HOUSE DOCKET, NO. 1591 FILED ON: 1/15/2025

HOUSE . . . . . No. 1004

The Commonwealth of Massachusetts

PRESENTED BY:

Joan Meschino

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 promoting climate safe buildings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Joan Meschino	*3rd Plymouth*	*1/15/2025*
James B. Eldridge	*Middlesex and Worcester*	*2/7/2025*
Carmine Lawrence Gentile	*13th Middlesex*	*5/15/2025*
Natalie M. Higgins	*4th Worcester*	*4/12/2025*
Russell E. Holmes	*6th Suffolk*	*2/25/2025*
Samantha Montaño	*15th Suffolk*	*2/20/2025*
Lindsay N. Sabadosa	*1st Hampshire*	*2/18/2025*
Danillo A. Sena	*37th Middlesex*	*4/9/2025*
Erika Uyterhoeven	*27th Middlesex*	*2/19/2025*

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HOUSE . . . . . No. 1004

By Representative Meschino of Hull, a petition (accompanied by bill, House, No. 1004) of Joan Meschino and others relative to climate standards in state building codes. Environment and Natural Resources.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act promoting climate safe buildings.

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. Chapter 143 of the General Laws is hereby amended by inserting after section 93 the following section:-

Section 93A. Definitions

As used in sections ninety-two to one hundred, inclusive, the following words shall, unless the context otherwise requires, have the following meanings:

"Expanded floodplain map", any map adopted by a city or town by ordinance or bylaw that establishes, using the best available science and data, the area at flood risk based on forward-looking climate projections or on past, documented flood history, to be used in addition to the federal emergency management agency's flood insurance rate maps.

"Base flood elevation", the elevation of surface water resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year.

"Climate resilience", the ability to prepare and plan for, absorb, and recover from, and more successfully adapt to adverse events resulting from increased climate risks.

"Climate risks", the reasonably foreseeable risks to the economy, public services and infrastructure, and public health and safety based on best available science and data, that are attributable to current and reasonably foreseeable climate conditions, including but not limited to changes in sea level, storm frequency or intensity, drought, wind, extreme precipitation, and extreme temperature changes projected to occur as a result of climate change.

"Environmental justice population" as defined in Section 62 of chapter 30 of the General Laws.

"Exceptional non-financial hardship", a non-financial hardship that would result from the failure to grant a requested variance and which is unusual and specific to the property involved. Exceptional non-financial hardship does not include inconvenience, aesthetic considerations, physical disabilities, personal preferences, or the disapproval of neighbors, homeowners associations, or subdivision boards.

SECTION 2. Section 93 of chapter 143, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There is hereby established within the division of occupational licensure a board to be known as the state board of building regulations and standards, in this section and in sections ninety-four to one hundred, inclusive, called the board. The board shall adopt and administer a state building code. The board shall consist of 17 members, 1 of whom shall be the state fire marshall or their designee, one of whom shall be the commissioner of the division of occupational licensure or their designee, 1 of whom shall be the commissioner of energy

resources or their designee, 1 of whom shall be the state National Flood Insurance Program Coordinator or their designee, and all 4 of whom shall serve ex-officio and shall be voting members of the board, and 13 persons to be appointed by the governor, one of whom shall be a registered architect, one of whom shall be a registered professional engineer who is a mechanical engineer, one of whom shall be a registered professional engineer who is a structural engineer, one of whom shall be a representative of the building trades, one of whom shall be a general contractor of commercial or industrial buildings, one of whom shall be a building contractor of one or two-family homes, one of whom shall be a head of a local fire department, 1 of whom shall be an expert in commercial building energy efficiency, 1 of whom shall be an expert in residential building energy efficiency, 1 of whom shall be an expert in advanced building technology, 1 of whom shall be an expert in climate resilience and adaptation planning, one of whom shall be an inspector of buildings in a town and one of whom shall be an inspector of buildings in a city. Organizations representing the appropriate constituencies shall submit names of persons for appointment as members to the board. Each member shall be appointed for a term of five years, except that in making initial appointments, the governor shall appoint one member for one year and two members to serve for two, three, four and five years respectively. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any member shall be eligible for reappointment for a second term but shall not serve more than 10 total years. Any member of the board may be removed by the governor for cause, after being given a written statement of the charges and an opportunity to be heard thereon. No member shall act as a member of the board or vote in connection with any matter as to which their private right, distinct from public interest, is concerned.

SECTION 3. The Section 95 of chapter 143 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking all text and inserting in place the following:

Section 95. The powers and duties of the board set forth in section ninety-four shall be exercised to effect the following objectives:

(a) Uniform standards and requirements for construction and construction materials, compatible with accepted standards of engineering and fire prevention practices, energy conservation, climate resilience, and public health and safety. In the formulation of such standards and requirements, performance for the use intended shall be the test of acceptability, in accordance with accredited testing standards.

(b) Adoption of modern technical methods, devices and improvements which may reduce the cost of construction and maintenance over the life of the building and reduce the impacts of and damage from climate change without affecting the health, safety, and security of the occupants or users of the buildings.

(c) Elimination of restrictive, obsolete, conflicting and unnecessary building regulations and requirements which may increase the cost of construction and maintenance over the life of the building or delay unnecessarily the use of new materials, or which may provide unwarranted preferential treatment of types of classes of materials, products or methods of construction without affecting the health, safety, and security of the occupants or users of the buildings; provided, however, that such building regulations and requirements are not necessary to reduce the impacts of and damage from climate change.

