



National Flood Insurance Program

Mandatory Purchase of Flood Insurance Guidelines

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FEMA

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SECTION D CONDOMINIUMS, COOPERATIVES, TIMESHARES

The mandatory purchase of flood insurance requirements apply with equal force to condominium, cooperative, and timeshare units. Placing and monitoring coverage on units within multi-unit buildings presents special circumstances to lenders and merits particular care. The statutory requirements can be explained through a review of how the various National Flood Insurance Program (NFIP) policies correspond to the forms of ownership as follows:

- The Residential Condominium Building Association Policy was designed for eligible residential condominium associations, and timeshares that are of the fee or real estate ownership type, in Regular Program Communities.
- The General Property Form policy applies to residential cooperatives and timeshares that are non-fee interest and residential condominium buildings not eligible for the Residential Condominium Building Association Policy. The General Property Form policy also applies to non-residential condominiums and unit owners.
- The Dwelling Form policy may be issued on an individual residential unit.

For eligibility requirements and limits available on the various coverages under these policies, refer to the Condominiums section of the NFIP *Flood Insurance Manual*, or consult property insurance professionals for assistance.

1. Condominium Association Responsibilities and Statutory Requirements

Condominium association board members have a fiduciary responsibility to unit owners to protect the common property by assuring that appropriate insurance coverage

is in place. This responsibility often includes providing adequate flood insurance to protect buildings located in Special Flood Hazard Areas (SFHAs). Options for placing flood insurance on condominium buildings are described below.

a. Residential Condominium Building Association Policy (RCBAP)

The RCBAP is the policy specifically designed for condominium associations to insure residential condominium buildings. Under the RCBAP, the association is able to manage flood insurance needs and by-law requirements without relying on the actions of the unit owners.

Although the statutory requirements apply with equal force to condominium unit owners and their lenders, the practice of the lending industry, as followed under the RCBAP, is to defer to the association to ensure compliance. While the association does not bear mortgage responsibility on the individual units, its interest springs from the obligation to maintain and repair the premises for the community benefit and unit owners as tenants in common. A key feature of the condominium insurance format is the separate ownership and mortgaging of individual units, yet the insuring of the building as a whole with a policy issued to the association only. It should be noted that lenders are still responsible to meet their compliance requirements under the law.

A unit owner's mortgage lender has no direct interest in an RCBAP and is not to be listed as an additional named insured on the policy declaration page.

The 30-day waiting period applies to the RCBAP, unless the condominium association is purchasing flood insurance required by the association's mortgage company.

Because the RCBAP provides flood insurance protection for both the building elements within the unit and the common building elements, the security interests of individual unit owner mortgagees should be protected, so long as coverage amounts reflect insurance to value, as with other forms of property insurance. Although unit owners have a shared interest in the common areas of the condominium building, as well as in their own unit, unit owners are unable to individually protect such common areas. Therefore, the RCBAP, insured to its full replacement cost value (RCV) to the extent possible under the NFIP, is the correct way to insure a residential condominium building against flood loss. A properly placed RCBAP protects the financial interests of the association, unit owners, and lenders and also satisfies the statutory requirements.

The premium for the RCBAP is assessed as part of the unit owner's association dues. Proportionately, the RCBAP costs each unit owner less than if each unit owner were to purchase his or her own flood insurance policy that would cover the unit. An eligible condominium association should purchase flood insurance coverage under the RCBAP, even though individual owners may not have mortgages on their units.

(1) Statutory Requirements

The flood insurance amount required by statute for an applicable loan on a condominium unit must be at minimum the lowest of, but may exceed, the following:

- The outstanding balance of the loan(s); or
- The insurable value (replacement cost value) of the unit; or
- The maximum amount of insurance available under the NFIP for the type of property.

