

# How the Federal Government took over the Flood Insurance Business

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If you could develop **a market** for a product, then develop **the product**, and then **force hundreds of thousands** of people into **buying the product**, WOW, what a concept! Of course, in the private sector, that isn't the way it works.

But if you were the all-powerful Federal Government, why not?

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## The "Federal Flood Management Program / National Flood Insurance Program"

### Background

In 1968 through legislation the National Flood Insurance Act of 1968 was enacted. This enabled property owners to purchase flood insurance through a Federally Backed Program. All participation in this program was strictly voluntary.

Like many Government Programs that start with the idea of helping those who need it, the program soon became a basis for passing new legislation & expanding the role of Government.

In 1973, only a few short years into the National Flood Insurance Act, legislation expanded the Flood Insurance to a mandatory status on all structures that were built in a designated flood zone and were mortgaged with a Federally Insured Lending Agency.

This legislation basically rocked along offering this federally backed insurance to those whose property was in a flood zone for 31 years. In 2004 the entire program was revised after Katrina and FEMA's distribution of over \$4 billion in Katrina relief.

FEMA was deeply indebted and it is entirely possible that legislators saw a way to build a business model that could help fund the agency. Thus the legislature passed putting the entire program under the direction of FEMA and funneling a network of fees & premiums back into FEMA's coffers.

A complete package was put into place & a marketing campaign sold the program as "partnering with private insurance companies to provide a helpful needed product." Flood insurance purchases were likely to increase after the natural disaster Katrina, but to generate the amount of money needed it would be necessary to mandate many more people had to buy flood insurance.

This was done by giving FEMA the authority to remap all of the flood zones in the entire United States.

This remapping process has thrown tens of thousands of properties into "**High Risk**" flood zones. The process was done by computer imaging & subjective decisions that did not include consideration of any historical data or actual knowledge of land terrain, often using outdated maps, & in many cases such as in rural areas, absolutely no proper studies were done.

Basically, the clicking of properties into high risk flood zones was done without any proper notification to the property owners, leaving the after the fact, burden of proof on the unsuspecting property owner.

The 2004 legislation was well planned; after map changes began the plan began to evolve. The new Flood management Program under the direction of FEMA now required that local counties would have to sign on to partner with FEMA.

Among other things, this partnering meant that flood Insurance **now** would only be available to people in counties that signed on to partner with FEMA in the new program. Any property owner who had purchased flood insurance in previous years would be able to keep that same insurance for 2 years. The new purchasers would only be permitted to purchase flood insurance if their county was signed on to the program.

This 2004 legislation put the Federal Government in to the accelerated flood insurance business and mandates the borrowers to buy it.

The concept is marketed as partnering with private insurance agencies to provide the needed insurance.

### **FEMA Today**

FEMA's own website legitimizes the structure of the program by using the language saying that they are now partnering with local insurance agencies.

The actual partnering takes place when your local agent gets a quote from the Federal Government based on the flood zone that you are in, and then receives a small benefit for writing the policy that is actually underwritten by the Federal Government.

The first recipients of the new flood plain maps were the counties that were more than likely to have some flooding issues somewhere within the county. These counties probably were considered more likely to sign on to the program quickly because they would experience a demand for access to the insurance product.

Many newly rezoned maps started appearing in 2008.

## Unsuspecting

Property owners were totally unsuspecting when these map changes made thousands of properties subject to the mandate to have flood insurance that had never been in **flood zones before**.

Many people, as of this date, are still unaware that their property is now in a **High Risk** flood zone.

Others are blindsided when they learn that they now are required to purchase the costly insurance.

Almost immediately after maps are issued, agents are sent into the Federally Insured Lending Agencies to locate mortgages that are now in **High Risk** flood zones. The lender is required to notify their client that they now have 30 days to purchase flood insurance on their own or the bank will purchase it for them and pass the cost on to the client.

After the Federally Insured Lenders were assisted in locating these mortgages then the examinations began at Independent Lending Agencies to bring those unsuspecting mortgage holders into line. If a property owner is lucky enough not have a mortgage on their property, then they may still be unaware of the flood zone changes and many not even think about checking because they simply don't suspect their property would be considered in a flood zone. These people will be amazed when they try to sell a piece of property that is now placed in a **High Risk** flood zone and find the amazing **reduction in the value** of their property.

For those who find themselves affected by the new flood remapping, FEMA offers a possible solution. By placing the burden of proof on the property owner, more money can be collected.

A packet called a LOMA (Letter of Map Amendment) is provided by FEMA and by hiring a survey you may possibly be able to get a structure released from the insurance requirement. This sounds reasonable until the process begins and then more subjective opinions make the determination where your property actually shakes out.

Again, the cost of any & all surveys & fees are at the expense of the property owner. This includes surveys that would have established criteria for these determinations to have been made before placing property in a flood zone. This is explained by the fact that in areas where there have been hydraulic studies by independent engineering firms such as townships, cities, & developed areas, the LOMA process will likely result in FEMA releasing the structures on the property.

