



Association of State Floodplain Managers, Inc.

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Testimony on
HB 863 - An Act Regarding Flood Risk Disclosure

From
The Association of State Floodplain Managers
By
Chad Berginnis, CFM, Executive Director

Dear Chairman Simon and the General Laws – Housing/Consumer Protection Committee members:

On behalf of the Association of State Floodplain Managers (ASFPM's) members in Virginia and nationally, we wish to submit written testimony in support of HB 863.

The ASFPM and its 38 state chapters represent more than 20,000 local and state officials as well as private sector and other professionals engaged in all aspects of floodplain management and flood hazard mitigation, including management of local floodplain ordinances, flood risk mapping, engineering, planning, community development, hydrology, forecasting, emergency response, water resources development and flood insurance. All ASFPM members are concerned with reducing our nation's flood-related losses. For more information on the association, our website is: www.floods.org.

ASFPM has long supported flood disclosure requirements, which are an essential tool for communicating flood risk. People in the United States generally lack awareness about their home's risk of flooding and there is no federal requirement for home sellers to disclose information about a property's flood risk or previous flood damage to prospective buyers or renters. At the same time, flood losses nationwide are dramatically increasing. In 2021 and 2022 alone, the nation incurred over \$200 billion in flood losses. Looking on a decadal basis, annual flood losses have roughly been doubling every decade since the 1990s.

Flood disclosure requirements should be specific, required and actionable; older disclosure laws that are not specific to particular hazards that a state faces, or that are merely suggestive, simply do not work. By denying home buyers information about past flooding, people cannot make informed decisions about one of their biggest financial investments—their home. As has been recognized by state officials in throughout the country and elsewhere, the status of FEMA's flood maps is inadequate and although FEMA's Flood Insurance Rate Maps are a good starting point to determine the level of flood risk on a specific property, it isn't the ending point. Nationwide, FEMA has mapped only 1/3 of the nation's streams, rivers and coastlines, and this hardly ever includes areas where local stormwater

systems get overwhelmed by too much rainfall (also called urban stormwater flooding). More recently, websites like the National Association of Realtors' www.realtor.com can provide a property specific but relative flood risk score like FloodFactor, these are based on national scale models which do not reflect more site-specific information. Therefore, one of the better sources of actionable flood risk information for particular property is the current property owner.

Increasingly, concerns have been raised about the lack of flood risk information for renters. While it can be difficult to find out about a home's flood risk and history as a homeowner, most renters get no information about flooding at all.

State of Flood Disclosure in the United States

Since 2020, five states have improved their disclosure laws related to flooding. New Jersey, New York, North Carolina, South Carolina, and Hawaii have all enacted or started the process on disclosure reforms that would give home buyers a right to know a home's flood risk. New York and New Jersey have new laws that give similar rights to renters. Still there is more to be done. Twenty-three states still do not require a seller to disclose whether a home has previously flooded. States like Florida, Georgia, and Missouri, lack mandatory disclosure of flood risk and these states do not require a seller to provide a real estate disclosure form regarding flooding.

Requirements in recently updated disclosure laws include:

- Whether any part of the property is in a 100-year or 500-year FEMA flood zone.
- Whether there is a flood insurance policy on the property
- If the property ever experienced any flood damage to a natural flood event, such as heavy rainfall, coastal storm surge, tidal inundation, or river overflow. If so, how many times.
- Whether the property is required by law to maintain flood insurance; and information pointing to online and updated future flood projection maps and data.
- If the property ever received assistance from FEMA, the U.S. Small Business Administration, or any other federal disaster flood assistance for flood damage.
- If there is a FEMA elevation certificate available for the property.
- Whether there has been a claim for flood damage to the property with any insurance provider, including the National Flood Insurance Program has been filed.
- If repairs were made to the property because of flood events that were NOT filed with private or public insurance during your ownership.
- If the property is located in a designated wetland.

When it comes disclosure for renters, only nine states affirmatively require landlords to disclose an apartment's flood history or risk to prospective tenants. The oldest state-level, flood-related disclosure requirement targeting renters is found in Oklahoma, and became effective after major floods happened in 1985 and 1986. Georgia's law came in 1995 after Tropical Storm Alberto caused major flooding in 1994. The Texas law, which took effect January 1, 2021, gained momentum after Hurricane Harvey struck the state. As stated previously, New York and New Jersey have just enacted updates to their disclosure laws that include renters.

On balance, we find that HB 863 would result in a meaningful and practical change in state law improving Virginian's overall flood risk awareness. In particular extending the disclosure requirements to renters is critically important. Given Virginia's flood risk, this change in law is particularly relevant to ensure that future homebuyers and renters have a fully informed picture of flood risk in order to take action to reduce that risk.

On behalf of our 20,000 floodplain management professionals across the nation and in Virginia, we thank you for hearing our concerns. If we can provide any additional information, please contact me at 608-828-3000 or at cberginnis@floods.org.

Respectfully,

A handwritten signature in black ink, appearing to read "Chad Berginnis", with a long horizontal flourish extending to the right.

Chad Berginnis, CFM
Executive Director