Once the minimum amount required to fulfill the statutory requirement is identified from the above example, it is compared to the portion of the RCBAP limit attributable to the unit. If the unit's portion of the RCBAP equals or exceeds the minimum amount required by law, the loan is compliant, but not necessarily adequately insured against flood loss. If the unit's portion of the RCBAP is less than the minimum amount required by statute, the association should be asked to increase its limits. If the association refuses, the unit owner may purchase flood insurance under the Dwelling Form for the difference, if acceptable to the lender. Meeting the compliance requirement via this combination of coverages (RCBAP and Dwelling Form) does not fill gaps in coverage nor ensure that the security is adequately protected against flood loss.

If there is no RCBAP, the unit owner can meet the minimum statutory requirement by purchasing a Dwelling Form policy at least equaling the minimum required amount, if acceptable to the lender.

(2) Evidence of Compliance

As a condition of making, increasing, extending, or renewing a loan on the residential condominium unit and as frequently as required, a mortgagee must obtain:

- A copy of the RCBAP documenting the amount of insurance—ideally, insured to RCV, or at least the unit's portion equaling the statutory requirement. (Effective October 1, 2007, the Declarations Page of each RCBAP issued or renewed must show the building's replacement cost value and the number of units within that building.); or
- A copy of the RCBAP and Dwelling Form (or application and paid receipt) jointly equaling at least the minimum

statutorily required amount of insurance;
or

- A copy of the Dwelling Form equaling the minimum amount required to meet statutory requirements.

While any of these insurance methods might meet the statutory requirements, an RCBAP not insured to full value and/or a Dwelling Form policy could expose the lender and borrower to unknown risk.

FEMA suggests the following simple way to address both compliance requirements and flood insurance needs for safety and soundness of collateral interests. Lenders may apply a risk management strategy, as a condition to granting loans secured by condominium units in high-flood-risk areas, by requiring that condominium buildings be insured under the RCBAP to their full RCV or the maximum amount available, whichever is less. The compliance requirement is then equaled or exceeded with no additional calculation necessary.

(3) Coverage

The entire residential condominium building is covered under the RCBAP, including both common building elements and individually owned building elements within the units, improvements within the units, and personal property owned in common if contents coverage is carried. The RCBAP does not protect the individual owner from loss to personal property owned exclusively by the unit owner.

The NFIP prohibits duplication of NFIP policies on the same risk. As described below, both an association and a unit owner may obtain NFIP coverage, but the unit owner's coverage is proscribed in that it is in excess of the association policy. The combined coverage of the RCBAP and the unit owner Dwelling Form policy cannot exceed the statutory limits or insurable value, whichever is less. The RCBAP is primary in relation to the unit owner's policy.

(4) Policy Limits

As of this edition, the maximum amount of building coverage that can be purchased on a high-rise or low-rise condominium under the RCBAP is the replacement cost value of the building or the total number of units in the condominium building multiplied by \$250,000, whichever is less. The maximum coverage limit under the NFIP for contents is \$100,000 or the replacement cost value of the contents, whichever is less. Contents coverage losses under the NFIP are settled on the basis of actual cash value.

(5) Valuation

FEMA encourages lenders to seek the assistance of insurance agents and companies to determine the replacement cost value of residential condominium buildings, including the foundations.

Any building at risk of flooding should be protected to the same degree as it is for fire and wind perils, to the extent possible under the NFIP policy limits, which are established by Congress.

(6) Coinsurance Provision

Under the RCBAP, associations have an incentive to purchase and maintain coverage in an amount equal to the cost of replacing the building and its foundation, to the extent possible under the NFIP limits. FEMA encourages condominium associations to insure their building to 100 percent of the full replacement cost value, because construction costs continue to increase while the RCBAP limits do not automatically increase over time. At the time of loss, the amount of insurance should represent at least 80 percent or more of the replacement cost or the maximum amount of coverage available under the NFIP, in order to avoid the coinsurance penalty. The 80 percent referenced here is an insurance tool that may apply at the time of loss; it is not a compliance tool.