Consumer Federation of America

September 25, 2017

Re: **OPPOSE ADDING FLOOD INSURANCE PROVISIONS OF H.R. 1422 TO THE FAA EXTENSION BILL**

Dear Representative,

Today, the House will consider legislation promoting development of private flood insurance as part of a bill to reauthorize the FAA for six months and provide hurricane tax relief. The bill is scheduled to be taken up under suspension this week. **CFA strongly objects to consideration of private flood insurance outside the reauthorization of the National Flood Insurance Program (NFIP)**. The proposed bill does not include H.R. 2901 from the 114$^{th}$ Congress as mentioned in press reports, but rather, includes **H.R. 1422**, the Ross-Castor bill from the 115$^{th}$ Congress as Title 4, with provisions that as written could substantially weaken and undermine the critical functioning of the NFIP.

We oppose the inclusion of H.R. 1422 for numerous reasons:

**First, several provisions of the existing definition of private flood insurance must be retained.** The Biggert-Waters 2012 legislation (42 USC 4012a(b)(7)) defines private flood insurance, among other things, as providing coverage "at least as broad as" that provided by the NFIP. The language provides consumer protections to ensure policies would not have excessive deductibles, exclusions, or eliminate some essential coverages like "increased cost of compliance," which provides assistance to policyholders to rebuild in a manner that reduces flood damage in the future. Without these important consumer protective provisions in place, policyholders could face unaffordable deductibles when they have a claim; communities would find it much harder to help homeowners become eligible for mitigation funding; and there would be a greater chance that claim payments would not be applied to building repairs resulting in increased community blight. The Association of State Floodplain Managers (ASFPM) further notes that with this language in place, the private market has already been growing. The private flood insurance bill strikes this language which significantly eliminates important consumer protections.

**Second, the 45 day notice of cancellation provision must be maintained** or private insurers could cancel coverage when a storm is approaching and not leave consumers with enough time to get NFIP coverage, which has a 30-day waiting period for coverage attachment. H.R. 1422 as included in this bill problematically removes this notice provision.

**Third, surplus line insurers should not be authorized to sell flood insurance** since they are not covered by state guarantee funds should they fail after a big storm, and they are not regulated by the states and should not be allowed to offer flood insurance unless the policy provisions are at least equal to the NFIP coverage and the Federal Emergency Management Agency (FEMA) is given some authority to regulate claims practices. H.R. 1422, as included in this bill, permits surplus line insurers to sell flood insurance, placing consumers at risk.

**Fourth, private policies must also carry the federal policy user fee to support the mapping and floodplain management functions.** Private flood policy holders, private insurance companies, as well as the NFIP and its policy holders, benefit from these functions by identifying at-risk areas, ensuring building construction standards which facilitate lower flood insurance premiums, and targeting areas and structures which could benefit from mitigation actions leading to lower premiums. As policies migrate to the private sector, millions of dollars in revenue to support those floodplain management and mapping functions will be lost unless there is an equivalent policy user fee on private policies. H.R. 1422 would diminish flood mapping resources and increase risk to consumers.

**Fifth, private policies to satisfy the mandatory purchase requirement for properties in floodplains must only be sold in communities that participate in the NFIP (meaning they have adopted floodplain management ordinances to guide safer development)**. In smaller communities with only a handful of properties required to purchase flood insurance, if that requirement can be met with private policies, those communities may drop out of the NFIP and no longer maintain floodplain management ordinances to reduce future losses. This could result in a lack of ability to reduce future flood losses and in taxpayers picking up disaster costs.

We strongly urge you to oppose the inclusion of H.R. 1422 in the FAA extension bill.

Sincerely,

J. Robert Hunter

J. Robert Hunter
Director of Insurance