If studies are available to these property owners then they can get a elevation survey, at their own expense, and if the independent studies show a BFE (base flood elevation)

has been previously established in the area, and the lowest elevation submitted for a structure is above the BFE, then FEMA will most likely release the structure and only the structure from the flood zone.

The remainder of the property is usually always noted on the release as still being in a flood zone.

These professional studies set a standard that FEMA will not dispute since their decisions were subjective and mostly determined from computer imagery only. Property owners in these studied areas can consider themselves lucky because they only have the expense of the surveys & any fees required to fill out the lengthy LOMA packet requesting release.

Keep in mind, the surveyor that you choose must be one certified by FEMA to do the surveys. Your trusted surveyor won't necessarily be trusted by FEMA but those they certify should be trusted by you.

In the event that your property is located in a rural area (defined as an unstudied area) where there has never been any flooding or development requiring an independent engineering study, or in an area where there has been absolutely no historic data developed regarding flooding, there will not be any BFE set.

These property owners can get the elevation surveys but will find that they also will be required to get additional surveys that will be a basis for the Corp of Engineers to set a BFE for their area.

Now, you are not only required to get your own elevation survey but one to set a BFE which is a survey that should have been done to set a benchmark to make proper flood zone changes. You are now paying for a survey that should have been done, for a study that was never done, to set a basis for a determination that was done??????

Since the subjective BFE is set when the property owner provides both the structure elevation survey & the other surveys requested by the Corp of Engineers, to the Corp of Engineers, it is questionable why the BFE would ever be set below your elevation survey allowing a release from the flood zone.

Although this is an opinion offered by some property owners, **examples** of this can be seen by comparing the LOMA packets submitted in actual studied areas vs. the LOMA packets submitted where BFE's are set along with the elevation surveys. Since both surveys are provided to the Corp of Engineers & FEMA, the comparisons that can be made indeed raise eyebrows when seeing final determinations.

### **Hire a Private Engineer?**

Property owners, who feel that placing their property in a **High Risk** flood Zone is an

absurdity, can hire a private engineering firm to do a study for them and submit a **Map Revision Packet** to FEMA. These studies would compare to the ones done in developed areas and more that than likely could force FEMA's hand to give a release on the property from the flood zone.

These same studies are required when a property owner determines that there is inaccurate information on the actual maps issued by FEMA. An example of this is a body of water shown in the wrong place on FEMA's flood map. The computer imaging used by FEMA may indicate water where there is none, etc. There seems to be a rather complacent attitude with FEMA officials when these cases arise & they are responsible for determinations that hold the value of private property at stake.

The problem with the map revision packet process is that the studies required by the 57 page Map Revision Packet, can be in excess of \$20,000.00 for an individual property owner. In most cases this process becomes entirely impossible for the average property owner.

The 2004 legislation also contained provisions for property owners who had property that was in the old flood zones.

First, even if they had carried flood insurance for property in a **High Risk** zone prior to the new program, they could now only continue to purchase flood insurance if their county had signed on to the new program with FEMA.

Secondly, if these property owners had gotten elevation surveys in years past that released their structures from the flood insurance requirement, they now had to resubmit a request for a revalidation from FEMA.

These properties were subject to a determination by FEMA on whether they would be allowed to continue to have a release or not. Most of these properties were given the revalidation due to again being in studied areas where BFE's were established but in no way are these properties completely grandfathered, even though they were released years prior to new remapping of the flood zones.

### **Conservation and Management Programs**

An often overlooked aspect to flood zoning is that many areas of the United States had joined in conservation & flood management programs as far back as the 1960's and forward. These programs were designed to lower any risk of flooding & in many cases eliminate it. Properties affected by these flood management programs were assured that watershed & levee development gave these areas protection from the worry of flooding.

With development and changes that could have occurred since these programs were originally put into place it would make sense that some should be updated & targeted

for improvement in recent years, but many were targeted for updates even within the last 5 years & many even after the new flood maps were issued. Why money would be spent for improvements to these water sheds & levees even after FEMA rezoned the properties into a **High Risk** flood zone which would make the improvements immaterial.

At this point, more & more property owners are becoming aware of the inconsistency that is within the recent flood zone remapping by FEMA. You would have thought that some kind of official notification would have been issued to property owners but instead people are finding out by chance that their property has been moved into **High Risk** flood zones. Many are shocked when they try to get a mortgage for improvements, refinance, or sell their property.

### **The Cost**

The cost of mandated flood insurance is a hardship for most of the property owners who are newly affected. Even though flood insurance is now being advertised as a hugely beneficial & affordable addition to your insurance coverage, the hidden secret in these ads is that the quotes for properties in **High Risk** zones where you are now mandated to have insurance, is not the great affordable deal.

In some cases it can increase a mortgage cost to the extent that a property owner cannot make the additional payment, putting their ability to hang on to their property in jeopardy.

**Finally, and probably the most damaging effect of this new remapping, is the value of every piece of property now rezoned into High Risk flood zones has been drastically diminished.**

The question remains, is this subjective remapping a just & fair evaluation that merits destroying private property rights & values???

**Or**, is it just a very well laid plan that puts everything into place to pad the coffers for FEMA at the expense of the private property owner???

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