

HOUSE No. 3743

The Commonwealth of Massachusetts

PRESENTED BY:

James M. Cantwell and Patrick M. O'Connor

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to civil liability for improper flood hazard determinations.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>James M. Cantwell</i>	<i>4th Plymouth</i>	<i>3/16/2017</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>3/16/2017</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	<i>3/17/2017</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>3/16/2017</i>

HOUSE No. 3743

By Representative Cantwell of Marshfield and Senator O'Connor, a joint petition (subject to Joint Rule 12) of James M. Cantwell, Patrick M. O'Connor and others relative to civil liability for improper flood hazard determinations. Financial Services.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act relative to civil liability for improper flood hazard determinations.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 183 of the General Laws, as appearing in the 2014 Official Edition,
2 is hereby amended by inserting after section 69 the following section:-

3 Section 70. (a) A civil action may be brought under this section, by the owner of a
4 building or structure, against a company or contractor completing a standard flood hazard
5 determination form for a bank or an insurance company regarding whether a building or structure
6 is located within a special flood hazard area, if:

7 (1) the person completing the flood hazard determination form:

8 (A) completes the form on behalf of a bank or an insurance company;

9 (B) completes the form for a fee or other consideration; and

10 (C) offers a guarantee for services provided;

11 (2) the flood hazard determination designated incorrectly that a building or structure is
12 located in a special flood hazard area or is not located in a special flood hazard area; and

13 (3) the owner of the building or structure suffered damages, including failure to obtain
14 flood insurance for the building or structure.

15 (b) In any civil action under this section, there shall be a rebuttable presumption that the
16 flood hazard determination was conducted correctly if the standard flood hazard determination
17 form is certified by a professional engineer or a professional land surveyor as defined in section
18 81D of chapter 112. The rebuttable presumption may be overcome upon a finding of a court,
19 based on the preponderance of the evidence, that the flood hazard determination was conducted
20 incorrectly.

21 (c) In any such action, the court may award: (i) actual damages; (ii) reasonable attorney's
22 fees; and (iii) court costs.