

Part IV Pay Up or Get Out, Flood Insurance HUD CDBG-DR Federal Policy, Laws, Rules, Guidance.



Published: 11-21-2018 Revised: 12-16-2018

State of Louisiana OCD-DRU Directors **Response to unfair** policy enforcement: "...completely incorrect information and statements not based in current law or policy...". Show related Federal Policy, after all, its hard to trust without transparency.

Part IV of IV based on: "Flood Insurance Requirements"

Open Discussion and Clarification Request to Director Patrick Forbes Office of Community Development state of Louisiana.

RLHP eGrants Grant Award Calculation Letter 7-12-2017 [AwardCalculationLetter07122017.pdf \(Local Copy\)](#)

Version: Award Calculation (Positive) Version 3.1 effective 03/16/2018

1. Upon the sale or transfer of the property, you will, on or before the date of such transfer, and as part of the documents evidencing such transfer, notify all transferees in writing of the continuing obligation to maintain flood insurance on the property. In the event that you fail to provide such

notice, you may be liable to the United States for future disaster assistance related to the property.

- Where do homeowners get a copy of this notice or an example of a notice and how it is to be written so not to place the selling homeowner at risk of being liable for future disaster assistance funds?
2. Funds from FEMA, SBA, insurance, and other sources for the express purpose of repairing or reconstructing the home, these funds, per federal law, are considered "Duplication of Benefits" or "DOB" and must be deducted from reconstruction, reimbursement and/or repair estimate values.
 - Will the Duplication of Benefits low the Program Cost estimate as show in the Flood Insurance Requirements flyer dated 10-5-2018? [RestoreLA Flood Insurance 10-5-18.pdf](#)

HUD Exchange Info 2017 CDBG-DR Problem Solving Clinic

Topic: **Flood Insurance Questions that the state of Louisiana need to make very clear.**

RLHP = Restore Louisiana Homeowners Program, Great Floods of 2016 March / August DR-4363, DR-4277

1. FEMA National Flood Insurance Program flood insurance is required if project is located within a Special Flood Hazard Area 100 year floodplain.
 - **Question for RLHP:** Is their a resource that identifies all structures that have flooded in the special flood hazard area that the general public has access to?
2. The Flood Disaster Protection Act of 1973, as amended, requires that property owners purchase flood insurance for buildings located within Special Flood Hazard Areas (SFHA), when Federal financial assistance is used to acquire, repair, improve, or construct a building. Also required for insurable contents.
 - **Question for RLHP:** Can you define with a list of items what "insurable contents" includes other than machinery of more than \$5,000 in value.
3. Duration of Flood Insurance Coverage: Statutory period for flood insurance coverage may extend beyond project completion.
 - **Question for RLHP:** Where is duration of flood insurance coverage published?
4. For loans, loan insurance or loan guarantees, flood insurance coverage must be continued for the term of the loan.
 - **Question for RLHP:** Where is this policy published?
5. For grants and other non-loan forms of financial assistance, flood insurance coverage must be continued for the life of the building irrespective of the transfer of ownership.
 - **Question for RLHP:** How is enforcement of flood insurance managed if sold by the owner that received HUD CDGB-DR grant funds?
 - **Question for RLHP:** What happens if the new owner of the property drops flood insurance?
 - **Question for RLHP:** Will the recipient of the grant be ordered to repay the grant award if successive owners of the structures and program do not cover the structures and property with flood insurance?
6. Limits of NFIP coverage: \$250,000 for 1 - 4 family residential and \$500,000 for multi - family nonresidential structures.
 - **Question for RLHP:** Are NFIP limits for coverage the maximum the homeowner is responsible for or will the homeowner have to acquire private flood insurance beyond the \$250,000 NFIP maximum coverage limits?
7. HUD recommends purchase for all insurable structures, but it is only required for those in the SFHA.
 - **Question for RLHP:** Where is the public information to what HUD determines "Insurable Structures"?
 - **Question for RLHP:** The Program states it will only provide assistance to living space of the home and not garages, sheds, storage units or detached buildings is this still correct or will additional flood insurance need to be purchased for detached buildings on the property?
8. Equipment purchase \$5,000 or more, must also be insured.

