

**HOUSE . . . . . No. 955**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Patrick Joseph Kearney*

*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 to establish a flood mitigation and preparedness program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Patrick Joseph Kearney</i>	<i>4th Plymouth</i>	<i>2/19/2021</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>2/25/2021</i>

**HOUSE . . . . . No. 955**

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By Mr. Kearney of Scituate, a petition (accompanied by bill, House, No. 955) of Patrick Joseph Kearney and David F. DeCoste for legislation to establish a flood mitigation and preparedness program. Environment, Natural Resources and Agriculture.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Second General Court  
(2021-2022)**  
\_\_\_\_\_

An Act to establish a flood mitigation and preparedness program.

*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. Flood mitigation and preparedness loan or grant program

2           (a) There shall be established and set upon the books of the Commonwealth a separate  
3 fund to be known as the Flood Mitigation and Preparedness Fund into which shall be deposited  
4 amounts credited or transferred to the fund by the general court or any other source including,  
5 without limitation, federal grants; loan repayments; investment earnings on monies in the fund;  
6 and any other amounts required to be credited to the fund by operation of law, resolution or  
7 agreement entered into by the Department of Conservation and Recreation. The fund shall be  
8 administered by the Secretary of Energy and Environmental Affairs. Monies deposited into the  
9 fund that are unexpended at the end of the fiscal year shall not revert to the General Fund and  
10 shall be available for expenditure in the subsequent fiscal year.

11           (b) Amounts credited to the fund shall be used, without further appropriation, to provide  
12 grants or loans to local governmental bodies to:

13 i. Finance costs or to loan against federal reimbursements to individuals that meet  
14 program eligibility by the community, for projects that include, but are not limited to, elevating  
15 vulnerable utilities, installation of flood equalization vents, elevating buildings, or any eligible  
16 project as defined in Section 3 that is determined to be flood mitigation or wet floodproofing  
17 projects and,

18 ii. Fund all the administrative actions involved in administering this program or any other  
19 state or federal mitigation grant or loan programs at the community level whether funding is or is  
20 not awarded and,

21 iii. Fund outreach and education activities within communities that relate to information  
22 around programs and projects that are funded within this Act.

## 23 Section 2. Definitions

24 Base Flood Elevation (BFE)—Elevation of flooding, including wave height, having a 1%  
25 chance of being equaled or exceeded in any given year.

26 Community—Any state or area or political subdivision thereof, or any Indian tribe or  
27 authorized tribal organization, or authorized native organization, which has the authority to adopt  
28 and enforce this standard for areas within its jurisdiction.

29 Design Flood Elevation (DFE)—Elevation of the design flood, including wave height,  
30 relative to the datum specified on the community's flood hazard map.

31 Dry Floodproofing—A combination of measures that results in a structure, including the  
32 attendant utilities and equipment, being watertight with all elements substantially impermeable  
33 and with structural components having the capacity to resist flood loads.

34 Flood- A general and temporary condition of partial or complete inundation of two or  
35 more acres of normally dry land area or of two or more properties, at least one of which is the  
36 policyholder's property, from:

37 (i) overflow of inland or tidal waters;

38 (ii) unusual and rapid accumulation or runoff of surface waters from any source; or

39 (iii) mudflow; or

40 (b) collapse or subsidence of land along the shore of a lake or similar body of water as a  
41 result of erosion or undermining caused by waves or currents of water exceeding anticipated  
42 cyclical levels that result in a flood as defined in this section.

43 Floodproofing—Any combination of structural or nonstructural adjustments, changes, or  
44 actions that reduce or eliminate flood damage to a structure, contents, and attendant utilities and  
45 equipment.

46 Mitigation— sustained action to reduce or eliminate risk to people and property from  
47 hazards and their effects.

48 Preparedness— a state of readiness to respond to a disaster, crisis or any other type of  
49 emergency situation.

50 Special Flood Hazard Area—Land in the floodplain subject to a 1% or greater chance of  
51 flooding in any given year; area delineated on the Flood Insurance Rate Map as Zone A, AE, A1-  
52 30, A99, AR, AO, AH, V, VO, VE, or V1-30.

53 Structure—Any building or other structure, including gas and liquid storage tanks.

54 Structural Elevation— The raising of a vulnerable structure's finished first floor safely at  
55 or above the design flood elevation and demolishing or retrofitting the foundation.

56 Substantial improvement- Any reconstruction, rehabilitation, addition, or other  
57 improvement to a structure, the cost of which equals or exceeds 50% of its pre-improvement  
58 market value This term includes structures that have incurred substantial damage, regardless of  
59 the actual repair work performed.

60 Wet Floodproofing—Floodproofing method that relies on the use of flood damage-  
61 resistant materials and construction techniques in areas of a structure that are below the elevation  
62 required by this standard by intentionally allowing those areas to flood

### 63 Section 3. Program eligibility

64 (a) For funding under Section 1 sub paragraph (i), those eligible to receive funding are  
65 any buildings defined by the NFIP to be a 1-4 family residence that meet the following criteria:

66 i. Those properties deemed as Severe Repetitive Losses under the National Flood  
67 Insurance Program

68 ii. Those properties deemed as Repetitive Losses under the National Flood Insurance

69 Program iii. Those deemed as “vulnerable populations” as defined by the Massachusetts Hazard  
70 Mitigation and Climate Adaptation Plan as found on page 2-10.

