

THE COMMONWEALTH OF MASSACHUSETTS  
DIVISION OF BANKS  
1000 Washington Street, 10<sup>th</sup> Floor, Boston, Massachusetts 02118

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DAVID J. COTNEY  
COMMISSIONER OF BANKS

August 19, 2015

The Honorable Joseph G. Finn, President  
Quincy City Council  
Quincy City Hall  
1305 Hancock Street  
Quincy, MA 02169-5102

Dear Mr. Finn:

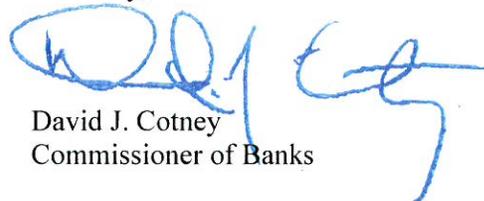
Enclosed please find a redlined version and a clean copy of the final amendments to the Division of Banks' proposed regulation 209 CMR 57.00: Flood Insurance, which will become effective on September 11, 2015. Also enclosed please find an updated version of the Division's Frequently Asked Questions that clarifies that for a mortgage loan made prior to November 20, 2014 on a residential property located in a special flood hazard area, the creditor or creditor's representative must comply with Chapter 177 and 209 CMR 57.00 *et seq.* beginning with the first time the flood insurance policy is renewed after Friday, September 11, 2015, or when the mortgage loan is refinanced, whichever occurs first.

This filing completes the regulatory process to promulgate this regulation. The redlined version and a clean copy of the amendments are also available on the Division's website at [www.mass.gov/dob](http://www.mass.gov/dob).

This filing completes the regulatory process to promulgate this regulation. Both a clean copy and a redlined copy of the amendments are enclosed and are also available on the Division's website at [www.mass.gov/dob](http://www.mass.gov/dob).

If you have any questions, please contact Gregory E. Short, Deputy General Counsel, at 617-956-1520.

Sincerely,



David J. Cotney  
Commissioner of Banks

## 209 CMR 57.00: FLOOD INSURANCE

### Section

57.01 Purpose and Scope

57.02 Definitions

57.03 Limitations on Required Flood Insurance

57.04 When to Provide the Notice About Flood Insurance Coverage

57.05 Format of Notice About Flood Insurance Coverage

#### 57.01: Purpose and Scope

(1) Purpose. The purpose of 209 CMR 57.00 is to implement the requirements of M.G.L. c. 183, § 69 when you require a purchaser or owner of residential property to purchase or pay for flood insurance coverage on residential property located in a designated special flood hazard area.

(2) Model Form. You must use the form of notice prescribed under 209 CMR 57.05(3) and provide such information as required under the notice by 209 CMR 57.00.

#### 57.02: Definitions

The following definitions apply to 209 CMR 57.00 and the notice prescribed under 209 CMR 57.05:

Commonwealth means the Commonwealth of Massachusetts.

Creditor means a person or entity that holds or controls, partially, wholly, indirectly, directly or in a nominee capacity, a mortgage loan securing a residential property, including, but not limited to, an originator, holder, investor, assignee, successor, trust, trustee, nominee holder, Mortgage Electronic Registration System or mortgage servicer, including the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; provided that "creditor" shall also include any servant, employee or agent of a creditor; and provided, further, that the Massachusetts Housing Finance Agency and the Massachusetts Housing Partnership Fund established in St. 1966, c. 708 and in St. 1985, c. 405, § 35 respectively, shall not be a creditor.

Creditor's Representative means a person who has the authority to negotiate and approve the terms of and modify a mortgage loan, or a person who, under a servicing agreement, has the authority to negotiate and approve the terms of and modify a mortgage loan.

Designated Loan means a mortgage loan secured wholly or partially by a mortgage on residential property located in a special flood hazard area and for which the sale of flood

- subsequent mortgage, the full value of the credit line, outstanding principal on the equity loan, or second or subsequent mortgage on that property at the beginning of the year that the flood insurance policy shall be in effect;
- (b) includes coverage for contents; or
  - (c) includes a deductible of less than \$5,000.

