April 6, 2017

The Honorable Michael Crapo
Chairman
U.S. Senate Committee on
Banking, Housing, and Urban Affairs
239 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
U.S. Senate Committee on
Banking, Housing, and Urban Affairs
713 Hart Senate Office Bldg.
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

With the National Flood Insurance Program (NFIP) set to expire in just six months, the commercial and multifamily real estate industry represented by the organizations listed below appreciate your work to foster a flood insurance market and NFIP program that is sustainable, affordable, and responsive to owners of all types of real estate. We would like to take this opportunity to weigh in on the NFIP and provide suggestions for ways to improve its application for commercial properties:

National Flood Insurance Reforms for Commercial Property Owners

Without Congressional action, the National Flood Insurance Program (NFIP) will sunset on Sept. 30, 2017. Floods are the most common and most destructive natural disaster in the U.S., and there is limited private market capacity to insure against them. As a result, Congress enacted the NFIP in 1968 primarily in response to the lack of availability of private insurance and as a lower cost alternative to continued increases in federal disaster assistance due to floods. NFIP coverage continues to be essential for homeowners, renters, commercial and multifamily property owners and small businesses in affected areas.

As part of the reauthorization process, Congress is considering potential changes and improvements to the program. The goal is to maintain a balance between improving the financial solvency of the program and reducing taxpayer exposure, while also being mindful of availability and affordability concerns.

While larger companies have access to the private market for flood insurance, many smaller businesses or multifamily property owners do not have the leverage to negotiate favorable coverage terms for an umbrella policy and must rely on the NFIP as a result. These property owners have little choice but to (a) compete using limited NFIP coverages that haven't kept pace with rising financial and actuarial risk, (b) buy multiple NFIP policies, one for each building or property, and (c) pay 25% annual increases and $250 fees on each policy until they prove they are paying a full risk rate.

The undersigned real estate trade associations recommend that Congress reauthorize and reform the NFIP so it can continue to help the nation's commercial and multifamily business-owners protect their properties, residents, and the jobs they create from the financial perils of flooding. Specifically, we ask Congress to seek the following:

Enact a long-term reauthorization. We support a multi-year reauthorization of the NFIP to avoid short-term extensions and program lapses that create uncertainty in both the insurance and housing markets. The NFIP provides necessary coverage in 22,000 communities nationwide where flood insurance is required for a mortgage. Each day the program is allowed to lapse will cost sales of commercial buildings across the country and lead to needless disruptions to real estate markets.

Expand private flood insurance markets. While we support the reauthorization of the NFIP, we also continue to support measures that encourage greater growth in the private flood insurance markets to help provide policyholders with more choices. To this end, Representatives Dennis A. Ross (R-FL) and Kathy Castor (D-FL) recently reintroduced the Flood Insurance Market Parity and Modernization Act, H.R. 1422.

Senators Dean Heller (R-NV) and Jon Tester (D-MT) have introduced the companion measure, S. 563. The legislation would enable consumers to move to the private market while maintaining continuous coverage so they may return to the NFIP without rate increases. The bill would also stimulate more options for policyholders to access high-quality flood insurance coverage often at lower cost than the NFIP.

Update and improve coverage options. NFIP commercial coverage currently provides up to $500,000 for a building and up to $500,000 to protect its contents, while its coverage for most traditional multifamily properties provides up to $500,000 for a building and up to $100,000 to protect its contents. This low threshold requires the purchase of multiple NFIP policies, one for each building. America's commercial and multifamily property owners – key drivers of the US economy – seek modern coverages to compete in the 21st century and are willing to pay an additional price to obtain those coverages, including:

- Business Interruption – When a commercial or multifamily building shuts down due to flooding, owners are without the cash flow necessary to cover payroll and expenses, hindering efforts to reopen the business or return residents to their homes.
- Replacement cost vs. actual cash value – Commercial and multifamily property owners pay for coverage as homeowners do, but only receive the actual cash value – i.e., the replacement value minus depreciation – for both the structure and contents. Adding NFIP options for full replacement coverage could help level the playing field between large and small business, and encourage more property owners and renters to purchase flood insurance where there is not a federal requirement.
- Multiple Buildings Coverage – A small business or apartment community may have several buildings across different lots or several structures on one property. In either case, the property owner must obtain one NFIP policy for each building even if the flood risk varies among them. This is complicated and costly, and the NFIP should permit multiple buildings to be covered under one policy as is typical in the private market.

