

AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve the bill.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. _____

To amend the National Flood Insurance Act of 1968, to restore financial solvency of the flood insurance fund, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. DODD (for
himself and Mr. SHELBY)

Viz:

1 On page 23, lines 18 and 19, strike “the hurricane
2 season of 2005” and insert “flooding in 2005 and 2006”.

3 On page 46, strike line 15 and all that follows
4 through page 49, line 2, and insert the following:

5 **SEC. 27. REITERATION OF FEMA RESPONSIBILITIES UNDER**
6 **THE 2004 REFORM ACT.**

7 (a) **MINIMUM TRAINING AND EDUCATION REQUIRE-**
8 **MENTS.**—The Director shall continue to work with the in-

1 insurance industry, State insurance regulators, and other in-
2 terested parties to implement the minimum training and
3 education standards for all insurance agents who sell flood
4 insurance policies, as such standards were determined by
5 the Director in the notice published in the Federal Reg-
6 ister on September 1, 2005 (70 Fed. Reg. 52117) pursu-
7 ant to section 207 of the Bunning-Bereuter-Blumenauer
8 Flood Insurance Reform Act of 2004 (42 U.S.C. 4011
9 note).

10 (b) REPORT ON THE OVERALL IMPLEMENTATION OF
11 THE REFORM ACT OF 2004.—Not later than 3 months
12 after the date of the enactment of this Act, the Director
13 shall submit a report to Congress—

14 (1) describing the implementation of each provi-
15 sion of the Bunning-Bereuter-Blumenauer Flood In-
16 surance Reform Act of 2004 (Public Law 108-264;
17 118 Stat. 712);

18 (2) identifying each regulation, order, notice,
19 and other material issued by the Director in imple-
20 menting each provision of that Act;

21 (3) explaining any statutory or implied dead-
22 lines that have not been met; and

23 (4) providing an estimate of when the require-
24 ments of such missed deadlines will be fulfilled.

1 On page 61, after line 15, insert the following:

2 **SEC. 31. EXTENSION OF PILOT PROGRAM FOR MITIGATION**
3 **OF SEVERE REPETITIVE LOSS PROPERTIES.**

4 (a) IN GENERAL.—Section 1361A of the National
5 Flood Insurance Act of 1968 (42 U.S.C. 4102a) is amend-
6 ed—

7 (1) in subsection (k)(1)—

8 (A) in the first sentence, by striking “in
9 each of fiscal years 2005, 2006, 2007, 2008,
10 and 2009” and inserting “in each fiscal year
11 through fiscal year 2013”; and

12 (B) by adding at the end the following new
13 sentence: “For fiscal years 2008 through the
14 2013, the total amount that the Director may
15 use to provide assistance under this section
16 shall not exceed \$240,000,000.”; and

17 (2) by striking subsection (l).

18 (b) REPORT TO CONGRESS ON IMPLEMENTATION
19 STATUS.—Not later than 6 months after the date of en-
20 actment of this Act, the Director shall report to the Com-
21 mittee on Banking, Housing, and Urban Affairs of the
22 Senate and the Committee on Financial Services of the
23 House of Representatives on the status of the implementa-
24 tion of the pilot program for severe repetitive loss prop-

1 erties authorized under section 1361A of the National
2 Flood Insurance Act of 1968 (42 U.S.C. 4102a).

3 (c) RULEMAKING.—No later than 90 days after the
4 date of enactment of this Act, the Director shall issue final
5 rules to carry out the severe repetitive loss pilot program
6 authorized under section 1361A of the National Flood In-
7 surance Act of 1968 (42 U.S.C. 4102a).

8 **SEC. 32. FLOOD INSURANCE ADVOCATE.**

9 Chapter II of the National Flood Insurance Act of
10 1968 is amended by inserting after section 1330 (42
11 U.S.C. 4041) the following new section:

12 **“SEC. 1330A. OFFICE OF THE FLOOD INSURANCE ADVO-**
13 **CATE.**

14 “(a) ESTABLISHMENT OF POSITION.—

15 “(1) IN GENERAL.—There shall be in the Fed-
16 eral Emergency Management Agency an Office of
17 the Flood Insurance Advocate which shall be headed
18 by the National Flood Insurance Advocate. The Na-
19 tional Flood Insurance Advocate shall report directly
20 to the Director and shall, to the extent amounts are
21 provided pursuant to subsection (f), be compensated
22 at the same rate as the highest rate of basic pay es-
23 tablished for the Senior Executive Service under sec-
24 tion 5382 of title 5, United States Code, or, if the

1 Director so determines, at a rate fixed under section
2 9503 of such title.

3 “(2) APPOINTMENT.—The National Flood In-
4 surance Advocate shall be appointed by the Director
5 and the flood insurance advisory committee estab-
6 lished pursuant to section 1318 and without regard
7 to the provisions of title 5, United States Code, re-
8 lating to appointments in the competitive service or
9 the Senior Executive Service.

10 “(3) QUALIFICATIONS.—An individual ap-
11 pointed under paragraph (2) shall have—

12 “(A) a background in customer service as
13 well as insurance; and

14 “(B) experience in representing individual
15 insureds.