(2) Coverage Adjustment upon Policy Renewal. The owner of the residential property may request a reduction in the amount of flood insurance coverage upon renewal of the flood insurance policy to an amount equal to the outstanding principal mortgage balance at the beginning of the year that the policy shall be in effect. You are required to accept such reduction upon request by the owner.

#### 57.04: When to Provide the Notice About Flood Insurance Coverage

(1) Notice Requirement. At the time you require a purchaser or owner of a residential property to purchase or pay for flood insurance on the property in a designated loan transaction, you must provide a Notice About Flood Insurance Coverage to the purchaser or owner in accordance with 209 CMR 57.05.

(2) Delivery and Timing of Notice. You must mail or deliver the Notice About Flood Insurance Coverage to the purchaser or owner of the residential property by the same method, and at the same time, that the Notice of Special Flood Hazards issued pursuant to 42 U.S.C. § 4012a(b)(6) is provided to such purchaser or owner.

(3) Multiple Creditors or Creditor's Representatives.

- (a) If a transaction involves more than 1 creditor or creditor's representative, only 1 Notice About Flood Insurance Coverage must be given to the purchaser or owner, and the creditors and creditor's representatives shall agree among themselves which creditor or creditor's representative must comply with the notice requirements that 209 CMR 57.04 imposes on any or all of them.
- (b) If the creditor's representative has provided the Notice About Flood Insurance Coverage to the purchaser or owner, the creditor will not be required to provide an additional Notice About Flood Insurance Coverage for the same transaction. The creditor is responsible for ascertaining whether the creditor's representative has provided the Notice About Flood Insurance Coverage and must retain a record of a written assurance from the creditor's representative that the creditor's representative provided such notice to the purchaser or owner in accordance with the timing requirements set forth under 209 CMR 57.04(2).

(4) Notice Not Required at Policy Renewal.

- (a) Except as provided under 209 CMR 57.04(4)(b), you are not required to provide the Notice About Flood Insurance Coverage to the insured owner of the residential property on an annual basis at the time the owner is notified of the need to renew the existing flood insurance policy.
- (b) You must provide the Notice About Flood Insurance Coverage to the insured owner of the residential property at the time the owner is notified of the need to renew the existing flood insurance policy if there is an increase, extension, or renewal of the existing mortgage loan, or a new mortgage loan, made at that time, or the addition of new coverage or an increase in the amount of flood

**IMPORTANT NOTICE ABOUT  
YOUR REQUIRED FLOOD INSURANCE COVERAGE**

Borrower(s): \_\_\_\_\_

Property Address: \_\_\_\_\_

This Notice is being provided by your:

Creditor: \_\_\_\_\_

Creditor's Representative: \_\_\_\_\_

In this Notice, the term 'we' refers to your creditor or creditor's representative.

**We have determined that the above address is located in a special flood hazard area. As a result, we are requiring that you purchase a minimum level of flood insurance on the property. This Notice provides important information about what protection this insurance will and will not provide.**

- Please note that the flood insurance we are requiring you to purchase will only protect your creditor's or lender's interest in your property.
- Massachusetts law prohibits a creditor or lender from requiring you to purchase flood insurance in excess of the amount of your principal mortgage and, in the case of a home equity line of credit, home equity loan or second and subsequent mortgage, the full value of the credit line, outstanding principal on the equity loan or second or subsequent mortgage on that property at the beginning of the year for which the policy will be in effect.
- **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 want to purchase more flood insurance than the amount we are requiring you to buy.

**You should contact a licensed insurance professional to purchase required flood insurance on this property, and to determine if additional coverage is appropriate for your circumstances.**

Please retain a copy of this Notice because it contains important information about your flood insurance coverage.

**ACKNOWLEDGMENT OF RECEIPT**

The undersigned acknowledges receipt of a copy of the above Notice About Your Required Flood Insurance Coverage.

