HOUSE DOCKET, NO. 3491 FILED ON: 2/19/2021

HOUSE . . . . . No. 955

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:
Patrick Joseph Kearney	*4th Plymouth*	*2/19/2021*
David F. DeCoste	*5th Plymouth*	*2/25/2021*

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HOUSE . . . . . No. 955

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.

The Commonwealth of Massachusetts

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:

Section 1. Flood mitigation and preparedness loan or grant program

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

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

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

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

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

Section 2. Definitions

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

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

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

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

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

(i) overflow of inland or tidal waters;

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

(iii) mudflow; or

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

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

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

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

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

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

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

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

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

Section 3. Program eligibility

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

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

ii. Those properties deemed as Repetitive Losses under the National Flood Insurance Program iii. Those deemed as “vulnerable populations” as defined by the Massachusetts Hazard Mitigation and Climate Adaptation Plan as found on page 2-10.

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

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

i. Participate in the National Flood Insurance Program, and

ii. Have active and approved Hazard Mitigation Plans, and

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

Section 4. Program requirements

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

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

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

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

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

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

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

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

Section 5. Application process

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

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

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

Section 6. Flood Mitigation and Preparedness Review Board

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

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

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

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

Section 7. Time effective

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