

6 March 2023

The Honorable Delegate Kumar P. Barve, Chairman  
Environment and Transportation Committee  
House Office Building, Room 251  
6 Bladen St., Annapolis, MD 21401

**Re: HB 1209 – Environment Flood Control – Flood Risk Assessment and Model Ordinance  
INFORMATIONAL ONLY**

Dear Delegate Barve,

While we laud the intention to be proactive that this bill's sponsors have displayed and especially thank Delegate Lehman for reaching out to agency experts, such as my colleagues at the Maryland Association of Floodplain and Stormwater Managers (MAFSM), we have concerns about HB1209. Having reviewed the bill and discussed its content and ramifications among our Board, we offer the following informational and technical comments.

Our key concerns with HB1209 relate to the convolution of existing regulatory processes and defined terms with those proposed by the infusion of Coast Smart policies into floodplain regulation. Maryland Department of the Environment (MDE) issues Model Floodplain Management Ordinances to provide guidance for communities to meet all State and Federal regulations. The Model Floodplain Management Ordinance contains recommendations for improved management of floodplains and has been adopted widely by communities participating in the National Flood Insurance Program (NFIP). It was most recently updated in 2018. This Model Floodplain Management Ordinance was prepared by MDE in response to the requirement that local jurisdictions adopt regulations that are fully compliant with the requirements of the NFIP. For most communities, the requirement to update regulations is triggered by revisions to the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRMs) and associated Flood Insurance Study (FIS) which are locally adopted.

Both FEMA and Maryland Department of Emergency Management (MDEM) mandate adoption of flood maps in accordance with compliance requirements with NFIP and the resulting FIRMs and FISs. Additionally, FEMA and MDEM guide MDE in the drafting of Model Floodplain Management Ordinance. While the adoption of FIRMs is a Federal and State mandate, the adoption of the Floodplain Management Model Ordinance is not. That document is meant to assist local jurisdictions to meet the requirements. Jurisdictions must enact the minimum standards but most adopt a higher regulatory standard specific to their region.

In short, updating a local jurisdiction floodplain ordinance is a process that has already been established and is being followed with oversight by MDE, MDEM, and FEMA. Relative to this point, there are many provisions within HB1209 which are unnecessarily proposed as they are already called out within those mandated minimum standards. Examples include standards for existing structures located within the floodplain, disposal of fill and other materials, engineering requirements that regulate the impact of development on adjacent properties, and a framework for updating codes and maps. Some of the language in the bill is vague or unclear as to the intent or the practical application of the proposed standards.

Additionally, there are provisions being proposed which would prohibit construction and development over time. Blanket regulations of this manner do not take into consideration the diversity of Maryland's communities and geography. MAFSM's representation is comprehensive and representative of mountainous, coastal, rural, and urban communities. Our membership reaches from large, urban population centers to small, historic

waterfront communities—Eastern to Western Shore. The prohibition on new construction within any area that has, by 2050, a 1% annual chance of flooding would completely prohibit some communities, such as Crisfield, from having any new development. Using Crisfield as an example: the entire city is currently located within the 1% flood zone. This is also incredibly concerning from a community development and revitalization perspective; for some of these communities, the areas face economic challenges and new development would present an opportunity to boost the local economy and serve as a catalyst for community revitalization. Prohibiting new development could potentially cripple these local economies.

Crisfield is one of countless communities with historic growth patterns dependent upon proximity to the waters of the State. There has been an enormous investment of State and Federal dollars in previous recovery and redevelopment efforts in areas such as these. New development should at a minimum be built in accordance with the floodplain regulations, which would provide an increased level of protection to the structures while still providing a pathway for these communities to permit new construction in a manner that is informed by risk.

MAFSM acknowledges the significance of the 2014 Coast Smart legislation. Expanding Coast Smart criteria to private property by 2050 represents an enormous change to the local floodplain ordinances with far reaching consequences to citizens. Such a proposal must be based in very sound science and study and then publicly vetted. Nestling such a proposal within this bill is concerning.

MAFSM strongly encourages that a subcommittee be formed to ensure that these initiatives are explored in light of existing resources, provisions, and capabilities. In 2014, the Coast Smart Council was formed and included: DNR, MDE, MDEM, Department of General Services, MDOT, Department of Planning, Critical Area Commission, UMCES, State Treasurer, Local Government representatives, public and nonprofit group representatives, and others. It seems appropriate to pull FEMA into this group and likely other federal partners and to reconvene the Council. MAFSM would be honored to participate in this effort.

While MAFSM understands that there has been a draft amendment proposed for HB1209, we found it important to express our concerns and offer input on bill as initially drafted. We greatly appreciate your consideration and this opportunity to provide both comments and suggestions.

Sincerely,



Amy G. Moredock, CFM  
Chair

CC: Delegate Mary A. Lehman, District 21