

The Honorable Michael Crapo, Chairman
Senate Committee on Banking,
Housing, and Urban Affairs
239 Dirksen Senate Building
Washington, DC 20510

The Honorable Sherrod Brown, Ranking Member
Senate Committee on Banking,
Housing, and Urban Affairs
713 Hart Senate Office Building
Washington, DC 20002

The Honorable Jeb Hensarling, Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters, Ranking Member
Committee on Financial Services
U.S. House of Representatives
4340 O'Neill Federal Office Building
Washington, DC 20515

August 10, 2017

Dear Chairman Crapo, Ranking Member Brown, Chairman Hensarling, and Ranking Member Waters:

The undersigned organizations write to respectfully request correction of an omission in the Crapo/Brown 'National Flood Insurance Program (NFIP) Reauthorization Act of 2017'¹ that seriously reduces the legislation's promise to reduce the NFIP's debt and increase its customer satisfaction: The Act fails to remove the immunity for vendors /NFIP sub-contractors for flood loss claim adjustment fraud. Fraudulent reports, billings and actions by these firms are a substantial weakness in the NFIP's current operations and a major cause of the program's problems.

The undersigned organizations advocate for flood insurance consumers, including those homeowners who were insured by the NFIP but were unable to fully recover from Hurricane Sandy and other disasters because of intentional underpayment and improper claim denials by NFIP vendors/sub-contractors. These include independent adjusters, engineers and estimators hired by the write-your-own insurers that profit from the program.

Persistent and widespread claims settlement fraud forced the NFIP to spend millions of dollars re-opening and re-evaluating 144,000 Superstorm Sandy claims.² There has been extensive documentation and media coverage as far back as Hurricane Katrina that NFIP-contracted claims adjusters exploited the program at the expense of our government and taxpayers.³

In May 2017, United Policyholders ("UP") released a "guiding principles" document that outlined priorities for NFIP reauthorization. Under the heading of "accountability" UP urged lawmakers to remove immunity from vendors contracted by the NFIP:

*Amend the National Flood Insurance Act to remove the Federal Emergency Management Agency and [by proxy] Write-Your-Own Insurers' [et al] immunity from liability for fully compensating victims of unfair flood claim practices.*⁴

¹ See: https://www.banking.senate.gov/public/_cache/files/514f73bd-0ab4-45d2-97ad-d3058ffaa54a/D3048B75350298247B13FD454304CFDF.crapo-brown-nfip-bill-final.pdf.

² See: <https://www.fema.gov/hurricane-sandy-claims-review-process>.

³ See, e.g., *State Farm Fire and Cas. Co. v. U.S ex rel. Rigsby*, No. 15-513, S.Ct, 2016 WL 7078622 (12/6/16).

⁴ See: <http://uphelp.org/guide/reforming-and-reauthorizing-national-flood-insurance-program>.

NFIP vendors currently have sovereign immunity *at the expense of* households and communities in need of financial renewal after disasters. This is bad public policy that needs to be fixed to avoid future consumer and taxpayer rip-offs when the next major flood occurs. This priority enjoys broad support among homeowner and consumer advocates.

Numerous NFIP whistleblowers have identified that immunity as the most significant cause of poor flood claim handling⁵. We too believe that immunity has created a culture of underpayment among NFIP vendors. We believe that removing this immunity will create a more level playing field between consumers and NFIP contractors. We do not believe there will be an explosion in litigation; rather, the level playing field created by removing the immunity will encourage better performance and fairer treatment of consumers and taxpayers.

Thank you for your time and consideration.

Sincerely,

Amy Bach, Esq. ,Executive Director of United Policyholders
Consumer Representative to the National Association of Insurance Commissioners

On behalf of:

Adopt-A-House
Brooklyn Long Term Recovery Group
Center for Economic Justice
Center for NYC Neighborhoods
Consumer Federation of America
The Elevated Studio
The Episcopal Diocese of New Jersey
Fair Insurance Rates Monroe
Fifth Avenue Committee
Florida Association for Insurance Reform
National Disaster Interfaiths Network
Neighbors Helping Neighbors
Neighborhood Housing Services Brooklyn CDC, Inc.
New Jersey Voluntary Organizations Active in Disaster
New York Disaster Interfaith Services
New York Voluntary Organizations Active in Disaster
Red Hook Civic Association
Resilient Red Hook
South Shore Recovery Coalition
Texas Watch
United Policyholders

