums, renewal policy premiums, or added coverage endorsements received on or after the first day of the hiatus. See exceptions listed below “Determining Payment Receipt Dates.”
- If the renewal offer was issued prior to authorization expiration, and the renewal premium is received within the 30-day grace period, the policy can be reinstated even if the renewal premium was received after authorization expiration. The same rule applies on an underpayment notice issued before authorization expiration.

Claims

- For any new policy premiums, renewal policy premiums, or added coverage endorsements received on or after the first day of the hiatus, claim payments for losses suffered during a hiatus cannot be made until Congress retroactively extends NFIP authority. See exceptions listed above, under “Financials.”
- WYO Companies may investigate claims under a reservation-of-rights letter or a non-waiver agreement, up to the point of payment. Under either, WYO Companies would reserve the right not to pay the claim if Congress does not reauthorize the NFIP while continuing the investigation of the claim.
- If there is an NFIP hiatus, eventual reauthorization will likely be granted retroactively, and WYO Companies can issue policies effective as of the date they receive payments (subject to applicable waiting periods).

Determining Payment Receipt Dates

New Policy Premiums, Renewal Policy Premiums, Added Coverage Endorsements

- The controlling factor in determining payment receipt dates for new policy premiums, renewal policy premiums, or added coverage endorsements is when the insurance company receives payment, not the standard mail postmark.
 - However, proof of mailing receipts or third-party receipts that WYO Companies receive through certified mail or from entities such Federal Express (FedEx), United Parcel Service (UPS), and courier services do serve as payment receipt dates.
 - For policies to be renewed, WYO Companies must receive payments on or before midnight of the last day of effective Program authorization, as per payment receipt date determination factors listed above.
 - There will be no interruption in coverage if a customer mails the premium and the WYO Company receives it on or prior to midnight of the last day of effective Program authorization. See exceptions listed above where the WYO Company is allowed to issue or renew policies even if the premium is received after a hiatus begins.

Hiatus Scenarios

The 30-Day Waiting Period, Renewals

Policies without a 30-Day Waiting Period

- In the unlikely event of a hiatus and reauthorization is not retroactive to the first day of the hiatus, policies without a 30-day waiting period would become effective on the date the reauthorization is effective. This rule applies to loan closings occurring on or after the first day of the hiatus.

Policies with a 30-Day Waiting Period

- Policies with a 30-day waiting period would become effective when both the 30-day waiting period has ended and Congress has reauthorized the NFIP. The same rule applies for those applications and premiums made prior to the first day of the hiatus, and received on or after the first day of hiatus. The 30-day waiting period would be calculated from the application date and not from the NFIP reauthorization date. However, the policy cannot be effective before the reauthorization date.

Renewals

- In the unlikely event of a hiatus, for renewal payments received after midnight of the last day of effective authorization, the renewal policy will go into effect at the earliest date consistent with both the terms of the expiring policy and the extension of the NFIP's authority. Such renewal policies will only become effective if a new NFIP authorization becomes law, which is expected. If this does not occur, premiums will be refunded.
- WYO Companies are no longer authorized to renew policies if the premium is received on or after the first day of the hiatus, with the following exceptions:
 - Renewal Effective Dates Prior to the first day of the hiatus – If the premium is received on or after the first day of the hiatus, but the premium receipt date is within 30 days from the policy expiration date, the policy can be renewed.
 - Renewal Effective Dates on or after the first day of hiatus – If the renewal offer was mailed prior to the first day of hiatus, and the premium is received within 30-day grace period, the policy can be renewed even if the premium receipt date is on or after the first day of the hiatus.

Action Required by WYO Companies during an NFIP Hiatus

- WYO Companies are to communicate the status of the program to their agents ASAP.
- WYO Companies are no longer authorized to issue renewal offers after the last day of effective authorization.
- New Business applications and renewals not meeting the criteria listed above cannot be issued.