



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 6, 2008
(Senate)

STATEMENT OF ADMINISTRATION POLICY

S. 2284 – Flood Insurance Reform and Modernization Act of 2007

(Sen. Dodd (D) Connecticut)

The Administration strongly supports Senate passage of S. 2284. This bill would meaningfully reform the National Flood Insurance Program (NFIP), strengthen its current financial position, and increase its ability to fund future claims.

The Administration is pleased that the bill would provide the Federal Emergency Management Agency (FEMA) with greater flexibility to set premium rates and would require certain policyholders that currently enjoy subsidized rates to pay full actuarial rates over a four-year transition period. The bill would also provide meaningful protection for American taxpayers by increasing minimum deductibles, requiring FEMA to use actuarial principles in determining rates, and creating a new reserve fund to substantially reduce the likelihood that the NFIP will need to borrow funds during higher-than-expected loss years.

The Administration also supports provisions that would expand mandatory purchase requirements related to areas having special flood hazards by requiring the inclusion of areas of residual risk. The Administration recognizes the importance of improving the quality of flood risk information and looks forward to working with Congress to ensure that implementation concerns are addressed in the final version of the bill.

The Administration looks forward to continuing to work with Congress to reform and strengthen the NFIP for the benefit of policyholders and taxpayers. The Administration believes that any eventual conference agreement should avoid expanding the program to cover new non-flood-related risks or increasing the coverage limits on existing policies. The Administration is strongly opposed to the inclusion of the wind coverage provision passed by the House in the final version of the bill. Shifting liabilities for windstorm damage from the private sector to the NFIP would be fiscally irresponsible. If the final bill presented to the President includes provisions to expand the NFIP to include coverage for windstorm damage, his senior advisors will recommend that he veto the bill.

The Administration has constitutional concerns regarding a provision in the bill purporting to require FEMA claims adjusters to participate in State-sponsored mediation at the request of State insurance commissioners. The Constitution carefully allocates power between the branches of the Federal government, and between the States and the Federal government. This balance could be upset were Congress to confer on State officials the authority to compel agents of the Federal executive into the State's service.

The Administration has additional constitutional concerns regarding a provision in the bill that would require the National Flood Insurance Advocate, a Federal officer or employee, to file reports directly to Congress, including recommendations made by that official to his superior, without any prior review by superior executive branch officials. This provision would unconstitutionally interfere with the President's authority to supervise the unitary executive branch and to recommend to the consideration of Congress only such measures as the President deems necessary and expedient, conflict with the constitutional separation of powers, and raise concerns with respect to constitutionally based privileges. Moreover, to the extent that the powers and authorities given to the National Flood Insurance Advocate under the bill would entail the exercise of delegated sovereign authority, the provisions for his appointment would conflict with the requirements of the Appointments Clause of the Constitution.

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