



**Testimony on Flood Disclosure
Senate Environment and Energy Committee
Assembly Environment and Solid Waste Committee**

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Remarks as prepared

Flood Damage Data

Due to New Jersey's geography and relatively high levels of development, our state is faced with threats from various types of flooding: coastal, stormwater, and riverine. As we have seen in recent years, especially with the remnants of Hurricane Ida, flooding can be absolutely devastating to the quality of life of New Jerseyans, which is partly dependent on the dwellings in which they live.

Between the inception of the National Flood Insurance Program in 1968 and 2019, New Jersey home- and business-owners filed more than 160,000 flood insurance claims that totaled over 5 billion dollars.¹ In 2018, the Union of Concerned Scientists estimated, based on a high sea level rise scenario, that 62,000 homes in New Jersey will be at risk of chronic flooding over the next 30 years, and that figure is expected to nearly quadruple to over 245,000 homes by the end of the century.² Floods have been incredibly costly to some New Jerseyans in the past few decades and more will likely face rising costs in the decades to come.

In 2019, Rutgers University found that sea level rise is occurring at a greater rate in New Jersey than anywhere else in the world. By 2100, these levels are expected to rise by three to five feet under a moderate greenhouse gas emissions scenario.³ At the same time that sea levels are rising, annual precipitation events are also going to become more frequent and intense because of climate change. A 2019 report by Rhodium Group estimates that the expected average annual loss to New Jersey from hurricane-related wind and flood damage today is likely 670 million to 1.3 billion dollars higher than it would have been had sea levels and hurricane activity

¹ <https://njclimateresourcecenter.rutgers.edu/wp-content/uploads/2020/08/NFIP-V2.pdf>

² <https://www.ucsusa.org/sites/default/files/attach/2018/06/underwater-analysis-full-report.pdf#page=5>

³ <https://www.nj.gov/dep/climatechange/docs/nj-scientific-report-2020.pdf#page=10>

in the 1980s remained constant.⁴ Regardless of the progress we make on our greenhouse gas emissions targets going forward, a non-trivial level of increased flood risk can be expected.

Climate change is no longer an abstract threat for New Jersey residents. Like many states in the northeast, residents and business owners are already feeling the effects of more frequent flooding. Roughly 53 percent of the state's population resides in a coastal zone, putting their homes and businesses at risk from flooding.⁵ But these risks are not unique to coastal areas. According to a 2021 analysis by the First Street Foundation, there are 31,500 properties outside the FEMA Special Flood Hazard Area that are expected to experience financial loss from flood damage.⁶

A report⁷ released just last month by the Natural Resources Defense Council shows that New Jerseyans who buy homes with a history of flooding can expect to pay tens of thousands more dollars in flood damages over the course of their mortgage than the average homeowner.

The report estimated future losses from flood damage based on three different climate scenarios, the lowest representing current climate conditions. Based on that lowest scenario, the report estimates that the expected average annual loss for a New Jersey home with prior flood damage is about 1,700 dollars compared to only about 100 dollars for the average home. Over the course of a 30-year mortgage, this equates to roughly 50,000 dollars of expected damages to a previously flooded home, compared to only 3,000 dollars for the average home. Keep in mind that these costs could double or even triple when factoring in the worsening impacts of climate change.

The report also found that in 2021, approximately 8,000 New Jersey homes that were estimated to have been previously flooded were purchased. For these homes, the expected annual flood damages were estimated to total over 18 million dollars, which equates to about 2,300 dollars per home per year.

As sea levels rise and heavy rainstorms become more common, many New Jersey communities can expect increasing vulnerability to flooding, and thus, increased financial liability. For home buyers and renters to be able to make good decisions when choosing where their family will call home, they need sufficient information about their flood risk.

Flood Disclosure Overview

Strong flood disclosure laws require sellers to inform potential buyers about any flooding damage to the property they are aware of, and landlords to inform potential tenants of the same. These laws can also require disclosure of whether renters or buyers will be required to buy flood insurance for the property or whether the property is in an area projected to flood more

⁴ <https://rhg.com/research/new-jersey-flooding-hurricanes-costs-climatechange/>

⁵ <https://njclimateresourcecenter.rutgers.edu/wp-content/uploads/2020/08/NFIP-V2.pdf>

⁶ https://assets.firststreet.org/uploads/2021/02/The_Cost_of_Climate_FSF20210219-1.pdf

⁷ <https://www.nrdc.org/media/2022/220802>

frequently or severely. Currently, there are 29 states that have flood disclosure laws in place, including our neighbors, Delaware and Pennsylvania.⁸ Though New York is not on that list yet, they have made progress on disclosure in the last legislative session.

In a state where flood risks are high, like New Jersey, disclosure laws are an important first step to understanding how one might be impacted by climate change. These laws provide consumer protections and transparency around climate risks. Again, the overall goal is for homeowners, business owners, and renters to make informed decisions and purchases.