- **Question for RLHP:** If the equipment is not new will market value apply or will this be a purchase price or replacement price for equipment?
9. HUD/State cannot offer Federal disaster assistance for a person's property for construction activities, where the person previously received Federal disaster assistance and failed to maintain the flood insurance (24 CFR 58.6(b))
- **Question for RLHP:** If the person sells the property with structures granted HUD funding and is required to have NFIP flood insurance and the new property owners refuse or cancel the NFIP flood insurance will the seller that had received HUD grants be responsible for NFIP Flood Insurance or be responsible to repay the grants received by HUD?
 - **Question for RLHP:** Will HUD require the grant recipient to repay the grant award amount if the home is sold and flood insurance by the new homeowner is not maintained?
 - **Question for RLHP:** What does this mean: "Failure to maintain flood insurance after using Federal disaster assistance jeopardizes Federal assistance following subsequent disasters." to a homeowner that sells the property to another person?

Allocations, Common Application, Waivers, and Alternative Requirements for 2017 Disaster Community Development Block Grant Disaster Recovery Grantees

40. Flood insurance. Grantees, recipients, and subrecipients must implement procedures and mechanisms to ensure that assisted property owners comply with all flood insurance requirements, including the purchase and notification requirements described below, prior to providing assistance. For additional information, please consult with the field environmental officer in the local HUD field office or review the guidance on flood insurance requirements on HUD's website.

a. Flood insurance purchase requirements. HUD does not prohibit the use of CDBG-DR funds for existing residential buildings in a Special Flood Hazard Area (or 100-year floodplain). However, Federal, State, local, and tribal laws and regulations related to both flood insurance and floodplain management must be followed, as applicable. With respect to flood insurance, a HUD-assisted homeowner of a property located in a Special Flood Hazard Area must obtain and maintain flood insurance in the amount and duration prescribed by FEMA's National Flood Insurance Program. Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) mandates the purchase of flood insurance protection for any HUD-assisted property within a Special Flood Hazard Area. HUD strongly recommends the purchase of flood insurance outside of a Special Flood Hazard Area for properties that have been damaged by a flood, to better protect property owners from the economic risks of future floods and reduce dependence on Federal disaster assistance in the future, but this is not a requirement.

b. Federal assistance to owners remaining in a floodplain.

(1) Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a) prohibits flood disaster assistance in certain circumstances. In general, it provides that no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for "repair, replacement, or restoration" for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. This means that a grantee may not provide disaster assistance for the repair, replacement, or restoration of a property to a person who has failed to meet this requirement and must implement a process to check and monitor for compliance.

(2) The Department is instituting an alternative requirement to 42 U.S.C. 5305(a)(4) as follows: Grantees receiving funds under this notice are prohibited from providing CDBG-DR assistance for the rehabilitation/reconstruction of a house, if (a) the combined household income is greater than 120% AMI or the national median, (b) the property was located in a floodplain at the time of the disaster, and (c) the

property owner did not maintain flood insurance on the damaged property, even when the property owner was not required to obtain and maintain such insurance. When a homeowner located in the floodplain allows their flood insurance policy to lapse, it is assumed that the homeowner is unable to afford insurance and/or is accepting responsibility for future flood damage to the home. HUD is establishing this alternative requirement to ensure that adequate recovery resources are available to assist lower income homeowners who reside in a floodplain but who are unlikely to be able to afford flood insurance. Higher income homeowners who reside in a floodplain, but who failed to secure or decided to not maintain their flood insurance, should not be assisted at the expense of those lower income households. Therefore, a grantee may only provide assistance for the rehabilitation/reconstruction of a house located in a floodplain if: (a) The homeowner had flood insurance at the time of the qualifying disaster and still has unmet recovery needs or (b) the household earns less than the greater of 120% AMI or the national median and has unmet recovery needs.

