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January 18, 2018

Hon. Thom Tillis (R-NC)
Hon. David Perdue (R-GA)
Hon. Pat Toomey (R-PA)

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VIA EMAIL

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Re: Flood Insurance Reform

Dear Senators Tillis, Perdue, and Toomey:

We urge you to take action to reform and reauthorize the National Flood Insurance Program ("NFIP") instead of voting for another short-term extension. Specifically, we urge the attached claim-related reforms be incorporated into reauthorization legislation, some of which have been advanced within various proposals, including the Flood Insurance Affordability and Sustainability Act (S. 1313, introduced June 6, 2017) by Senators Cassidy and Gillibrand and the SAFE NFIP Act (S. 1368, introduced June 15, 2017) by Senators Kennedy and Menendez et al. We believe it is within your power to move one or both of these bills out of Committee for debate.

"We" are United Policyholders ("UP") a non-profit organization that informs, helps, and speaks for insurance consumers in California and across the nation. UP is funded by donations and grants and supported by volunteer labor. UP does not sell insurance or accept funding from insurance companies. At www.uphelp.org, UP offers a variety of resources and tools for making good decisions when buying insurance and resolving claim and coverage disputes. UP has been advocating for flood survivors, including survivors of Hurricane Katrina, Superstorm Sandy, The Louisiana Great Flood of 2016, Hurricane Harvey, Irma, and Maria, since the 1991 Oakland-Berkeley Firestorm. UP celebrated its 25th year of service to insurance consumers in 2016.

Thank you for your time and consideration of this very important matter.

Sincerely,

Amy Bach, Esq., Executive Director

Programs

Advocacy and Action

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Claim-related reforms to the National Flood Insurance Program

1. Relax the proof of loss requirement so that it can more easily be amended;

Proposed amendment to the SFIP:

As soon as practicable, an insured must provide notice of loss or damage to the insurer [NFIP]. Within 60 days of the loss, the insured must submit a proof of loss. The proof of loss may be submitted as "undetermined" and amended without limitation until 180 days has elapsed from date of the the notice of loss.

2. Give policyholders the right to see the claim file when they request it (Cal. Ins. Code 2071);

Proposed amendment to NFIA/42 U.S.C. § 4019:

Upon written request, an insurer is entitled to produce [all documents that relate to the evaluation of damages, including, but not limited to, repair and replacement estimates and bids, appraisals, scopes of loss, drawings, plans, reports, third-party findings on the amount of loss, covered damages, and cost of repairs, and all other valuation, measurement, and loss adjustment calculations of the amount of loss, covered damage, and cost of repairs].

3. Double ICC coverage to \$60,000 and remove the substantial damage requirement;

Proposed amendment to the SFIP/language from a homeowner's policy:

Ordinance or Law

a. You may use up to \$60,000 of the limit of liability [\$250,000] that applies to Coverage A for the increased costs you incur due to the enforcement of any ordinance or law which requires or regulates:

- 1) The construction, demolition, re-modeling, renovation or repair of that part of a covered building or other structure damaged by a Peril Insured Against;*
- 2) The demolition and reconstruction of the undamaged part of a covered building or other structure, when that building or other structure must be totally demolished because of damage by a Peril Insured Against to another part of that covered building or other structure; or*

b. You may use all or part of this ordinance or law coverage to pay for the Increased costs you incur to remove debris resulting from the construction, demolition, remodeling, renovation, repair or replacement of property as stated in a. above.

Remove the following language from the SFIP (strikethrough):

~~A structure covered under Coverage A—Building Property sustaining a loss caused by a flood as defined by this policy must:~~

~~(1) Be a “repetitive loss structure.” A repetitive loss structure is one that meets the following conditions:~~

~~(a) The structure is covered by a contract of flood insurance issued under the NFIP.~~

~~(b) The structure has suffered flood damage on two occasions during a 10-year period which ends on the date of the second loss.~~

~~(c) The cost to repair the flood damage, on average, equaled or exceeded 25% of the market value of the structure at the time of each flood loss.~~

~~(d) In addition to the current claim, the NFIP must have paid the previous qualifying claim, and the State or community must have a cumulative, substantial damage provision or repetitive loss provision in its floodplain management law or ordinance being enforced against the structure; or~~

~~(2) Be a structure that has had flood damage in which the cost to repair equals or exceeds 50% of the market value of the structure at the time of the flood. The State or community must have a substantial damage provision in its floodplain management law or ordinance being enforced against the structure.~~

4. Remove immunity for fraud/underpayment/denial; and

Proposed language (H.R. 1423, Velazquez):

If the claimant prevails in an action [for fraud underpayment, or denial], the court may award costs of litigation, including attorneys fees, litigation expenses, and engineering and other expert expenses, to the claimant. Any such award shall be paid by the Administrator and, upon such payment, the Administrator shall be subrogated to the rights of the claimant to recover such costs for which the Administrator has compensated the claimant from any insurance company or other insurer or [a]djustment organization that may be responsible for the [claim disallowance].

5. Remove the Earth Movement exemption.

Remove the following language from the SFIP (strikethrough)

~~V. (C) We do not insure for loss to property caused directly by earth movement even if the earth movement is caused by flood. Some examples of earth movement that we do not cover are:~~

~~1. Earthquake;~~

~~2. Landslide;~~

~~3. Land subsidence;~~

~~4. Sinkholes;~~

~~5. Destabilization or movement of land that results from accumulation of water in subsurface land area; or~~

~~6. Gradual erosion.~~