



COMPLIANCE SOLUTIONS, LLC

# Flood Disaster Protection Compliance

FMS NY-NJ

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Director

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# Flash Flooding





# River and Coastal Flooding



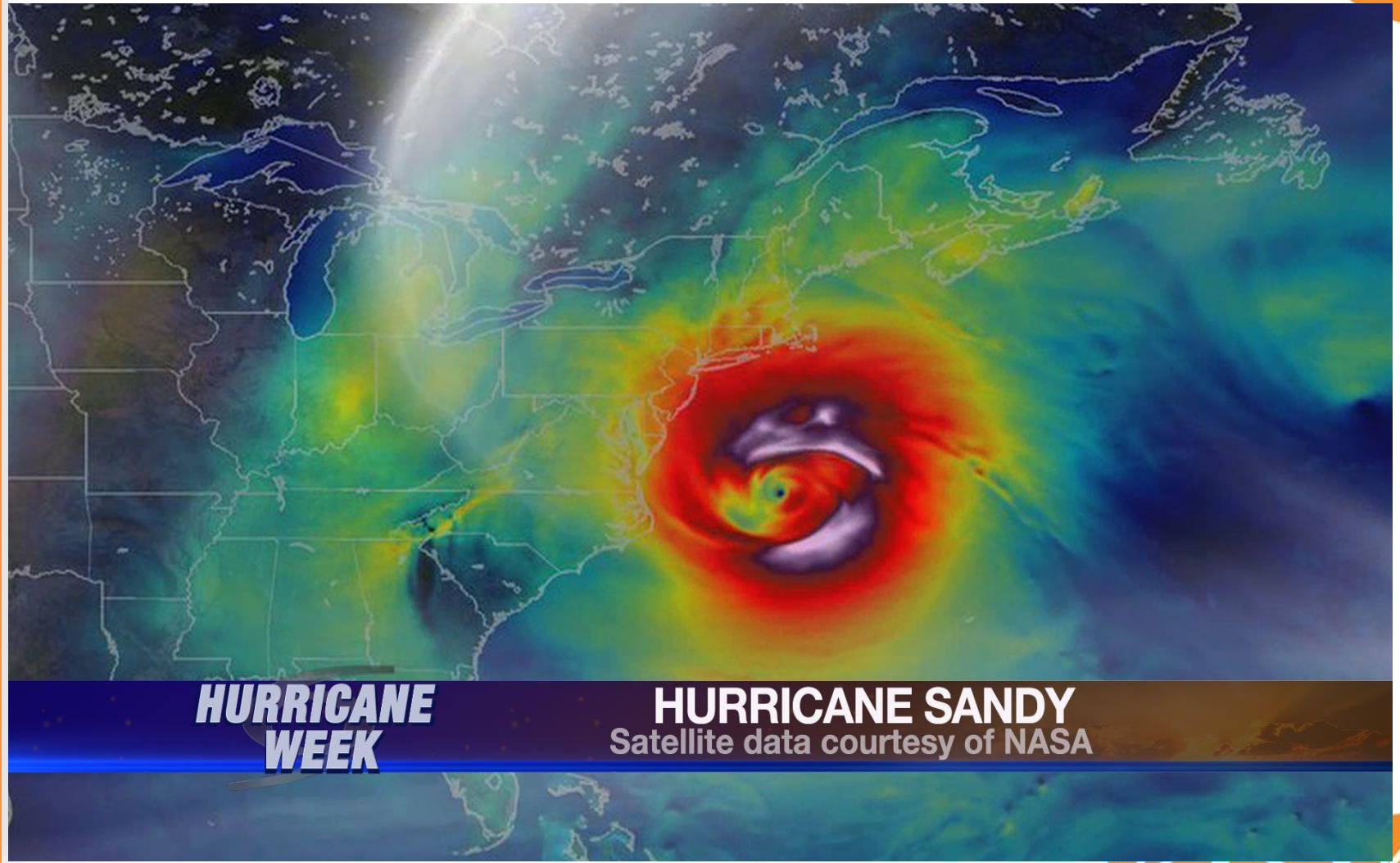


# Biblical Flooding





# THE Flood Disaster



**HURRICANE  
WEEK**

**HURRICANE SANDY**  
Satellite data courtesy of NASA



# Flood Disaster Protection Act

- Amended the National Flood Insurance Act
  - Established the National Flood Insurance Program (NFIP)
  - Offer insurance to property owners in participating communities
  - **Insurance claim payouts to be funded by premium payments of participants**
  - Foundation of Standard Flood Hazard Areas (SFHA)
  - Foundation of Flood Insurance Rate Maps (FIRM)
- FDPA
  - Established “process” for compliance
  - Established mandatory flood insurance requirements
    - Zones A and Zones V





# Biggert-Waters

- NFIP is currently around \$24 Billion in debt
- Overhaul and repair of Flood Program
  - Improve solvency of the FEMA Flood Program
  - Remapping of Flood Zones
    - <http://project.wnyc.org/100yr-zones-prelim/embed.html>
  - Abolished grandfathering
    - Pre-Firm construction
  - Increased rates based on REAL flood risk