(3) Section 582 also imposes a responsibility on a grantee that receives CDBG-DR funds or that designates annually appropriated CDBG funds for disaster recovery. That responsibility is to inform property owners receiving disaster assistance that triggers the flood insurance purchase requirement that they have a statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance in writing and to maintain such written notification in the documents evidencing the transfer of the property, and that the transferring owner may be liable if he or she fails to do so.

These requirements are enumerated at [US Code House.Gov](https://www.uscode.house.gov) .

§5154a. Prohibited flood disaster assistance

(a) General prohibition

Notwithstanding any other provision of law, no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

(b) Transfer of property

(1) Duty to notify

In the event of the transfer of any property described in paragraph (3), the transferor shall, not later than the date on which such transfer occurs, notify the transferee in writing of the requirements to-

(A) obtain flood insurance in accordance with applicable Federal law with respect to such property, if the property is not so insured as of the date on which the property is transferred and

(B) maintain flood insurance in accordance with applicable Federal law with respect to such property.

Such written notification shall be contained in documents evidencing the transfer of ownership of the property.

(2) Failure to notify

If a transferor described in paragraph (1) fails to make a notification in accordance with such paragraph and, subsequent to the transfer of the property-

(A) the transferee fails to obtain or maintain flood insurance in accordance with applicable Federal law with

respect to the property,

(B) the property is damaged by a flood disaster, and

(C) Federal disaster relief assistance is provided for the repair, replacement, or restoration of the property as a result of such damage,

the transferor shall be required to reimburse the Federal Government in an amount equal to the amount of the Federal disaster relief assistance provided with respect to the property.

(3) Property described

For purposes of paragraph (1), a property is described in this paragraph if it is personal, commercial, or residential property for which Federal disaster relief assistance made available in a flood disaster area has been provided, prior to the date on which the property is transferred, for repair, replacement, or restoration of the property, if such assistance was conditioned upon obtaining flood insurance in accordance with applicable Federal law with respect to such property.

(c) Omitted

(d) "Flood disaster area" defined

For purposes of this section, the term "flood disaster area" means an area with respect to which-

(1) the Secretary of Agriculture finds, or has found, to have been substantially affected by a natural disaster in the United States pursuant to section 1961(a) of title 7 or

(2) the President declares, or has declared, the existence of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as a result of flood conditions existing in or affecting that area.

(e) Effective date

This section and the amendments made by this section shall apply to disasters declared after September 23, 1994.

([Pub. L. 103-325, title V, §582, Sept. 23, 1994, 108 Stat. 2286.](#))

References in Text

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d)(2), is [Pub. L. 93-288, May 22, 1974, 88 Stat. 143](#), as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The amendments made by this section, referred to in subsec. (e), means the amendments made by section 582(c) of Pub. L. 103-325, which amended section 4012a of this title. See Codification note below.

Codification

Section is comprised of section 582 of Pub. L. 103-325. Subsec. (c) of section 582 of Pub. L. 103-325 amended section 4012a of this title.

Section was enacted as part of the National Flood Insurance Reform Act of 1994 and as part of the Riegle

Community Development and Regulatory Improvement Act of 1994, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

Part IV of IV based on: "Flood Insurance Requirements"

1. [State of Louisiana Announces Pay Up Flood Insurance or Get Out of the RLHP Disaster Program!](#)
2. [Pay Up or Get Out, You have not provided evidence that you are maintaining sufficient flood insurance.](#)
3. [Part III Pay Up or Get Out, Flood Insurance Requirements Homeowners Assistance Program version 3.1](#)
4. [Part IV Pay Up or Get Out, Flood Insurance HUD CDBG-DR Federal Policy, Laws, Rules, Guidance.](#)
5. [OCD-DRU Patrick Forbes accuses flood victim " ..creating unnecessary panic and frustration among flood victims"](#)

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Original location: <https://www.truckandtools.com/disaster/bureaucracy.asp?gdyk=177>

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