\_\_\_\_\_  
Borrower's Signature

\_\_\_\_\_  
Date

## 209 CMR 57.00: FLOOD INSURANCE

### Section

57.01 Purpose and Scope

57.02 Definitions

57.03 Limitations on Required Flood Insurance

57.04 When to Provide the Notice of About Flood Insurance Coverage

57.05 Format of Notice of About Flood Insurance Coverage

#### 57.01: Purpose and Scope

(1) Purpose. The purpose of 209 CMR 57.00 ~~et seq.~~ is to implement the requirements of M.G.L. c. 183, § 69 when you require a purchaser or owner of residential property to purchase or pay for flood insurance coverage on residential property located in a designated special flood hazard area.

(2) Model Form. You must use the form of notice prescribed under 209 CMR 57.05(3) and provide such information as required under the notice by 209 CMR 57.00 ~~et seq.~~

#### 57.02: Definitions

The following definitions apply to 209 CMR 57.00 ~~et seq.~~ and the notice prescribed under 209 CMR 57.05:

Commonwealth means the Commonwealth of Massachusetts.

Creditor means a person or entity that holds or controls, partially, wholly, indirectly, directly or in a nominee capacity, a mortgage loan securing a residential property, including, but not limited to, an originator, holder, investor, assignee, successor, trust, trustee, nominee holder, Mortgage Electronic Registration System or mortgage servicer, including the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; provided that "creditor" shall also include any servant, employee or agent of a creditor; and provided, further, that the Massachusetts Housing Finance Agency and the Massachusetts Housing Partnership Fund established in St. 1966, c. 708 ~~chapter 708 of the acts of 1966~~ and in St. 1985, c. 405, § 35 ~~section 35 of chapter 405 of the acts of 1985~~ respectively, shall not be a creditor.

Creditor's Representative means a person who has the authority to negotiate and approve the terms of and modify a mortgage loan, or a person who, under a servicing agreement, has the authority to negotiate and approve the terms of and modify a mortgage loan.

Designated Loan means a mortgage loan secured wholly or partially by a mortgage on residential property located in a special flood hazard area and infor which the sale of flood

union organized under the provisions of the Federal Credit Union Act; a mortgage lender licensed under M.G.L. c. 255E, § 2; or any other creditor or creditor's representative.

#### 57.03: Limitations on Required Flood Insurance

(1) Limitations on Required Coverage. You cannot require in a mortgage, note, or otherwise, that a purchaser or owner of residential property to purchase or pay for flood insurance on the property that:

- (a) is at a coverage amount exceeding the outstanding principal mortgage balance at the beginning of the year that the flood insurance policy shall be in effect and, in the case of a home equity line of credit, home equity loan, or second or subsequent mortgage, the full value of the credit line, outstanding principal on the equity loan, or second or subsequent mortgage on that property at the beginning of the year that the flood insurance policy shall be in effect;
- (b) includes coverage for contents; or
- (c) includes a deductible of less than \$5,000.

(2) Coverage Adjustment upon Policy Renewal. The owner of the residential property may request a reduction in the amount of flood insurance coverage upon renewal of the flood insurance policy to an amount equal to the outstanding principal mortgage balance at the beginning of the year that the policy shall be in effect. You are required to accept such reduction upon request by the owner.

#### 57.04: When to Provide the Notice of About Flood Insurance Coverage

(1) Notice Requirement. At the time you require a purchaser or owner of a residential property to purchase or pay for flood insurance on the property in a designated loan transaction, you must provide a Notice of About Flood Insurance Coverage to the purchaser or owner in accordance with 209 CMR 57.05.

(2) Delivery and Timing of Notice. You must mail or deliver the Notice of About Flood Insurance Coverage to the purchaser or owner of the residential property by the same method, and at the same time, that the Notice of Special Flood Hazards issued pursuant to 42 U.S.C. § 4012a(b)(6) is provided to such purchaser or owner.

(3) Alternate Method of Notice Multiple Creditors or Creditor's Representatives.

(a) If a transaction involves more than 1 creditor or creditor's representative, only 1 Notice About Flood Insurance Coverage must be given to the purchaser or owner, and the creditors and creditor's representatives shall agree among themselves which creditor or creditor's representative must comply with the notice requirements that 209 CMR 57.04 imposes on any or all of them.

