Commerce Bancshares, Inc.
1000 Walnut Street
Kansas City, MO 64106

Via Email: regs.comments@federalreserve.gov

December 10, 2013

Robert deV. Frierson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

RE: Docket No. R-1462 or RIN 7100 AE-00
Joint notice of proposed rulemaking – Loans in Areas Having Special Flood Hazards

Dear Secretary Frierson:

Commerce Bancshares, Inc. ("CBI") is a regional bank holding company with one bank subsidiary, Commerce Bank, ("Commerce"), and total assets of $22.5 billion at September 30, 2013. Commerce is a full-service bank, with approximately 360 banking locations in Missouri, Illinois, Kansas, Oklahoma, and Colorado. A full line of banking services, including investment management and securities brokerage, is offered. CBI also has operating subsidiaries involved in mortgage banking, credit related insurance, and private equity activities.

The proposed rule would establish requirements with respect to (1) the escrow of flood insurance, (2) the acceptance of private flood insurance policies, and (3) the force placement of flood insurance.

With other changes required by the Biggert-Water Act, many of our customers will face increased flood premiums and be required to obtain other flood-related documents that will also increase the costs they incur to ensure their properties are adequately insured.

Escrow Requirements

The Act requires (non-exempt) lenders to escrow all flood insurance premiums and fees required for residential improved real estate or a mobile home securing any mortgage loan. Escrow will be required for any loan that is "outstanding or entered into" on or after July 6, 2014. To implement the escrow requirements for existing borrowers, the proposal suggests a staggered approach with the establishment of the escrow on the first renewal date of a flood insurance policy that occurs on or after July 6, 2014.

Under the proposed rule, a borrower who has just paid a full year's renewal premium will be expected to begin escrow on the first payment of the next month. Thus, the borrower will be required to pay a full renewal premium plus 1/12 of the next year's premium, and may also have to provide an additional one to two escrow payments to establish the cushion allowed by RESPA. We are concerned that this will be a financial hardship for many customers, especially for those with properties where premium subsidization is being eliminated by the Biggert-Water Act.

With the mandatory escrow requirement, lenders will also be required to review existing loan documents to ensure an escrow provision is included. There is no mention in the proposed rule how this is to be addressed with the customers. If the existing loan documents are silent in regard to escrow or the creditor has agreed to waive escrow, the loan terms will have to be modified and/or the customer will have to be notified of the mandatory escrow, the new payment, and the amount needed to establish the escrow account. This will require new loan documents, customer communication, and system changes. In a situation where an existing borrower refuses to modify their loan documents for an escrow, how will lenders enforce the obligation? Will lenders be expected to force place a policy and establish an escrow for that force placed policy? If so, will the lender have to advance the necessary funds and charge the customer? If the customer's policy lapses, will the bank be required to escrow the force placed policy? We are seeking guidance on how lenders are to address the above concerns.

We would like additional guidance on loans in the second lien position. The proposed regulation would require the first lien holder to escrow flood insurance for all positions. The second lien holder is monitoring that the flood insurance premium is being paid and for an adequate amount of coverage. With these changes, the subordinate lien holder would have to be notified when a loan is paid in full by the first lien holder, and of any valid reasons for lowering the amount of coverage (e.g. large principal reduction on first lien). If either of these situations occurs, this would leave the second lien holder in a difficult position. The rule needs clarification added for the responsibility of the first lien holder to the subordinate lien holder(s) when these situations arise. It will be crucial for all lien holders to work together.

Furthermore, adding the escrow capabilities to origination and servicing systems for subordinate lien loans will take more than the 7 months which is the time remaining before July 6, 2014. By the time final rules are issued, there may be 4 months to implement these rules. This is not adequate time to build a process that does not exist today. We would ask to establish a compliance date of 18 months after the final rules are published.

<u>Private Flood Insurance</u>

The Biggert-Water Act amends the mandatory purchase requirement to require lenders to accept private flood insurance policies as satisfaction of the mandatory purchase requirement if the coverage provided by the private flood insurance meets specific standards which are defined in a "private flood insurance policy". This requirement was intended to encourage the development of a market for private flood insurance. As enacted, the statute will require bankers to make determinations of whether the private policy tendered by the borrower meets six factors to determine the adequacy of the policy. These factors include: (1) licensure, (2) surplus lines

recognition, (3) requirement of 45-day cancellation/non-renewal notice, (4) breadth of policy coverage, (5) strength of mortgage interest clause, and (6) legal recourse. This review will be a difficult task to complete with absolute certainty that the policy meets all six factors required under the rule. We advocate for a safe harbor that will allow bankers to rely on private insurance carrier's representation about compliance of the coverage provided so that a private insurance policy becomes no harder for bankers to accept than a NFIP policy.

Thank you for the opportunity to provide comments about the proposed loans in areas having special flood hazards. If you have any questions regarding our comments, please feel free to contact me.

Sincerely,

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