

UNOFFICIAL COPY OF HOUSE BILL 1209

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By: **Delegates Lehman, Ivey, Pena-Melnyk, Ruth, Solomon, Stewart, Taveras, and Terrasa**

Introduced and read first time: February 10, 2023

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Flood Control - ~~Flood Risk Assessment and~~ Model Floodplain Ordinance**
3 **(Climate Ready Floodplain Act of 2023)**

4 FOR the purpose of ~~requiring the Department of the Environment to publish a statewide~~
5 ~~flood risk assessment map projected to a certain year and educate the public on~~
6 ~~certain information on or before a certain date;~~ requiring the Department of the Environment
7 to
8 establish a certain model floodplain ordinance on or before a certain date and review and consider
9 updates to the ordinance with a certain frequency; ~~requiring~~
10 ~~certain units of local government to submit to the Department for review a certain~~
11 ~~proposed floodplain ordinance on or before a certain date~~ requiring the Department to take
12 certain actions and consult with certain groups and stakeholders in reviewing and considering updates to
13 the model floodplain ordinance; and generally relating to
14 flood risk and floodplain ordinances.

11 BY adding to

12 Article - Environment

13 Section 5-701.1

14 Annotated Code of Maryland

15 (2013 Replacement Volume and 2022 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

17 That the Laws of Maryland read as follows:

18 **Article - Environment**

19 **5-701.1.**

20 **(A) IN THIS SECTION, "BUILDING" MEANS ANY STRUCTURE USED OR**
21 **INTENDED FOR SUPPORTING OR SHELTERING ANY USE OR OCCUPANCY.**

22 **(B) ON OR BEFORE JULY 1, ~~2024~~ 2025, THE DEPARTMENT SHALL ~~ESTABLISH A~~**
MODEL FLOODPLAIN ORDINANCE, AND, EVERY 5 YEARS THEREAFTER, REVIEW AND CONSIDER UPDATES TO THE
ORDINANCE.

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1 ~~(1) PUBLISH A STATEWIDE FLOOD RISK ASSESSMENT MAP~~
 2 ~~PROJECTED TO THE YEAR 2050 THAT:~~

3 ~~(i) ILLUSTRATES ANY AREA THAT HAS A 0.2% CHANCE OF~~
 4 ~~FLOODING OR 1% CHANCE OF FLOODING DUE TO THE COMBINED EFFECTS OF SEA~~
 5 ~~LEVEL RISE, STORM SURGES, INCREASED PRECIPITATION, INCREASED~~
 6 ~~TEMPERATURE, OVERFLOW FROM THE WATERS OF THE STATE, AND EXTREME~~
 7 ~~WEATHER EVENTS RELATED TO THE ANTICIPATED ADVERSE EFFECTS OF CLIMATE~~
 8 ~~CHANGE; AND~~

9 ~~(ii) INCLUDES PROJECTIONS IN FEET FOR HOW HIGH THE~~
 10 ~~WATER LEVEL MAY RISE IN AREAS THAT HAVE A 0.2% CHANCE OF FLOODING OR 1%~~
 11 ~~CHANCE OF FLOODING BY 2050;~~

12 ~~(2) EDUCATE THE PUBLIC ABOUT THE INFORMATION DESCRIBED~~
 13 ~~UNDER PARAGRAPH (1) OF THIS SUBSECTION, INCLUDING:~~

14 ~~(i) PUBLISHING THE INFORMATION ON ITS WEBSITE; AND~~

15 ~~(ii) PARTICIPATING IN OUTREACH EFFORTS TO THE GENERAL~~
 16 ~~PUBLIC; AND~~

17 ~~(3) ESTABLISH A MODEL FLOODPLAIN ORDINANCE THAT, AT A~~
 18 ~~MINIMUM:~~

(C) IN REVIEWING AND CONSIDERING UPDATES TO THE MODEL FLOODPLAIN
ORDINANCE REQUIRED UNDER THIS SECTION, THE DEPARTMENT SHALL:

(1) REVIEW THE MOST RECENT FLOOD RISK ASSESSMENT MAPS
AVAILABLE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY;

(2) REVIEW ADDITIONAL FLOOD RISK ASSESSMENT MAPS AVAILABLE
THAT SHOW PRESENT AND FUTURE FLOODING RESULTING FROM THE COMBINED EFFECTS OF SEA
LEVEL RISE, STORM SURGES, INCREASED PRECIPITATION, INCREASED TEMPERATURE,
OVERFLOW FROM WATERS OF THE STATE, AND EXTREME WEATHER EVENTS RELATED TO THE
ANTICIPATED ADVERSE EFFECTS OF CLIMATE CHANGE;

(3) CONSULT WITH FLOOD MANAGEMENT EXPERTS FROM THE
FOLLOWING GROUPS AND STAKEHOLDERS ABOUT POTENTIAL UPDATES TO THE MODEL
FLOODPLAIN ORDINANCE:

(i) AN INSTITUTION OF HIGHER EDUCATION IN THE STATE;

(ii) THE MARYLAND DEPARTMENT OF EMERGENCY
MANAGEMENT;