(a)(b) If the creditor's representative has provided the Notice of About Flood Insurance Coverage to the purchaser or owner, the creditor will not be required to provide an additional Notice of About Flood Insurance Coverage for the same transaction. The creditor is responsible for ascertaining whether the creditor's representative has provided the Notice of About Flood Insurance Coverage and must retain a record of a written assurance from the creditor's representative that, within a reasonable time before the completion of the transaction, the

inclusive, to any one of them. If one purchaser or owner is a surety or guarantor, you must provide the Notice About Flood Insurance to the principal debtor.

(4)(7) Insurance Producers.

- (a) An insurance producer required to provide notice as set forth in M.G.L. c. 183, § 69 must provide such notice to the purchaser or owner of the residential property in clear and conspicuous print either:
  - 1. At the time the purchaser or owner is notified of the need to purchase or pay for flood insurance; or
  - 1.2. At the time the purchaser or owner submits an application for flood insurance.
- (b) The Division of Insurance shall administer and enforce the requirements set forth in 209 CMR 57.04(47)(a), including the determination of the form of notice to be provided by an insurance producer.

57.05 Format of Notice of About Flood Insurance Coverage

- (1) Clear and Conspicuous Standard. You must make the Notice of About Flood Insurance Coverage clearly and conspicuously.
- (2) Contents of the Notice. You must include the following in the Notice of About Flood Insurance Coverage:
  - (a) the name of the ~~applicant~~ borrower(s);
  - (b) the address of the residential property to be insured;
  - (c) your name and address as the provider of the notice;
  - (d) a statement on the limitations on required flood insurance coverage as set forth in M.G.L. c. 183, § 69; and
  - (e) a section for the applicant's signature of the borrower(s) to provide their signature to acknowledge receipt of the Notice of About Flood Insurance Coverage; provided, however, you are not required to obtain such signature from the borrower when you are providing the notice prior to the forced placement of flood insurance pursuant to 209 CMR 57.04(5).
- (3) Form of Notice. If you require in a mortgage, note, or otherwise, that a purchaser or owner of a residential property to purchase or pay for flood insurance on the property, you must provide a Notice of About Flood Insurance Coverage to each ~~the~~ purchaser or owner of the property which strictly conforms to the following:

**ACKNOWLEDGMENT OF RECEIPT**

~~Each of t~~The undersigned acknowledges receipt of a copy of the above Notice of ~~of~~About Your Required Flood Insurance Coverage.

\_\_\_\_\_  
Applicant ~~Applicant~~ Borrower's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
~~Co~~ Applicant Signature

\_\_\_\_\_  
Date

REGULATORY AUTHORITY:

209 CMR 57.00: M.G.L. c. 183, § 69.

**Frequently Asked Questions  
on Chapter 177 of the Acts of 2014,  
An Act Further Regulating Flood Insurance**

BACKGROUND

Chapter 177 of the Acts of 2014 (Chapter 177), *An Act Further Regulating Flood Insurance*, was signed into law on July 23, 2014 and became effective on November 20, 2014. Chapter 177 amends Massachusetts General Laws chapter 183 by adding section 69 (Section 69), which prohibits creditors and creditors' representatives from requiring flood insurance that is greater than the balance of a residential mortgage loan, includes coverage for contents, or that includes a deductible of less than \$5,000. The provisions of Section 69 apply to residential first mortgage loans, subordinate liens, home equity lines of credit, and home equity loans. Section 69 also requires that creditors, creditors' representatives, and insurance producers provide borrowers with a notice about flood insurance coverage before it is purchased.

Provided below are responses to several questions relating to the implementation of Chapter 177.

GENERAL

**Q. When does Chapter 177 become effective?**

A. Chapter 177 was signed into law on July 23, 2014, and became effective on November 20, 2014.

**Q. Will the Division of Banks promulgate regulations to implement Chapter 177?**

A. Yes, the Division filed final regulations with the Secretary of the Commonwealth which take effect on Friday, September 11, 2015. The regulation is entitled 209 CMR 57.00: Flood Insurance.