⁵ April 2017 GAO Report to Congress: Comprehensive Reform Could Improve Solvency and Enhance Resilience http://uphelp.org/sites/default/files/guides/681509_0.pdf, see also: <http://www.newsday.com/business/fema-was-warned-of-allegedly-forged-documents-to-underpay-sandy-claims-records-show-1.9753941>.

cc: Beth Cooper
Senate Committee on Banking, Housing, and Urban Affairs

Michelle Mesack
Senate Committee on Banking, Housing, and Urban Affairs

Brandon Beall
Senate Committee on Banking, Housing, and Urban Affairs

The Honorable Mike Rogers
U.S. House of Representatives

Melissa Anderson
FEMA/FIMA Program Specialist

About the Coalition

United Policyholders is a non-profit 501(c) (3) organization whose mission is to be a trustworthy and useful information resource and an effective voice for consumers of all types of insurance in all 50 states.

Adopt A House was founded to help re-build our local communities by bringing valuable information and solutions to Long Island residents affected by Super Storm Sandy.

The Brooklyn Long-Term Recovery Group assess[as] and address[es] the unmet needs of Brooklyn's residents impacted by Superstorm Sandy through collaboration with community-based organizations, faith-based organizations, non-government based organizations, and government agencies, and to assist the community in preparing and responding to future disasters.

The Center for Economic Justice is a 501(c)(3) advocacy and education center dedicated to representing the interests of low-income and minority consumers as a class on economic justice issues.

The Center for NYC Neighborhoods promote[s] and protect[s] affordable homeownership in New York so that middle- and working-class families can build strong, thriving communities.

Consumer Federation of America The Consumer Federation of America is an association of non-profit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education. Today, nearly 300 of these groups participate in the federation and govern it through their representatives on the organization's Board of Directors.

The Elevated Studio is a 501(c)(3) that promotes social equality by expanding access to values-driven design that helps individuals and communities achieve economic and physical resilience and sustainability.

The Episcopal Diocese of New Jersey seek[s] to carry out lives of compassion and charity, and to spread the good news of the Gospel to a world that is hungry for God.

“FIRM” is a grassroots organization formed in 2006 to fight for fair property insurance rates for property owners and residents of the Florida Keys. Through advocacy and community outreach, FIRM contributes to housing affordability and helps residents remain and prosper in our community.

Fifth Avenue Committee, Inc. is a community organization in South Brooklyn that advances economic and social justice by building vibrant, diverse communities where residents have genuine opportunities to achieve their goals, as well as the power to shape the community’s future.

The Florida Association for Insurance Reform advocates for fair, stable and affordable insurance markets for Florida consumers, through leadership, education and robust competition.

New York Disaster Interfaith Services provides consulting, speakers and training in disaster human services and faith-based program development to faith communities and faith-based organizations. NDIN also serves community-based and government agencies that seek to enhance their mitigation, readiness, response, and recovery capacity in partnership with faith communities.

Neighbors Helping Neighbors is a U.S. Department of Housing and Urban Development-approved counseling agency based in Sunset Park, Brooklyn, whose mission is to empower low- and moderate-income Brooklyn residents to secure quality housing and build financial assets.

Neighborhood Housing Services of Brooklyn CDC, Inc. is a 501(c)(3) organization that creates and preserves affordable housing by providing opportunities for homeownership education, financial assistance and community leadership.

New Jersey Voluntary Organizations Active in Disaster’s mission is to bring together New Jersey organizations active in disaster assistance, and to foster cooperation and coordination in preparedness, response, and recovery in order to offer more effective services to people and communities affected by disaster.

New York Disaster Interfaith Services’ (“NYDIS”) programs focus on all phases of the disaster lifecycle. Its services range from mitigation education to preparedness training to response and recovery initiatives. Through these programs, NYDIS strengthens the resources of faith-based agencies providing disaster services and serves the most vulnerable communities affected by disaster.

New York State “VOAD” is a nonpartisan, membership based organization that serves as the forum where organizations share knowledge and resources throughout the disaster cycle — preparation, response and recovery — to help disaster survivors and their communities throughout New York State.

The Red Hook Civic Association is a longstanding, active community organization in Red Hook, Brooklyn.

Resilient Red Hook is the research & design project of addressing urban resilience on the Brooklyn waterfront, with a focus on Red Hook and the Columbia Street Waterfront.

The South Shore Recovery Coalition is a joint task force of the most influential community groups formed after the storm across the south shore of Long Island.

Texas Watch is a non-partisan citizen advocacy organization dedicated to ensuring that insurance companies and other corporations are accountable to their customers