January 28, 2014

Good Morning Chairman White and members of the Senate Banking and Insurance Committee and Chairman Yaw and members of the Senate Environmental Resources and Energy Committee. It is my pleasure to provide testimony regarding recent changes to the National Flood Insurance Program (NFIP) as a result of the Biggert-Waters Flood Insurance Reform Act of 2012.

I am Dan Berninger, President and CEO of The Muncy Bank and Trust Company and a past Chairman of the Pennsylvania Bankers Association. Our bank was established in 1893. Our main office is located in the center of town, in basically the same location since its inception, on the corner of Main and Water Streets. Having grown up in Muncy, the 1972 flood is certainly something I will never forget. In that flood, we had 1½ feet of water on our first floor of the bank.

Muncy Bank is largely a consumer or residential lender. We do home loans and home equity loans, and smaller commercial loans. Today we have approximately $267,000,000 in real estate loans, which are largely located in Lycoming County.

Many of the areas we finance are unfortunately located in or near flood plain areas. In Muncy, for example, there are 1028 structures and 415 are located in regulatory flood plain (40%), Montgomery 30%, Muncy Creek Township 15%, and Old Lycoming Township 14%, just to name a few.

As a bank, we have determined that approximately 210 mortgages require flood insurance. As an FDIC insured bank, we are mandated to require flood insurance on all loans in the flood plain. Flood insurance for many of our customers is a struggle financially.

The enactment of the Biggert-Waters Flood Insurance Reform Act of 2012 set in motion unprecedented change to the National Flood Insurance Program (NFIP). The law is ushering in sweeping reform of the flood insurance premium rate structure, flood hazard mapping, and floodplain management and mitigation. At the same time, the law made significant changes to lender flood insurance compliance requirements. Congress' motivation for reforming the NFIP was clear and compelling: it sought to restore the financial solvency and stability of the federal flood insurance program. The statutory changes, however, affect all major components of the program and will have profound effects on consumers who own property located in a flood zone, on real estate markets, and on lenders charged with ensuring that borrowers purchase and maintain flood insurance over the life of the loan. Unfortunately, the full impact of these changes is only beginning to emerge as regulators are in the early stages of implementing the statute.

Although well intentioned, the legislation generates a number of interpretive issues that require careful regulatory implementation. The Agencies have addressed a number of these issues by expressly excluding commercial purpose loans and most subordinate lien loans from the escrow requirements. Nevertheless, there are additional problems that the proposal presents that warrant correction to ensure that the program goals Congress sought to advance are met. These include making additional exclusions to the escrow requirement; providing further clarity regarding force placement; and creating an additional path to safe harbor to promote the acceptance of private insurance policies. Finally, the rule must provide the industry with a realistic period of time to implement the required changes.

As you are aware, Congress passed the $1.1 trillion spending bill, and President Obama signed into law on January 17, 2014, which had a provision in the bill to delay premium increases in the National Flood Insurance Program for a year to a year and a half. While it does in fact give homeowners a moratorium in keeping rates from escalating for the time being, Speaker of the House John Boehner said that the House won't take up legislation aimed at stopping a 2012 overhaul of the federal flood insurance program that is hitting homeowners with big premium hikes.

While several members of Congress have called the delay in premium increases a victory for flood insurance, it really doesn't solve much. First of all, it has no delay for commercial purpose loans, it doesn't change premium increases for homes purchased after July 6, 2012, and it still leaves uncertainty as to what will happen for flood properties a year from now, making future home sales in flood areas non-existent.

Since October of 2013, we as a bank have seen first hand the unintended consequences of the Biggert-Waters Act.

Dramatic premium increases have already been assessed. As new flood maps are rolled out across the country, premiums have begun to increase, in some cases dramatically, for properties that built to code at the time of construction. These increases are triggered with the adoption of new maps, which are including more and more properties in special flood hazard areas that previously had not been required to carry flood insurance. On a national basis, we know the number could be large – possibly over a million properties – it is impossible to truly know how many grandfathered properties will be impacted until FEMA flood maps across the country are adopted.

One of our customers recently purchased a 1-4 family property on Water Street in Muncy, and was renovating the property for future sale. The overall value was expected to be $125,000. He contacted his local insurance agent and was shocked to learn his premium would not be $1,000 per year as he anticipated, but rather $9,500 per year. He stopped his construction and is unsure what he is going to do.

This type of increase is on a new issue for a flood insurance policy.

For residential customers who already own a property in the flood plain, they are typically seeing roughly a 25% increase in their next renewal. This increase will continue over the next four years until they are at the fully indexed rate.

In Lycoming County, since October 1, 2013, we have not financed and I am not aware of any sales in the flood plain.

Sales have ceased because any new 1-4 family purchases, the new buyer will pay the unsubsidized rate, a fully indexed flood premium, which on a $100,000 house could be in the $10,000 range. Many of the properties in Muncy have not seen flooding since Hurricane Agnes in 1972.

A new mortgage today for $100,000 for 30 years at 5% has a payment of $536.82 principal and interest. The flood premium could be in excess of $800 per month additional, not including taxes and normal homeowners insurance. That is over $1,336 per month and most homeowners simply cannot afford or qualify for a mortgage.

If no one is buying properties in the flood plain, what is the true resale value of a property that no one is interested in purchasing?

For this very reason, Lycoming County has put on hold the reassessment of property values for the time being. The county is losing tax revenue on transfer taxes at the present time, and if Biggert-Waters is not permanently altered, the tax base will erode due to devaluation.

I have not discussed commercial properties, as they are even in a more precarious situation. Most small businesses such as bar/restaurants, mom and pop grocery stores, used car lots, small town movie theaters, etc., struggle to survive. The economy with higher unemployment for the last five years has not been conducive for many. The Biggert-Waters Act requires flood insurance for commercial properties to immediately go to the unsubsidized fully indexed premium.

I have heard premiums to be in the $20,000 - $30,000 annual price range, which is unattainable and cost prohibitive for most. What will happen to these small business owners?

I believe that when the Biggert-Waters Act was passed, no one thought about the consequences. I believe that the Federal Government was thinking that most people live near water as a “lifestyle” choice, which is simply untrue. Fifty-five percent of the country lives near water (including rivers) because that is where commerce takes place.

Representative Maxine Waters (D-California), a ranking member of the House Financial Services Committee, who was a chief architect of the bipartisan Biggert-Waters Flood Insurance Reform Act, recently released a statement: “Over the past several months, I have felt the harm and heartache that many Americans have already experienced as a result of changes to the National Flood Insurance Program. From the start, I have made clear, that I would lead the effort to fix the unintended consequences of the Biggert-Waters Flood Insurance Reform Act,” said Waters.

The Biggert-Waters Act substantially and immediately devalued the investments of hard working, taxpaying Americans. This Act, if left unchecked, will affect consumer confidence, and the nation’s economy, including the banking and mortgage industry. The extreme rise in premium costs may ultimately lead to financial distress for residents and property owners, real estate markets will freeze, and local tax bases will erode.

No one wants to pay incentives for building in harm’s way, nor do we want to advocate for the continued subsidy of severe repetitive loss properties. However, I believe we have a moral and economic duty to protect property owners who have played by the rules and built as their government told them to, and in accordance with the government guidelines in effect at the time of construction. They should not lose their homes and businesses, due to no fault of their own.

This flood insurance problem needs to become mainstream news rather than just Main Street news. I appreciate your willingness to review this difficult situation for many living in Pennsylvania, and thank you for giving me the opportunity to testify this morning.

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