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BIGGERT-WATERS FLOOD INSURANCE REFORM ACT OF 2012 (the “ACT”)

As Florida property owners are becoming aware, Congress passed the Biggert-Waters Flood Insurance Reform Act of 2012 (the “ACT”) which was intended to make the Federal government’s flood insurance program financially solvent by bringing rates in line with true flooding risks. Now homeowners, especially in Southwest Florida, are experiencing the financial burden imposed by this Act.

What impact will the “ACT” have upon Southwest Florida Flood Insurance Premiums and Property Owners?

Under the Act, flood insurance premiums are required to rise to reflect the true flood risk thereby forcing premium increases of at least 20% for policyholders across the nation and much higher for homeowners in older homes who had benefitted from subsidized rates for many years. Additionally, flood plain maps have been redrawn so that properties which may not have previously been located in a designated flood zone are now in such a zone and owners may be required to purchase flood insurance policies.

Previous Government Subsidies of Insurance Premiums:

The National Flood Insurance Program, which is run by the Federal Emergency Management Agency (FEMA), has traditionally charged premiums at about 40% to 45% of their full cost, with taxpayers subsidizing the remaining amount. The program was created by Congress in 1968 to help deal with the escalating cost of the government’s emergency response to flood disasters. As there was little shared risk – since people who do not live in flood prone areas do not purchase flood insurance – private companies refused to insure properties in high risk areas or raised premiums to unaffordable levels. This meant that the government’s cost to clean up and repair damages after a flood disaster increased greatly.

Premium Increases for Flood Insurance: Up to 11,000%!

A recent study indicated that 37% of federally subsidized flood insurance policies throughout the nation are in Florida, with 48% of those insurance policies concentrated in Lee, Pinellas and Miami-Dade counties. This means that Floridians will be especially hard hit by drastic increases in flood insurance premiums and this has a significant impact on Southern Florida Real Estate. Some property owners have received renewals for their flood insurance only to find out that their premium has increased 11,000%! That is not a typo. Not only will this impact property owners who currently have flood insurance, this will have a severe impact on real estate transactions as deals may be scuttled because flood insurance has become unaffordable.

Skyrocketing Flood Insurance Premiums and Affect Upon Real Estate Market:

These skyrocketing flood insurance premiums have begun to affect the real estate market as some purchasers have abandoned plans to purchase or construct properties in flood zones in favor of properties outside of those zones. Furthermore, these increasing insurance premiums may lead to a drop in property values or, in certain instances foreclosures, as property owners decide to abandon their properties rather than pay the insurance bills.

Possible Relief – Federal Freeze on Premiums:

Recently, a few United States Senators have proposed the “Homeowner Flood Insurance Affordability Act” which would delay premium increases for approximately four years from the date of passage until FEMA completes an affordability study. However, until Congress acts on this bill, property owners will continue to see increasing flood insurance premiums.

Support for Florida Legislative Initiative - Homeowners’ Choice And Alternative Private Insurance Company Proposal:

The Florida legislature has taken initial steps to create a private alternative to the National Flood Insurance Program which may allow property owners’ alternatives to the flood insurance now available only through the federal government. Additionally, Homeowners Choice Property & Casualty Insurance Company has received approval from state regulators to offer flood insurance coverage to Florida policyholders and Lloyd’s of London may consider issuing a flood insurance policy on a case by case basis. The question will be whether mortgage lenders will be willing to accept flood insurance from these private companies.

If you have questions regarding insurance policies for your property, please do not hesitate to contact our office: (239) 337-1147 or visit us on the web: www.KFJLaw.com.

Additional Reading: An interesting article on Private Insurance written by Matt Walsh can be found in the January 25, 2014 edition of the Business Observer. Here is a link to the article:

<http://www.businessobserverfl.com/opinion/detail/sb-542-lets-free-market-fix-flood-insurance/>