# Biggert-Waters

**IF IT CAN'T BE FIXED  
WITH DUCT TAPE**



**THEN YOU'RE NOT USING  
ENOUGH DUCT TAPE**



# Biggert-Waters



*Reliability - Service - Knowledge*





# Recent Reversal

- Insurance premium rates returned to “normal”
  - Administrative fee charged instead
- Grandfathered rates for pre-FIRM returned to “normal”
  - Can continue to be passed on during a sale
- Possible rebates to home purchasers
  - If rates were higher than they should have been





# NFIP Program







# Compliance Changes

- Biggert Waters procedural impacts
  - Flood insurance notice change
    - Must include language about availability of Private insurance
  - Private flood insurance is now as good as NFIP insurance
    - Bank's would have to accept Private insurance that conforms to compliance requirements
  - Mandatory escrow of flood insurance premiums
    - Residential property only
- REGULATIONS NOT IN EFFECT... Yet
  - Expected to be effective July 2014





# Compliance Violation Changes

- Per violation penalty increased
  - Was \$385 per violation
  - Now \$2,000 per violation
- Annual aggregate penalty limits removed
  - Was capped at \$100,000 annually
  - Now NO CAP





# Non-Compliance Issues

- Flood violations
  - Determination
    - Not received
    - Not accurate
  - Disclosure
    - Providing of
    - Timing of
  - Documentation
    - Of insurance coverage
  - On-going/Force Place
    - Coverage lapse
    - Map change
    - Coverage gap





# Flood Determination Compliance

- Standard Flood Hazard Determination (SFHD)
  - Required when Making, Increasing, Renewing, Extending (MIRE) credit
    - Good for 7 years
    - Most are Life of Loan
    - RESPA and Regulation Z disclosures impacted by the fee
  - Must have a date
  - Must indicate the Flood panels and correct property address
  - Must indicate a “flood” zone
  - Indicate that it is for the Bank
- **Bank’s SFHD is Gospel**





# SFHD Compliance Problems

- Not getting one when it is needed
- Missing date
- Incorrect address
  - Address of borrower not property
- Ignoring the flood zone listed
- Not treating it like Gospel
  - Borrowers insurance company disputes Bank's SFHD
  - Bank accepts borrower's SFHD instead







# Disclosure Compliance

- Notice to borrower in a Flood Zone
  - Must be provided timely
  - Should be dated
  - Should include date of determination
  - Must be in writing
  - Must be signed and acknowledged
    - Very least must be evidence of the disclosure being provided
  - Required in all instances of MIRE regardless of new SFHD





# Disclosure Compliance Issues

- Not being provided timely
  - Not less than 10 days prior to closing
    - Some exceptions
- Not putting the date on it
- Not including the date of determination
- Not signed and acknowledged in every instance of MIRE





# Documentation Compliance

- Evidence of adequate flood coverage required prior to closing
  - Declaration page
  - Application and paid invoice
- Insurance must be for the proper amount, the lesser of:
  - Max \$250,000 on Residential
  - Max \$500,000 on Commercial (plus contents if taken)
  - The outstanding loan amount
- Insurance must be for the right zone... A for A, V for V
- Evidence of adequate flood coverage required at all times in the file
  - Annual renewals
  - “Unbroken” string of evidence
- Bank must be listed as mortgagee or loss payee
  - Insurance is for the Bank not the borrower
- Escrow when escrowing for other reasons