If New Jersey required more robust flood disclosure, it would align with changes other states are implementing, as well as shifts at the national level. For example, National Flood Insurance Program (NFIP) reform legislation has been introduced with provisions to create a national flood disclosure database. The Federal Emergency Management Agency (FEMA) is also considering a nationwide flood-disclosure requirement for property sellers as a condition for participation in the NFIP.

Recently, FEMA released model state requirements for disclosing flood risk during real estate transactions, intended for use by elected and career officials responsible for state-level legislative action.⁹ The guidance lists 10 flood risk disclosures that are commonly found in state disclosure laws and/or legally mandated disclosure forms. These include disclosures of:

- Whether the property is in a flood hazard area and/or the FEMA Flood Zone in which the property is located;
- A federal requirement to purchase flood insurance at the property;
- The presence of an active flood insurance policy for the property and the current cost of flood insurance premiums;
- Previous flood events and/or flood-related property damage;
- Any past flood insurance claims, including dates and amounts; and
- Any past disaster-related aid provided (federal, state, or local), including dates and amounts.

Current Disclosure in New Jersey

New Jersey's level of disclosure is much weaker than the national standard for flood disclosure legislation. For buyers, there is some level of disclosure that takes place when properties are sold by real estate professionals, but the questions on the disclosure statement are not numerous or specific enough to give potential buyers the information they need.

In the 107 questions on the "Seller's Property Condition Disclosure Statement"¹⁰ from the New Jersey Association of Realtors, there are only three questions regarding flooding. Those questions refer to property damage from fire, smoke, wind, or flood; whether the property is in a flood hazard zone; and if there are any drainage or flood problems affecting the property. These

⁸ <https://www.nrdc.org/experts/joel-scata/home-buyers-face-stacked-decks-learn-past-floods>

⁹ https://www.fema.gov/sites/default/files/documents/fema_state-flood-risk-disclosure-best-practices_07142022.pdf

¹⁰ <https://eforms.com/images/2018/08/New-Jersey-Sellers-Property-Disclosure-Statement.pdf>

questions mostly require a simple yes-or-no response, with little to no further information provided. Additionally, there is no question concerning flood insurance claims and requirements and no guidance on future flood risks.

For renters, the disclosure requirements are even more sparse. There is only one —whether or not the unit is in a flood zone—which is already ambiguous on its own. Additionally, standard renters insurance policies exclude coverage for flood damage, which many renters may not be aware of.

Vulnerable communities in particular have expressed concerns regarding the growing costs of flood damage and insurance policies, as well as never being warned about the risks they face when moving into a new home. Much of these concerns can be attributed to an inadequate emphasis on flood risk in the current disclosure statements.

Legislative Recommendations

To strengthen the current flood disclosure framework in New Jersey, we need legislation that requires additional and more robust questions on the current seller disclosure document and requires lessors to provide a specific flood disclosure form before the lease is signed.

Specifically, disclosure should include:

- Whether the home is located in a federally designated floodplain and, if it is, the flood zone classification (100-year or 500-year) of the property;
- Whether the property is required by law to maintain flood insurance;
- Whether the the seller and/or previous owners ever received federal disaster aid and if so, the type of aid and amount received;
- Whether the property currently has flood insurance and the amount of the current premium;
- Whether the home has ever been damaged by a flood and the extent of the damage
- Whether the seller has ever filed an insurance claims for loss covered under the NFIP or private flood insurance, as well as the amount received, if any;
- Information pointing to online and updated future flood projection maps and data.

This legislation should be specific to flood risk, with the aim of raising awareness about climate risk. It should also aim to enhance consumer protections and transparency in real estate transactions and help to change patterns of behavior related to flood insurance, with the ultimate goal of reducing burdensome costs for tenants and homeowners. In many states, flood disclosure bills have passed in bipartisan efforts, with support from housing groups, the real estate industry, and environmental groups.

Recently, the National Resources Defense Council conducted a poll of New Jerseyans and found that flood disclosure has broad-based support both when framed generally and specifically as a change in the law. 83 percent of respondents agreed that property owners should be legally required to share information about a property's past flood history to prospective buyers or tenants, and 59 percent support changing the current law to require

property owners to do so. The poll also found that flood disclosure has broad bipartisan support and that voters, particularly those in South Jersey, see flood disclosure as having a positive impact on homebuyers, tenants, and coastal communities.

In summary, flood disclosure is increasingly pursued as a strategy to protect communities, individuals, and local economies. The New Jersey Climate Change Resiliency Strategy references flood disclosure as a law that would “further resilience” and “allow potential buyers to fully evaluate monthly mortgage costs and weigh the disaster recovery costs prior to making an offer on a property.” As New Jersey works to advance decarbonization and resilience efforts, we must ensure that residents are able to make informed decisions for themselves, and their families, in the wake of growing climate risks. New legislation with long overdue reforms would ensure that New Jersey home buyers, renters, and business owners are fully informed about the ever-increasing risks of flooding so that they can protect their belongings and families.