(iii) THE DEPARTMENT OF NATURAL RESOURCES;

(iv) THE MARYLAND ASSOCIATION OF COUNTIES;

(v) THE MARYLAND MUNICIPAL LEAGUE; AND

(vi) THE MARYLAND ASSOCIATION OF FLOODPLAIN AND
STORMWATER MANAGERS; AND

(4) COORDINATE WITH THE EXPERTS DESCRIBED UNDER ITEM (3) OF
THIS SUBSECTION TO:

19 (i) ~~INCORPORATES~~ INCORPORATE THE MINIMUM REQUIREMENTS UNDER THE
 20 NATIONAL FLOOD INSURANCE PROGRAM, INCLUDING FLOODPLAIN MANAGEMENT
 21 CRITERIA FOR FLOOD-PRONE AREAS AND REQUIREMENTS FOR VARIANCES AND

22 EXCEPTIONS;

**(ii) CONSIDER INCORPORATING PROVISIONS INTO THE MODEL
FLOODPLAIN ORDINANCE THAT:**

23 ~~(ii)~~ **1. PROHIBITS PROHIBIT** NEW CONSTRUCTION OF ANY
24 BUILDING LOCATED WITHIN AN AREA THAT HAS, ~~BY 2050,~~ A 1% CHANCE OF FLOODING;

25 ~~(iii)~~ **2. FOR AN EXISTING BUILDING THAT IS UNDERGOING**
26 SIGNIFICANT REPAIRS OR RECONSTRUCTION AND IS LOCATED WITHIN AN AREA
27 THAT HAS, ~~BY 2050,~~ A 1% CHANCE OF FLOODING, ~~REQUIRES~~ **REQUIRE** THAT:

28 ~~1. A.~~ **A. THE GROUND FLOOR OF THE EXISTING BUILDING BE**
29 ELEVATED AT A MINIMUM ~~OF 2 FEET~~ **ELEVATION** ABOVE THE BASE FLOOD ELEVATION; AND

30 ~~2. B.~~ **B. FLOOD DAMAGE-RESISTANT MATERIALS BE USED**
31 BELOW THE ELEVATION OF THE GROUND FLOOR;

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1 ~~(iv)~~ 3. PROHIBITS PROHIBIT THE DISPOSAL OF FILL,
 INCLUDING EARTHEN
 2 SOILS, ROCK, RUBBLE, CONSTRUCTION DEBRIS, WOODY DEBRIS, AND TRASH WITHIN
 3 AN AREA THAT HAS, ~~BY 2025,~~ A 1% CHANCE OF FLOODING;

4 ~~(v)~~ 4. PROHIBITS PROHIBIT THE CONSTRUCTION OF ANY
 PROJECT THAT
 5 DISTURBS GREATER THAN ~~1 ACRE~~ 5 ACRES OF LAND IF A PRE- AND POST-FLOODPLAIN
 6 ANALYSIS INDICATES THAT THE PROJECT WILL INCREASE THE CHANCE OF
 7 FLOODING ~~BY 2050~~ FOR PROPERTIES, NATURAL AREAS, OR NATURAL FEATURES
 8 DOWNSTREAM; AND

9 ~~(vi)~~ 5. APPLIES APPLY THE COAST SMART SITING AND DESIGN
 CRITERIA
 10 UNDER § 3-1009 OF THE NATURAL RESOURCES ARTICLE TO ANY BUILDING OR
 11 PROPERTY LOCATED WITHIN AN AREA THAT HAS, ~~BY 2050,~~ A ~~0.2%~~ 1% CHANCE OF
 12 FLOODING; ~~;~~ AND

13 ~~(c)~~ ON OR BEFORE JULY 1, 2025, A UNIT OF LOCAL GOVERNMENT WITH
 14 PLANNING AND ZONING AUTHORITY SHALL SUBMIT TO THE DEPARTMENT FOR
 15 REVIEW A PROPOSED FLOODPLAIN ORDINANCE THAT INCORPORATES THE
 16 REQUIREMENTS UNDER SUBSECTION (B)(3) OF THIS SECTION.

17 ~~(d)~~ ON OR BEFORE SEPTEMBER 1, 2025, THE DEPARTMENT SHALL:

18 ~~(1)~~ APPROVE ANY PROPOSED FLOODPLAIN ORDINANCES SUBMITTED
 19 IN ACCORDANCE WITH SUBSECTION (c) OF THIS SECTION; OR

20 ~~(2)~~ PROVIDE NOTICE IN WRITING TO THE RELEVANT UNIT OF LOCAL
 21 GOVERNMENT OF ANY REVISIONS THAT THE DEPARTMENT REQUIRES.

(iii) ESTABLISH A PROCESS TO:

1. EDUCATE COMMUNITIES ABOUT FLOOD RISKS; AND

2. ASSIST UNITS OF LOCAL GOVERNMENT WITH PLANNING AND
ZONING AUTHORITY IN IMPLEMENTING NEW FLOODPLAIN MAPS AND THE MODEL
FLOODPLAIN ORDINANCE DESCRIBED IN THIS SECTION.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 23 October 1, 2023.