# Documentation Compliance Issues

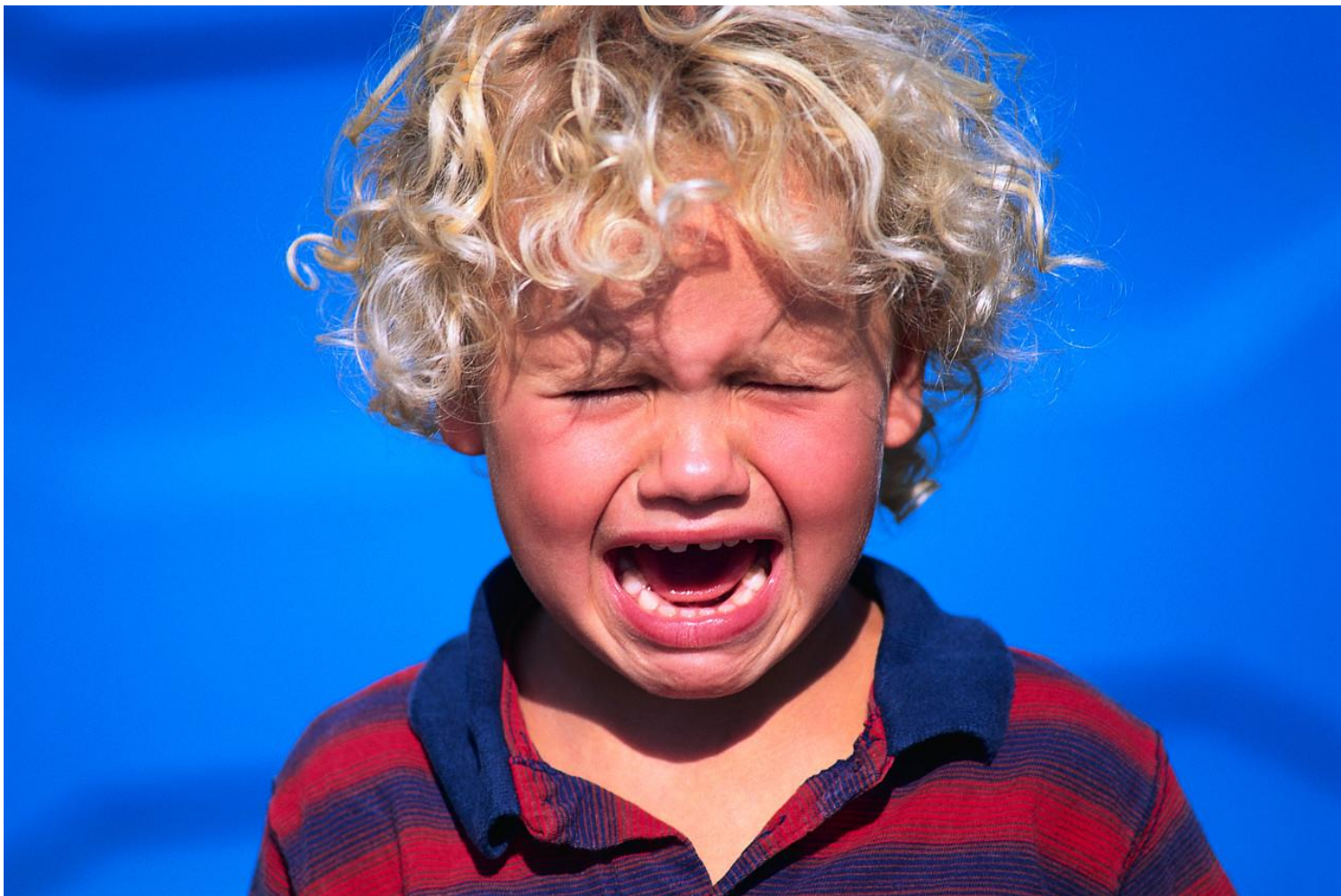
- Not having evidence of adequate coverage prior to closing
  - **#1 Cardinal sin in all of Flood compliance!!!**
- Insurance is for the wrong zone
  - Slipping an X
- Insurance is not adequate during the life of the loan
  - Map change
  - Coverage reduction
  - Non-renewal
- Creates a “broken” line of evidence
- Bank not listed as mortgagee or loss payee
- Not escrowing for flood insurance
- Commercial Loan with “abundance of caution” on inventory or other structures







# Flood Compliance



# Force Placement Compliance



- Bank required to provide notice immediately when inadequate coverage is uncovered
  - Gives borrower 45 days from the time inadequate coverage is discovered
    - Policy non renewal
    - Map change
    - Coverage reduction
    - Coverage elimination
- Bank cannot charge borrower during this time, even if Bank obtains insurance
  - Biggert Waters has a provision for this
- Force placement renewals follow the same requirements of “regular” flood insurance renewals
  - 45 days from date of expiration of the policy
  - Except if Bank uses a MPPP... Then its 45 days prior to the expiration of the policy period
- Force placement should take effect within 1 day of the expiration of the 45 day period



# Force Placement Compliance Issues

- Not providing the 45 day letter immediately after discovering inadequate coverage
  - Waiting a few days is a violation
- Not enforcing a flood policy immediately after the expiration of the 45 day letter
  - Waiting a few days is a violation
- Not providing a notice at the renewal of a force placement insurance policy
  - Each “renewal” requires a new disclosure



# Compounding Compliance Issues

- Multiple violations can occur in one file
  - SFHD not obtained in a MIRE scenario
  - Notice of Flood Hazard not sent timely
  - Notice not signed or evidenced of being sent
  - Force placement letter not sent timely
  - Force place insurance not enforced timely
  - Force placement renewal not disclosed properly
- Multiple violations can reflect significant or systemic control failures
  - Increasing the likelihood of... CMPs





# Examiner Emphasis

- Previously
  - New Loans in focus
    - SFHD
    - Timely disclosures
    - Adequate coverage at closing
  - Emphasizing a good start to Flood compliance







# Examiner Emphasis

- Currently
  - Old Loans in focus aka “Zombie files”
    - Unbroken evidence of adequate coverage
    - Renewal process
    - Force placement process
  - Usually done many years ago
    - Previous compliance culture
    - Previously “examined”
    - Previously “audited”





# Compliance Take Away





# Compliance Take Away

- Bank SFHD is Gospel
- Mail disclosures immediately
- No flood insurance, no loan
  - New loans (MIRE)
- No flood insurance, mail force place letter
  - Annual renewal process
- Map change, mail force place letter
  - SFHD Life of Loan process
- Force place clock expires, force place insurance
  - Don't wait!
- Tracking your flood loans is important
  - Software systems, Excel, etc.



# Questions?



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