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Bulletin #464

BULLETIN TO ALL MEMBERS:

Re: Emergency Flood Insurance Regulations

We just received a copy of the attached press release from the California Department of Insurance dated March 12, 1991 regarding "Flood Insurance."

This is being sent to you for your information. Please be guided accordingly.

A handwritten signature in black ink, appearing to read 'A. D. Freeman, Jr.', written in a cursive style.

A. D. Freeman, Jr.
Manager

CALIFORNIA DEPARTMENT OF INSURANCE JOHN GARAMENDI, COMMISSIONER
NEWS RELEASE
MARCH 12, 1991

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GARAMENDI ANNOUNCES EMERGENCY FLOOD INSURANCE REGULATIONS

Sacramento- Responding to recently discovered evidence of abuses in the Federal Flood Insurance Program, Insurance Commissioner John Garamendi announced today that he will propose emergency regulations to protect consumers from being pressured to buy flood insurance they don't need and being "forced-placed" into insurance priced as much as three times the federally-approved rate.

"Some homeowners are being soaked and we're going to dry up this scheme," said Garamendi. "Companies selling flood insurance to those who don't need it - or at exorbitant prices will find themselves in very hot water."

In testimony to the Assembly Insurance Committee, Garamendi outlined a four-part enforcement plan to crack down on flood insurance rip-offs:

- *New emergency regulations will require that eligible consumers must be notified of their right to buy the insurance at a low, federally-guaranteed price

- *Brokers and agents who negligently sell insurance to those who don't need it will face disciplinary action

- *Additional restrictions may be placed on companies not licensed in California which often sell the insurance at highly inflated prices

- *Persons who bought unneeded or overpriced insurance are asked to report their experiences to the department, which will investigate to determine if the transaction violated the Unfair Business Practices Act.

In his testimony, Garamendi suggested that the legislature consider placing similar responsibilities upon lenders, escrow companies, and flood map search companies. He also urged the federal government to take additional steps to regulate U.S. chartered banks and to permit the states to require that all companies be licensed in every state in which they are selling flood insurance.

(A copy of Commissioner Garamendi's statement to the Committee is attached.)

STATEMENT OF INSURANCE COMMISSIONER JOHN GARAMENDI REGARDING FLOOD INSURANCE

ASSEMBLY INSURANCE COMMITTEE

MARCH 12, 1991

Mr. Chairman, Members. Thank you for inviting me to address your committee today to detail the consumer protection flaws of the Federal Flood Insurance Program and to suggest some actions you can take to remedy the abuses. I will also seize this opportunity to announce several measures I am implementing to attack this problem immediately.

Thanks to the fine investigative reporting of the Sacramento Bee and other newspapers, many of us became aware last month that some homeowners were being told they had to buy flood insurance even when their homes did not lie in any flood plain, and that some who refused were being forced to pay for the insurance at as much as three times its true costs. I immediately launched an investigation and discovered the following:

- * Federal regulators have indeed ordered federally insured lenders to immediately place flood insurance on uninsured properties located in flood zones.

- * These lenders have contracted with insurance agents and brokers who now write about 85% of all the federally-mandated flood insurance in California.

- * Federal law permits brokers licensed in any state to sell flood insurance in every state, meaning brokers not licensed in California can sell the insurance here.

- * In California, some brokers have also placed the coverage with insurance companies not licensed in the state, so-called "non-admitted carriers." Many of these non-admitted carriers are charging far more than the federal standard for flood coverage.

- * Both the brokers and the lenders have relied heavily on flood map search companies to identify properties which are required to buy the insurance.

- * While under federal law, the lender has the responsibility to determine if the borrower is in a flood zone, federal lending regulators have done little to ensure the reliability of the information developed by flood map search companies which is accepted at face value by the lenders.

Thus consumers of flood insurance are vulnerable in at least two ways:

1. They may be told they must purchase the insurance even when they are not required by law to do so, and no government

agency is regulating the companies that provide the erroneous information; and

2. If they are forced to purchase insurance, they may be buying it from companies not licensed in California at rates well above the federal standard.

As a result of my investigation, I am taking several actions that are within my jurisdiction and will recommend additional steps that you may wish to consider.

First, the department is drafting emergency regulations that require agents and brokers to notify their customers that the insurance is available at a federally set price. The purchaser must sign an acknowledgement of the disclosure before they can be sold the coverage at any price.

Second, the regulations will require all insurance companies agents, and brokers licensed in California to make all reasonable efforts necessary to verify the information provided them by the flood map search companies. If they negligently sell flood insurance to a consumer who doesn't need it, the department will take appropriate disciplinary action.

Third, the department may adopt regulations which would specify that mandatory flood insurance can only be placed with a nonadmitted carrier if the insurance is either unavailable in the special flood hazard area; or the National Flood Insurance Program will not insure the property.

In addition, I have sent a letter to the Federal Insurance Administration requesting a list of all agent and brokers selling flood insurance in California. I will then notify all such agents and brokers licensed in California of their responsibilities under our emergency regulations.

Finally, I will investigate all cases of licensed California brokers and agents who have already sold unneeded or overpriced flood insurance. Consumers should contact the department if they have had such problems. It is possible that their agent or broker is guilty of an unfair business practice under existing law.

While these actions will help protect unsuspecting homeowners from exploitation, they are not sufficient in themselves. Many Californians, from Los Angeles to Sacramento, will find this insurance being marketed to them aggressively in the coming months, and we must all exercise the authority granted us to protect consumers from being ripped off.

Insurance companies, agents and brokers licensed in California can not bear the total responsibility from solving this problem. Lenders, escrow companies and the federal regulatory agencies must all play their parts in eliminating the abuses we have seen.

The legislature has several options available to it. They can require by statute that lenders and escrow companies bear the same responsibility I have placed on insurers, agents, and brokers to verify the work of the flood map search companies and to provide notice to their customers about the fair cost of the coverage.

We should also work together to convince the appropriate federal authorities of the necessity of regulating this area more carefully. The banking regulators should force federally-chartered lenders to exercise more caution when relying on the flood map search companies and to provide adequate notice regarding price to their borrowers. The National Flood Insurance Program should also tighten the broker license requirements and demand that agents and brokers be licensed in every state in which they are selling the insurance.

I suspect others here today will offer additional ideas for protecting the people of California from these abuses, and I will stay around to listen. I am, of course, happy to answer any questions you may have.