



**STATE OF NEW YORK
INSURANCE DEPARTMENT**
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Governor

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**Circular Letter No. 1 (2005)
January 10, 2005**

TO: All Licensed Property/Casualty Agents; Licensed Brokers
RE: Eligibility for Flood Insurance through the National Flood Insurance Plan
STATUTORY REFERENCE: Title 44 of Code of Federal Regulations, Parts 61 and 64.

Homeowners' insurance does not cover most flood related losses. The Federal Government has responded by offering federally backed flood insurance under the National Flood Insurance Program (NFIP). Flood insurance policies are sold by licensed Property and Casualty insurance agents and brokers. The NFIP is administered by the Federal Emergency Management Agency (FEMA).

It has come to our attention that some insureds have been advised by their agent or broker that due to their home or building not being in a flood hazard area, they are not eligible to purchase flood insurance.

According to FEMA, flood insurance is available for buildings within any community that participates in the National Flood Insurance Program with a few exceptions. Buildings that are completely over water and newer structures in Coastal Barrier Resource System areas are not eligible for flood insurance coverage in this program. Check FEMA's Community Status Book at <http://www.fema.gov/fema/csb.shtm> to determine if a community participates in the NFIP. Most of the communities in New York State participate; over 1,460 in all. Communities participate by agreeing to enforce regulations that reduce damages to new or substantially improved structures within mapped flood hazard areas.

According to FEMA, within a participating community, flood insurance is available inside and outside of mapped flood hazard areas. Some participating communities do not have a FEMA issued Flood Insurance Rate Map (FIRM). Being outside of a mapped flood hazard area does not necessarily mean that there is no flood risk. According to FEMA, between 20 and 25 percent of NFIP flood claims are filed by insureds outside of high flood risk areas.

Claims for flood insurance may be made any time there is flood damage to a covered structure, structural component, utilities, or contents covered by contents coverage. A "flood" is defined in the Standard Flood Insurance Policy as follows:

- A general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties (at least one of which is the policyholder's property) from:
 - Overflow of inland or tidal waters; or
 - Unusual and rapid accumulation or runoff of surface waters from any source; or
 - Mudflow; or
- Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined above.

The Standard Flood Insurance Policy forms are contained in Appendix A to 44 CFR Part 61.

Unlike most other federal disaster assistance, which is only available if the President declares a disaster, a flood insurance claim does not depend on a government disaster declaration. Most floods do not result in a disaster declaration. Flood insurance can protect property owners and renters from flood related damage even if the flood only covers a small area.

Agents and brokers can get more information about the National Flood Insurance Program by calling 1-800-427-4661, or visit FEMA's NFIP web pages at <http://www.fema.gov/nfip/>.

If you have any questions regarding this circular letter, please contact Patricia Douglas, Associate Insurance Examiner, at NYS Insurance Department, One Commerce Plaza, Albany, NY 12257, (518) 473-7933 or email to [Patricia Douglas](mailto:Patricia.Douglas@nysed.gov)

Very truly yours,

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