L. NON-WAIVER AGREEMENT

When the adjuster identifies a problem that could affect coverage or result in denial, a non-waiver agreement must be secured from the insured. Failure to secure a non-waiver agreement might hinder the company from denial of claim when denial would be in order.

Examples of circumstances that require a non-waiver agreement include the following:

1. The policy has lapsed in coverage.

2. By action of the insured, the policy has become void.

3. More than one building is on a policy (except when scheduled), or there is more than one building at the property address. (Blanket coverage is not provided under the SFIP.)

4. The address of the risk is different from that listed on the policy.

5. The insured has not complied with the policy requirements.

6. Possibility of fraud.

7. Late reporting.

8. Any other situation for which the adjuster believes that a non-waiver agreement is needed.

    In the event a non-waiver cannot be obtained in a timely manner, a detailed Reservation of Rights letter must be sent to the policyholder.

M. OTHER INSURANCE CLAUSE

1. Introduction

Where there is another insurance policy that covers flood damage and that is not an NFIP SFIP, and the other policy has a provision stating that it is excess insurance, the SFIP will be primary.

In all other cases where there is another insurance policy covering flood and an SFIP, the SFIP will be primary (subject to its deductible) up to the deductible of the other policy covering flood. Once the other deductible is reached, the NFIP policy will pay in the same proportion that the amount of SFIP insurance covering the loss bears to the total amount of insurance covering the loss. For large losses, when the SFIP's pro-rata share equals or exceeds the SFIP limit plus the deductible, the SFIP limit is paid.

Note: Duplicate NFIP policies are not allowed. Therefore, except in the case of an RCBAP and a Building Property SFIP naming a condominium unit owner, the other insurance should never be another SFIP. In the instance of commercial properties under the General Property Policy, both the property owner and tenant may purchase building coverage, if the tenant can demonstrate insurable interest in the building, as may be required in the lease agreement.

If the SFIP covers a condominium association and there is an insurance policy that covers flood in the name of a unit owner and both policies cover the same loss, the policy naming the condominium association will be primary.

2. Examples

a. Where there is another insurance policy in addition to the SFIP and the other policy has a provision stating it is excess insurance, the SFIP will be primary.

Loss: $ 35,000			
SFIP Coverage	$ 50,000	Deductible	$ 1,000
Other Insurance	$250,000	Deductible	$50,000

The SFIP is primary and the other insurance is excess. The NFIP will pay $35,000 loss minus the $1,000 deductible.

Note: The above example could be a non-NFIP policy that covers flood and names the condominium association, plus an NFIP SFIP that names a unit owner. If the other policy is excess, the unit owner's SFIP would be primary. In such cases, the condominium association's by-laws should be reviewed to determine what the unit owner owns.

b. For any other flood insurance policy, the SFIP will be primary (subject to its own deductible) up to the other flood policy's deductible. When the other deductible amount is reached, the SFIP will pro-rate for the remainder of the loss.

Loss: $480,000			
SFIP Coverage	$250,000	Deductible	$ 5,000
Other Insurance	$500,000	Deductible	$15,000

The SFIP is primary up to $15,000 of the loss. The SFIP $5,000 deductible will be deducted from the amount for which the SFIP is primary. In this case, the result of the calculation is $10,000. We will pro-rate the loss that exceeds the amount for which the SFIP is primary ($15,000). The other insurance equation will be used to pro-rate the remainder of the loss (i.e., $480,000 − $15,000 = $465,000).

SFIP Coverage	$250,000/$750,000 = .3333 x $465,000 = $154,984.50
Other Insurance	$500,000/$750,000 = .6667 x $465,000 = $310,015.50
SFIP Pays	$154,984.50 + $10,000 = $164,984.50
Total	$475,000.00