71 A priority shall be given to those that meet multiple categories of the above eligibility  
72 criteria. The secretary shall determine whether the program funds all projects within a  
73 community application per award.

74 (b) For funding under Section 1 sub paragraph ii and iii, those eligible for funding are  
75 communities within the Commonwealth of Massachusetts that,

76 i. Participate in the National Flood Insurance Program, and

77 ii. Have active and approved Hazard Mitigation Plans, and

78 iii. Have qualifying structures for eligibility under Section 3 paragraph (a)

79 Section 4. Program requirements

80 (a) The secretary shall promulgate rules and regulations for the administration and  
81 implementation of this section within the framework of the following requirements for projects  
82 under Section 1 paragraph (i):

83 i. Eligible applicants with eligible projects shall apply to the community where the  
84 project resides

85 ii. The Community shall review applications for program eligibility and program  
86 requirements. The Community shall then send applications to the Flood Mitigation Review  
87 Board

88 iii. Any substantially improved funded project shall comply with current state building  
89 code. Any funded building retrofit project that does not constitute a substantial improvement but  
90 would be defined as wet or dry floodproofing by the NFIP must result in a project that would  
91 both:

92 a. Reduce the premium of an NFIP flood insurance policy, whether in place or placed in  
93 the future on the structure and b. Follow state building codes and requirements for the particular  
94 parts of the project being completed

95 No project shall be approved which does not, by judgment of the local code official,  
96 reduce flood damage and flood risk to the structure.

97 iv. Any project which is funded that elevated utilities must require such utilities be  
98 elevated at or above the design flood elevation or to the buildings next highest floor, whichever  
99 is higher.

100 v. Projects that are funded shall be inspected by the local code official. The final  
101 inspection and signed off completion documents shall be sent no later than 30 days from  
102 completion to the Flood Mitigation Review Board for record keeping and tracking purposes.

### 103 Section 5. Application process

104 (a) All applications for funding under Section 1 sub paragraph (i) from individuals  
105 meeting program eligibility requirements shall be submitted to the community. The application  
106 timeframe shall be September 1st to December 31st annually. The local code official shall  
107 review projects to ensure the projects meet program eligibility and program requirements. The  
108 community shall, at the end of the application period, review applications for both program  
109 eligibility and program requirements. Those eligible applications shall be sent to the Flood  
110 Mitigation Review Board for approval and funding.

111 (b) Applications for funding under Section 1 sub paragraph (ii) and (iii) shall be sent  
112 from the community to the Flood Mitigation and Preparedness Review Board for funding. A

113 detailed plan for outreach and education following similar guidance to the Community Rating  
114 System's Program For Public Information shall be followed for funding under Section 1 sub  
115 paragraph (iii).

116 Section 6. Flood Mitigation and Preparedness Review Board

117 (a) The Flood Mitigation and Preparedness Review Board, an independent body  
118 established by the governor, shall review applications submitted by communities to ensure that  
119 projects meet the program eligibility and program requirements. The Review Board shall only  
120 deem that projects meet these requirements for approval and may only disapprove applications  
121 by not meeting project requirements for funding as funding allows in each application period.

122 (b) Projects that do not meet program eligibility and requirements shall be denied funding  
123 by the Review Board. A letter from the Review Board must be sent no later than 90 days from  
124 the date that projects are not funded to the Community explaining the reasons. If a project within  
125 the Community's application does not meet program eligibility and program requirements, the  
126 Review Board may approve the portions of Community's application that do meet the program  
127 requirements.

128 (c) The Review Board shall be comprised of the secretary of energy and environmental  
129 affairs or a designee, who shall serve as the Board chair, the chair of the state board of building  
130 regulation and standards or a designee, the director of the office of coastal zone management or a  
131 designee, 2 persons to be appointed by the director of the Massachusetts Emergency  
132 Management Agency, 1 of whom shall be a contractor with experience in home elevations and 1  
133 of whom shall be an insurance agent with knowledge in flood insurance and experience in  
134 guiding and consulting for mitigation activities, the acting state hazard mitigation officer of the



135 state hazard mitigation team, a licensed lender with knowledge in flood insurance, 203k home  
136 loan lending and traditional loans who shall be appointed by the acting state hazard mitigation  
137 officer of the state hazard mitigation team, and 3 persons to be appointed by the governor, 1 of  
138 whom shall be a representative from a statewide environmental group, 1 of whom shall be a  
139 representative of the executive office of energy and environmental affairs with knowledge of  
140 climate change adaptation, and 1 of whom shall be a representative from the executive office of  
141 public safety and security with knowledge of the federal hazard mitigation grant program and  
142 experience with mitigation activities.

143 Section 7. Time effective

144 (a) This act becomes effective sixty days following approval by the Governor