

Property owners in the path of Mississippi River flooding are taking out mortgages to beat the 30-day waiting period on insurance

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Cliff Merritt has taken applications for 300 loans in the past two weeks at his small Louisiana bank. It's not that the economy or housing market in Vidalia has suddenly picked up. Rather, people worried about levees failing along the swollen Mississippi River have found a way to beat a mandatory 30-day waiting period and get instant flood insurance by taking out mortgages on their properties. "You can't blame people for trying to take the steps necessary to protect their biggest asset, their home," said Merritt, president and chief executive of Delta Bank, which has branches that follow the winding Mississippi River down from Lake Providence. If someone is buying a home, and wants to get flood insurance or is required to do so, that flood insurance becomes effective immediately upon the loan closing because it protects the bank's collateral. If a homeowner decides later that he wants to add flood insurance, he's required to wait 30 days, because the Federal Emergency Management Agency, which runs the National Flood Insurance Program, wants to create long-term incentives for people to join the program and guard against people jumping in when there's an imminent risk of a claim. Although people usually think of no-wait flood insurance in terms of buying a home, the program rules say that flood insurance can be placed instantly with any type of loan closing. "Flood insurance that is initially purchased in connection with the making, increasing, extending or renewal of a loan shall be effective at the time of loan closing, provided that the policy is applied for at or before closing," the rules say. As the bulge of water has been sloshing down the country's major river system, people realized that the loan rule could be a loophole for those without flood insurance to get a policy in a hurry. As word has spread, people in river towns have been marching into banks to take out second mortgages on their homes, or if they own the home outright, to borrow against it, and ask for a flood policy as part of the transaction. Bankers seek guidance. The situation has turned the 30-day waiting rule upside down, subverting the notion of breeding

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long-term policyholders rather than quick claimants, and shifting a rule designed to protect banks into an emergency tool for protecting people. Small-town banks deluged with requests have been trying to get guidance on whether the tactic is legal, prompting a flurry of conference calls in recent weeks between the Louisiana Bankers Association, the Louisiana Office of Financial Institutions, Insurance Commissioner Jim Donelon, FEMA, the Federal Reserve and the Federal Deposit Insurance Corp. On Tuesday, FEMA raised fresh questions about whether the newly minted flood policies would indeed stand as coverage when it issued a bulletin saying that there's no coverage on new policies when "a flood is already in progress." Memo W-11030 says that the exclusion is triggered by an event that initiates a flood that causes damage, such as the opening of a spillway, the breaching of a levee, water being released from a dam or water escaping from the banks of a waterway. No guidance is offered on the proximity of those events to the property in question, or how broad a geographic area is affected. When is a flood in progress? While there seems to have been little doubt that a flood policy goes into force as soon as the loan closes, Tuesday's bulletin about floods in progress has created confusion and new questions. Looked at one way, it would seem to bless the new policies that have been issued along the Mississippi in north Louisiana and to homeowners in the Morganza Floodway area who rushed to take out loans and get coverage before the gates were opened May 14. But looked at more broadly, with elevated water on the Mississippi River for weeks, the Army Corps of Engineers blowing up a levee in Missouri in early May, and river flooding in Memphis, Tenn., and Vicksburg, Miss., the bulletin also could suggest that the entire Mississippi River system is a flood in progress and no new flood coverage can be bound in any areas at risk of flooding. Rusty Cloutier, president and chief executive of Lafayette-based Mid-South Bank, which operates in the parishes in the path of the Morganza Floodway, is sitting on seven loan applications from customers trying to get flood insurance, and he's trying to decide whether to approve them. "We don't know what to do," Cloutier said. "We're required by law to have flood insurance (on properties in flood zones). FEMA has now said you can get flood insurance, but we don't know if it's any good or whether it will pay." Like other community bankers, Cloutier is eager to help, but he also doesn't want to find himself having loaned money on collateral that gets flooded without viable flood insurance, putting his bank at financial risk and courting trouble with regulators. "I could be personally liable. I could have a C&D (cease and desist) order pushed against me for having made a loan with flood insurance that isn't any good," he said, adding that FEMA rules say bankers can't force place flood insurance for 45 days. Cloutier also doesn't know whether people purchasing new homes could see closings scuttled south of the Morganza if flood insurance isn't available after the floodway opened. The Realtors associations in New Orleans and

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Houma say they haven't heard of any problems; the Louisiana Realtors Association didn't respond to queries about other parts of the state. Memo from FEMA In an email Thursday, FEMA attempted to clarify. "If there was no Flood-in-Progress at the time and date an NFIP flood insurance policy was first in effect ... the NFIP would pay the policyholders' claim. ... For buildings in or near the Morganza Floodway and connected areas, there was a flood in progress on the date and time the Morganza Spillway was opened allowing water to enter the Floodway. If NFIP-insured property is damaged by those flood waters, there may be no coverage for that flood damage for any policy that became effective on or after these dates." David Boneno, general counsel of the Louisiana Bankers Association, said the situation has been frustrating for bankers, who aren't insurance specialists, but are trying to do the right thing. "What's a flood in progress?" he said. Taking a strict reading from the May 17 memo, bankers have concluded that until a flood hits their communities or a spillway is opened, they can issue loans with viable flood coverage. Merritt, the CEO of Delta Bank, said that many of his customers don't have flood coverage on their properties because much of the town of Vidalia isn't in a Special Flood Hazard Zone even though it's next to the river. With the river rising, seeps are popping up all over town, with strange puddles forming and water running down the streets, making people anxious that the levees might melt under the pressure of the water. The river was expected to crest in Vidalia by Saturday. Small home equity loans Most of the loans Merritt has been making are home equity loans because they can be processed the quickest. Yet another wrinkle for bankers has been that new regulations enacted after the 2008 mortgage meltdown require mandatory waiting periods of 10 business days before a loan can close to give the consumer time to digest the terms of the loan. In this case, the waiting period works against the consumer, because the waiting period could run out the clock before the floodwaters arrive. The Federal Reserve Bank of Atlanta gave the Louisiana Bankers Association an opinion saying that banks can waive the waiting period for customers in a "personal emergency," but bankers are still unsure whether trying to get flood coverage in the face of flood counts. Most customers are taking out home equity lines of credit for \$5,000 or \$10,000 and buying flood coverage on the full value of their homes, Merritt said. Handling the 300 loan requests has been a major challenge for a small bank. Merritt said that Delta can process about 30 loan applications a day. "We've got everybody working. Folks are real tired, but we're doing our part," he said. In New Roads, a community farther down the Mississippi River, the headquarters of Peoples Bank & Trust is about eight miles from the Morganza Floodway. Stephen David, president and chief executive of Peoples Bank, said that in the past week alone his bank has had about 25 to 30 calls from people trying to get mortgages with flood insurance, and the calls have been a mix of

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people close to the river and not in flood zones, and people with property in the floodway path. David said Peoples was able to close on a number of loans before the Morganza was opened, so he believes the coverage will be active. In Houma, Mark Folse, chief executive of Coastal Commerce Bank, which operates in Terrebonne and Lafourche parishes, said that he hasn't had many calls because many people in his community already have flood insurance.

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