16 “(4) RESTRICTION ON EMPLOYMENT.—An indi-
17 vidual may be appointed as the National Flood In-
18 surance Advocate only if such individual was not an
19 officer or employee of the Federal Emergency Man-
20 agement Agency with duties relating to the national
21 flood insurance program during the 2-year period
22 ending with such appointment and such individual
23 agrees not to accept any employment with the Fed-
24 eral Emergency Management Agency for at least 2
25 years after ceasing to be the National Flood Insur-

1 ance Advocate. Service as an employee of the Na-
2 tional Flood Insurance Advocate shall not be taken
3 into account in applying this paragraph.

4 “(5) STAFF.—To the extent amounts are pro-
5 vided pursuant to subsection (f), the National Flood
6 Insurance Advocate may employ such personnel as
7 may be necessary to carry out the duties of the Of-
8 fice.

9 “(b) FUNCTIONS OF OFFICE.—

10 “(1) IN GENERAL.—It shall be the function of
11 the Office of the Flood Insurance Advocate to—

12 “(A) assist insureds under the national
13 flood insurance program in resolving problems
14 with the Federal Emergency Management
15 Agency relating to such program;

16 “(B) identify areas in which such insureds
17 have problems in dealings with the Agency re-
18 lating to such program;

19 “(C) propose changes in the administrative
20 practices of the Agency to mitigate problems
21 identified under subparagraph (B); and

22 “(D) identify potential legislative, adminis-
23 trative, or regulatory changes which may be ap-
24 propriate to mitigate such problems.

25 “(2) ANNUAL REPORTS.—

1 “(A) ACTIVITIES.—Not later than Decem-
2 ber 31 of each calendar year, the National
3 Flood Insurance Advocate shall report to the
4 Committee on Banking, Housing, and Urban
5 Affairs of the Senate and the Committee on Fi-
6 nancial Services of the House of Representa-
7 tives on the activities of the Office of the Flood
8 Insurance Advocate during the fiscal year end-
9 ing during such calendar year. Any such report
10 shall contain full and substantive analysis, in
11 addition to statistical information, and shall—

12 “(i) identify the initiatives the Office
13 of the Flood Insurance Advocate has taken
14 on improving services for insureds under
15 the national flood insurance program and
16 responsiveness of the Federal Emergency
17 Management Agency with respect to such
18 program;

19 “(ii) describe the nature of rec-
20 ommendations made to the Director under
21 subsection (e);

22 “(iii) contain a summary of the most
23 serious problems encountered by such in-
24 sureds, including a description of the na-
25 ture of such problems;

1 “(iv) contain an inventory of the items
2 described in clauses (i), (ii), and (iii) for
3 which action has been taken and the result
4 of such action;

5 “(v) contain an inventory of the items
6 described in clauses (i), (ii), and (iii) for
7 which action remains to be completed and
8 the period during which each item has re-
9 mained on such inventory;

10 “(vi) contain an inventory of the items
11 described in clauses (i), (ii), and (iii) for
12 which no action has been taken, the period
13 during which each item has remained on
14 such inventory and the reasons for the in-
15 action;

16 “(vii) identify any Flood Insurance
17 Assistance Recommendation which was not
18 responded to by the Director in a timely
19 manner or was not followed, as specified
20 under subsection (e);

21 “(viii) contain recommendations for
22 such administrative and legislative action
23 as may be appropriate to resolve problems
24 encountered by such insureds;

1 “(ix) identify areas of the law or regu-
2 lations relating to the national flood insur-
3 ance program that impose significant com-
4 pliance burdens on such insureds or the
5 Federal Emergency Management Agency,
6 including specific recommendations for
7 remedying these problems;

8 “(x) identify the most litigated issues
9 for each category of such insureds, includ-
10 ing recommendations for mitigating such
11 disputes; and

12 “(xi) include such other information
13 as the National Flood Insurance Advocate
14 may deem advisable.

15 “(B) DIRECT SUBMISSION OF REPORT.—
16 Each report required under this paragraph
17 shall be provided directly to the committees
18 identified in subparagraph (A) without any
19 prior review or comment from the Director, the
20 Secretary of Homeland Security, or any other
21 officer or employee of the Federal Emergency
22 Management Agency or the Department of
23 Homeland Security, or the Office of Manage-
24 ment and Budget.

1 “(3) OTHER RESPONSIBILITIES.—The National
2 Flood Insurance Advocate shall—

3 “(A) monitor the coverage and geographic
4 allocation of regional offices of flood insurance
5 advocates;

6 “(B) develop guidance to be distributed to
7 all Federal Emergency Management Agency of-
8 ficers and employees having duties with respect
9 to the national flood insurance program, out-
10 lining the criteria for referral of inquiries by in-
11 sureds under such program to regional offices
12 of flood insurance advocates;

13 “(C) ensure that the local telephone num-
14 ber for each regional office of the flood insur-
15 ance advocate is published and available to such
16 insureds served by the office; and

17 “(D) establish temporary State or local of-
18 fices where necessary to meet the needs of
19 qualified insureds following a flood event.