Flexibility for High-Value Commercial and Multifamily Properties - Because of the $500,000 commercial and multifamily coverage limits in the NFIP, multi-million dollar commercial assets already must seek private insurance to cover excess losses above NFIP limits. Congress should explore changing the mandatory purchase requirements for high-value commercial and multifamily properties to give owners more flexibility and further encourage private market participation in the commercial sector.

Help FEMA develop more accurate flood mapping. Rather than providing flood maps that account for buildings upfront, NFIP merely bounds the flood zones requiring coverage and then places the burden on property owners to remove each structure by obtaining an expensive letter of map amendment (LOMA). North Carolina, on the other hand, has proven that structure-specific mapping is more accurate and less expensive than NFIP methods. FEMA should adopt the recommendations of the Technical Mapping Advisory Council, including:

- Moving toward structure-specific flood maps to improve their accuracy upfront and minimize the number of LOMAs;
- Taking advantage of mapping advances like Light Detection and Ranging (LiDAR) so policyholders can complete one LOMA for many buildings using a single elevation certificate
  - Several states, like Minnesota, have effectively demonstrated this approach and are collecting LOMAs for whole neighborhoods at once rather than surveying property by property;
- Expanding the pilot studies to provide mass LOMAs (one LOMA for many buildings, as FEMA has supported; and
- Lessening the financial and bureaucratic appeals process faced by communities and property owners.

Develop more effective pre-flood mitigation. Many commercial and multifamily structures were built prior to flood insurance rate mapping (pre-FIRM) and are facing 25% rate increases until they reach a final rate that can cost tens of thousands of dollars annually. While single-family homeowners can reduce their NFIP rates through traditional mitigation strategies (such as elevation), older commercial and multifamily buildings are faced with expensive mitigation options such as installing a passive dry flood-proofing system or flood-proofing building utilities, yet none of this is accounted for in their insurance rates. FEMA guidance and grant programs should include a wider set of mitigation strategies that are appropriate for commercial buildings and reflected in the insurance rate tables. Specifically, we believe they should do the following:

- Expressly authorize small businesses and apartment firms with pre-FIRM commercial buildings to access FEMA mitigation grant programs;
- Shift more grant dollars forward so commercial and multifamily building owners may access them BEFORE a property floods, when mitigation is most cost effective and dollars go further;
- Expand upon existing FEMA guidance for commercial and multifamily property owners that cannot benefit from traditional mitigation techniques such as building elevation and ensure that recommendations put forward provide a clear return on investment via NFIP rate reductions;
- Raise the amount of the Increased Cost of Compliance (ICC) coverage in the NFIP policy and remove the additional coverage from the $500,000 structural limit; again, commercial and multifamily building owners are willing to pay for optional coverage above the base level/rate for an actuarial price; and
- Expand ICC and Flood Mitigation Assistance mitigation programs to include nontraditional mitigation that is appropriate for commercial and multifamily buildings.

Thank you for your attention to this important issue, and for your consideration of the points we raise. A strong NFIP, with reforms to help commercial and multifamily property owners first prevent flooding, and then reopen/reoccupy and resume business quickly is one that protects jobs and the economy. As representatives of the commercial and multifamily building industries, we look forward to continuing to work with you to reauthorize and improve the NFIP before it sunsets this year.

Sincerely,

American Resort Development Association
Building Owners and Managers Association (BOMA) International
CCIM Institute
Commercial Real Estate Finance Council
Council for Affordable and Rural Housing
Institute of Real Estate Management
International Council of Shopping Centers
Mortgage Bankers Association
NAIOP, The Commercial Real Estate Development Association
National Affordable Housing Management Association
National Apartment Association
National Association of Housing Cooperatives
National Association of Real Estate Investment Trusts®
National Association of REALTORS®
National Multifamily Housing Council
The Real Estate Roundtable

cc: Members of the U.S. Senate Committee on Banking, Housing, and Urban Affairs