**Q. Will the notice requirements of Chapter 177 apply to loan applications already in process as of November 20, 2014 or only to those applications taken on or after November 20, 2014?**

A. The notice provisions of Chapter 177 will apply to loan applications received on or after November 20, 2014 as well as to any loan application which is in a pending status on November 20, 2014 for which the determination of the need to purchase flood insurance is made on or after November 20, 2014.

**Q. Will Chapter 177 and the implementing regulations at 209 CMR 57.00 *et seq.* apply to the renewal of a flood insurance policy on an existing residential mortgage loan that was made prior to November 20, 2014?**

A. Yes, for a mortgage loan made prior to November 20, 2014 on a residential property located in a special flood hazard area, the creditor or creditor's representative must comply with Chapter 177 and 209 CMR 57.00 *et seq.* beginning with the first time the flood insurance policy is renewed after Friday, September 11, 2015, or when the mortgage loan is refinanced, whichever occurs first.

**Q. If an agency that provides financial assistance in the form of insurance against default or a guaranty of a residential mortgage loan (e.g. the Federal Housing Administration, Veteran's Administration, the Small Business Administration, the Massachusetts Housing Finance Agency, or the Massachusetts Housing Partnership) requires flood insurance coverage that either is in an amount exceeding the outstanding principal mortgage balance or includes a deductible of less than \$5,000, or both, is the creditor or creditor's representative prohibited from originating an agency insured or guaranteed loan for the borrower?**

A. No, Chapter 177 prohibits a creditor or creditor's representative from requiring the purchase or payment of flood insurance that is at a coverage amount exceeding the applicable limits under M.G.L. c. 183 § 69 for a mortgage loan, home equity line of credit, or home equity loan. Chapter 177 also prohibits a creditor or creditor's representative from requiring flood insurance coverage that includes a deductible of less than \$5,000. However, if the insuring or guaranteeing agency is not itself a creditor or creditor's representative in the transaction, the Division would not construe an agency condition on flood insurance coverage which must be satisfied to obtain assistance through such program as a requirement of the creditor or creditor's representative originating or modifying the mortgage loan.

However, the creditor or creditor's representative originating or modifying the agency loan will be required to provide the borrower with the Notice About Flood Insurance Coverage in accordance with Section 69 and 209 CMR 57.00 *et seq.* The creditor or creditor's representative is encouraged to undertake reasonable steps to clarify for the borrower any differences between a higher flood insurance coverage amount for the program loan and the statements included in the Notice About Flood Insurance Coverage regarding limitations on maximum required coverage amounts.

**Q. Will compliance with Chapter 177 and the Division's regulation be required when a creditor or creditor's representative makes, increases, extends, or renews a junior mortgage, home equity line of credit, or home equity loan secured by a mortgage on residential property located in a special flood hazard area in which flood insurance is available under the National Flood Insurance Act?**

A. Yes, the creditor or creditor's representative originating the junior mortgage or home equity product must comply with Chapter 177 and the Division's regulation. The creditor or creditor's representative should instruct the borrower to contact their insurance agent to discuss amendments to the existing flood insurance policy.

**Q. Under the provisions of 209 CMR 57.00 *et seq.*, as principal on the mortgage is repaid, the owner of the residential property may request a reduction of coverage upon renewal of flood insurance policy to an amount not exceeding the outstanding principal mortgage balance at the beginning of the policy year. If an owner does not request a reduction, may the flood insurance policy be renewed for the same coverage amount which was in effect for the prior period?**

**flood hazard area. In a designated loan transaction that includes multiple borrowers, is it sufficient to send the Notice About Flood Insurance Coverage to only one of the borrowers?**

A. Yes, pursuant to 209 CMR 57.04(6), the creditor or creditor's representative may send the Notice About Flood Insurance Coverage to either of the borrowers in the transaction at the time the borrower is notified of the need to purchase or pay for flood insurance. If the creditor or creditor's representative sends the Notice About Flood Insurance Coverage to only one borrower, the notice should be sent to the same borrower to whom the creditor or creditor's representative sends the Notice of Special Flood Hazards. If one purchaser or owner is only a surety or guarantor and will not reside in the property, the creditor or creditor's representative must provide the Notice About Flood Insurance Coverage to the principal debtor.