CFA
Consumer Federation of America
1620 I Street, N.W., Suite 200 * Washington, DC 20006

September 26, 2007

Re: Urge Opposition to Costly and Harmful Flood Insurance Expansion, H.R. 3121

Dear Representative:

The Consumer Federation of America urges you to oppose H.R. 3121, the Flood Insurance Reform and Modernization Act of 2007, which the House will vote on today. **This legislation would significantly expand the National Flood Insurance Program – and increase costs to taxpayers – while taking inadequate steps to correct the wholesale mismanagement of the program or to reduce unwise construction in flood plains that has occurred despite instructions from Congress to make the program actuarially sound.** Ultimately, this will harm home and business owners, who may – once again – be encouraged to build or buy in coastal areas prone to flooding.

This is unfortunate, because the NFIP was brilliantly conceived. Taxpayers would subsidize existing construction but new construction would not be allowed to occur in the highest-risk areas, such as high velocity "V" zones. In lower risk areas that would still experience serious wind damage and flooding, all new construction would have to be elevated according to local building codes.

However, poor management by the Federal Emergency Management Agency (FEMA) and lax enforcement of building requirements by local governments has made the program insolvent. Flood maps that FEMA was originally supposed to update every three years are antiquated. Some are over 20 years old. As a result, flood levels that were predicted before Hurricane Katrina were more than ten feet too low in areas like Hancock County, Mississippi. Moreover, the areas of predicted high-risk were much too small. Many who appeared to be "outside" the flood plain were actually in it and should have been required to buy flood insurance coverage. Since rates and mitigation requirements are based on these maps, taxpayers are subsidizing unwise construction as a result.

Unfortunately, H.R. 3121 would actually expand the NFIP in several significant ways without taking the bold steps that are necessary to bring the NFIP into fiscal alignment and discourage reckless building:

- **Maximum flood coverage would be expanded from $250,000 to $335,000 for homes and from $500,000 to $670,000 for businesses**. The program would also increase limits on contents coverage and cover additional living expenses and business interruption costs for the first time. Remarkably, the bill would offer coverage for the first time for losses in basement or lower-home areas, the highest risk parts of homes, effectively lowering the elevation of all homes in the current flood plains.

- **Wind losses would be covered for the first time** (at non-subsidized rates.) Requiring FEMA -- one of the most incompetent federal agencies in recent history -- to supervise the adjustment of both flood and wind claims could be a recipe for disaster for many homeowners and taxpayers. H.R. 3121 requires wind policies to be underwritten starting in June, 2008 but places no requirements on FEMA or localities to reduce possible wind damage on homes that the government would insure. Instead of mitigation requirements, the bill requires a study. If and when FEMA ever gets the study, it is authorized (but not required) to "encourage" state and local measures that will reduce wind damage. This is a clear opportunity for developers to build unsafe structures while FEMA waits for the study, tries to develop a mitigation plan, attempts to convince communities to adopt the plan and actually enforces it. Even if they had a plan, FEMA would likely mismanage it, as it has with flood mitigation.

- **Unjustified subsidies are allowed to persist**. The bill phases in over an unidentified period of time a reduction in taxpayer subsidies for second homes and commercial structures, but this process does not begin until 2011. There is no justifiable reason to wait such a long period of time to begin eliminating subsidies for more affluent homeowners who can afford second homes. The bill also requires only a study of whether subsidies could be reduced for "pre-FIRM" homes (built prior to the availability of the Flood Insurance Rate Maps) rather than requiring that non-subsidized rates are charged on more expensive pre-FIRM homes.

- **Meaningful steps are not taken to improve the penetration of flood insurance**. Over 2 million homes were insured by the NFIP in the 1970s. Today there are only 5.4 million insured homes, despite requirements that federally supervised lenders require the purchase of insurance by borrowers in flood plains. Something is clearly wrong with the way the some lenders track the purchase of flood insurance by their borrowers. In response, this bill merely requires a study of whether state-regulated insurers should mandate the purchase of flood insurance.

- **A 500-year mitigation and purchase requirement (rather than the current 100-year standard) is studied but not required**. A 500-year standard would mean no taxpayer subsidies in the areas that have experienced storms between 100-year and 500-year storm levels.

CFA does support the amendment to H.R. 3121 to be offered by Representative Gene Taylor that would eliminate a conflict-of-interest that encourages insurers to refuse to pay legitimate wind claims and to shift the cost of these claims to the NFIP. This amendment would prohibit private write-your-own (WYO) insurers that offer flood insurance from using anti-concurrent causation (ACC) clauses in wind coverage. ACC clauses negate wind coverage for homeowners if flood damage occurs during the same general period of time. If insurers were prohibited from using ACC clauses, they would have to fully adjust each wind loss to determine how much of the damage was caused by wind and pay for that damage, subject to audit by the federal government.

Rather than expanding a program in disarray, we urge Congress to repair the fiscal soundness of the NFIP and to prove to taxpayers it can actually end subsidies of unwise construction.

Sincerely,

Travis B. Plunkett
Legislative Director

J. Robert Hunter
Director of Insurance