SECTION 4. The Section 98 of chapter 143 of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by inserting the following after the first paragraph:

The board of selectmen in a town or the city council in a city may request the use of expanded floodplain maps, based on best available science and data, including forward-looking climate projections, and floodplain maps based on past, documented flood history, in addition to the federal emergency management agency flood insurance rate maps for the purposes of determining base flood elevation and mandating the applicability of flood-resistant construction standards as contained in the residential and commercial base building codes where flood hazard areas are referenced. The board of selectmen in a town or the city council in a city shall certify that the city or town has formally adopted the expanded floodplain maps for official use in the city or town by ordinance or bylaw. The expanded floodplain maps shall be made publicly accessible online. If the board finds, in consultation with the executive office of energy and environmental affairs, that the use of expanded floodplain maps is in the interest of public health and safety and in support of climate resilience and adaptation objectives, and with the general purposes of a statewide building code, the board shall, after notice to said board of selectmen or city council, and after a public hearing, adopt rules and regulations, and impose conditions in connection with the adoption thereof. If the board rejects the request, the board shall provide a written explanation of the rejection to the board of selectmen or the city council at which time the board of selectmen or city council may file an appeal within 30 days to the secretary of the executive office of housing and economic development who shall, in consultation with the secretary of the executive office of energy and environmental affairs, reconsider the request and respond to the appeal within 15 days.

SECTION 5. Section 100 of chapter 143 of the General Laws, as so appearing, is hereby amended by striking out the ninth paragraph and inserting in place thereof the following paragraph:-

The appeals board may grant a variance from any provision of this code in any particular case, may determine the suitability of alternate materials and methods of construction, and may provide reasonable interpretations of the provisions of this code; provided, however, that appeals board decisions shall not conflict with the general objectives set forth in section ninety-five; provided further, that the board of building standards and regulations shall adopt a standard procedure for considering applications for variances to buildings or construction within a floodplain. Variances for buildings or construction within a floodway shall be granted in accordance with the following criteria, at minimum: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional non-financial hardship to the applicant, (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public offense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances, and (iv) a determination that the variance is the minimum necessary to afford relief, considering the flood hazard.

In accordance with Section 60.6 of Title 44 of the Code of Federal Regulations related to requirements for flood plain management regulations, upon the decision to grant a variance the appeals board shall notify the applicant in writing that the issuance of a variance to construct a structure below the base flood elevation may result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and that such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

SECTION 6. Section 2 of chapter 21A of the General Laws, as so appearing, is hereby amended by inserting after clause (30) the following clause:

(31) develop and promulgate, in consultation with the executive office of housing and economic development and the board of building regulations and standards, as an appendix to the state building code and to the state residential code, a municipal opt-in specialized stretch resilience code that incorporates forward-looking data on climate risks including, but not limited to, inland and coastal flooding, extreme temperatures, wind, and changes in precipitation patterns and that is more stringent than the most recent edition of the international building code and international residential code. The code shall include, at a minimum, the following provisions that go beyond those in the most recent edition of the state building code: i) requirements as to freeboard and elevation above base flood elevation based on forward-looking climate data and future flood risks, ii) requirements as to the location of utilities and other critical infrastructure within a structure, iii) requirements as to wet and dry flood proofing of a structure, iv) requirements as to habitable space and uses of a structure, v) requirements as to points of ingress and egress, vi) requirements as to ability to withstand extreme winds, and vii) requirements as to ability to withstand extreme temperatures. The code shall also include any further language that is required to adequately prepare construction for future climate impacts including from wind, extreme temperature, and flooding.

The secretary of the executive office of energy and environmental affairs shall form and consult with an advisory committee in the development of the stretch resilience code and the climate resilience retrofit program. The advisory committee shall consist of at least 17 members who shall include: the secretary of energy and environmental affairs or their designee, the chair of the board of building regulations and standards or their designee, the secretary of the executive office of housing and economic development or their designee, the commissioner of public health or their designee, the director of the Massachusetts emergency management agency

or their designee, the director of the office of coastal zone management or their designee, 1 representative from an organization that represents or serves an environmental justice community, 1 representative from an affordable housing organization, 1 representative from a regional planning organization, 1 member with professional expertise in climate science and data, 1 member who is a professional with experience in climate adaptation and resilience, 1 member who is a certified building inspector in a city or town, 1 member who is a municipal planner, 1 member who is a certified civil engineer, 1 member who is a certified coastal engineer, 1 representative from the insurance industry, and 1 representative from the real estate development industry. The advisory committee shall be formed within six months of the bill being enacted and shall produce recommendations on requirements for the code within eighteen months of the bill being enacted. The stretch resilience code shall be promulgated no later than twenty-four months of the bill being enacted.

The secretary shall, in consultation with the board of building regulations and standards, review and update the stretch resilience code every three years, in accordance with Section 94 of chapter 143.

SECTION 7. Section 96 of chapter 143 of the General Laws, as so appearing, is hereby amended by inserting after the word “resources” in the second paragraph, the following words:-,

the specialized stretch resilience code developed and promulgated by the executive office of energy and environmental affairs,

SECTION 8. Section 100 of chapter 143 of the General Laws, as so appearing, is hereby amended by inserting after the word “resources” in the second paragraph, the following words:-,

and the specialized stretch resilience code developed and promulgated by the executive office of energy and environmental affairs,

SECTION 9. Notwithstanding any special or general law to the contrary, the secretaries of the executive office of energy and environmental affairs, executive office of housing and economic development, and the board of building regulations and standards shall develop and administer a statewide opt-in climate resilience retrofit program. The program shall provide technical and financial assistance to bring existing buildings into compliance with the stretch resilience code at minimum. The program shall prioritize assistance for buildings located in areas designated as environmental justice populations and buildings that are located within flood hazard areas as defined in the most recent edition of the Massachusetts State Building Code.