20 “(4) PERSONNEL ACTIONS.—

21 “(A) IN GENERAL.—The National Flood
22 Insurance Advocate shall have the responsibility
23 and authority to—

24 “(i) appoint regional flood insurance
25 advocates in a manner that will provide ap-

1 appropriate coverage based upon regional
2 flood insurance program participation; and

3 “(ii) hire, evaluate, and take per-
4 sonnel actions (including dismissal) with
5 respect to any employee of any regional of-
6 fice of a flood insurance advocate described
7 in clause (i).

8 “(B) CONSULTATION.—The National
9 Flood Insurance Advocate may consult with the
10 appropriate supervisory personnel of the Fed-
11 eral Emergency Management Agency in car-
12 rying out the National Flood Insurance Adv-
13 cate’s responsibilities under this paragraph.

14 “(c) RESPONSIBILITIES OF DIRECTOR.—The Direc-
15 tor shall establish procedures requiring a formal response
16 consistent with the requirements of subsection (e)(3) to
17 all recommendations submitted to the Director by the Na-
18 tional Flood Insurance Advocate.

19 “(d) OPERATION OF REGIONAL OFFICES.—

20 “(1) IN GENERAL.—Each regional flood insur-
21 ance advocate appointed pursuant to subsection
22 (b)—

23 “(A) shall report to the National Flood In-
24 surance Advocate or delegate thereof;

1 “(B) may consult with the appropriate su-
2 pervisory personnel of the Federal Emergency
3 Management Agency regarding the daily oper-
4 ation of the regional office of the flood insur-
5 ance advocate;

6 “(C) shall, at the initial meeting with any
7 insured under the national flood insurance pro-
8 gram seeking the assistance of a regional office
9 of the flood insurance advocate, notify such in-
10 sured that the flood insurance advocate offices
11 operate independently of any other Federal
12 Emergency Management Agency office and re-
13 port directly to Congress through the National
14 Flood Insurance Advocate; and

15 “(D) may, at the flood insurance advo-
16 cate’s discretion, not disclose to the Director
17 contact with, or information provided by, such
18 insured.

19 “(2) MAINTENANCE OF INDEPENDENT COMMU-
20 NICATIONS.—Each regional office of the flood insur-
21 ance advocate shall maintain a separate phone, fac-
22 simile, and other electronic communication access.

23 “(e) FLOOD INSURANCE ASSISTANCE RECOMMENDA-
24 TIONS.—

1 “(1) **AUTHORITY TO ISSUE.**—Upon application
2 filed by a qualified insured with the Office of the
3 Flood Insurance Advocate (in such form, manner,
4 and at such time as the Director shall by regulation
5 prescribe), the National Flood Insurance Advocate
6 may issue a Flood Insurance Assistance Rec-
7 ommendation, if the Advocate finds that the quali-
8 fied insured is suffering a significant hardship, such
9 as a significant delay in resolving claims where the
10 insured is incurring significant costs as a result of
11 such delay, or where the insured is at risk of adverse
12 action, including the loss of property, as a result of
13 the manner in which the flood insurance laws are
14 being administered by the Director.

15 “(2) **TERMS OF A FLOOD INSURANCE ASSIST-**
16 **ANCE RECOMMENDATION.**—The terms of a Flood In-
17 surance Assistance Recommendation may rec-
18 ommend to the Director that the Director, within a
19 specified time period, cease any action, take any ac-
20 tion as permitted by law, or refrain from taking any
21 action, including the payment of claims, with respect
22 to the qualified insured under any other provision of
23 law which is specifically described by the National
24 Flood Insurance Advocate in such recommendation.

1 “(3) DIRECTOR RESPONSE.—Not later than 15
2 days after the receipt of any Flood Insurance Assist-
3 ance Recommendation under this subsection, the Di-
4 rector shall respond in writing as to—

5 “(A) whether such recommendation was
6 followed;

7 “(B) why such recommendation was or was
8 not followed; and

9 “(C) what, if any, additional actions were
10 taken by the Director to prevent the hardship
11 indicated in such recommendation.

12 “(4) DEFINITIONS.—For purposes of this sub-
13 section:

14 “(A) NATIONAL FLOOD INSURANCE ADVOC-
15 CATE.—The term ‘National Flood Insurance
16 Advocate’ includes any designee of the National
17 Flood Insurance Advocate.

18 “(B) QUALIFIED INSURED.—The term
19 ‘qualified insured’ means an insured under cov-
20 erage provided under the national flood insur-
21 ance program under this title.

22 “(f) FUNDING.—Pursuant to section 1310(a)(8), the
23 Director may use amounts from the National Flood Insur-
24 ance Fund to fund the activities of the Office of the Flood
25 Advocate in each of fiscal years 2008 through 2013, ex-

1 cept that the amount so used in each such fiscal year may
2 not exceed \$5,000,000 and shall remain available until ex-
3 pended. Notwithstanding any other provision of this title,
4 amounts made available pursuant to this subsection shall
5 not be subject to offsetting collections through premium
6 rates for flood insurance coverage under this title.”.