

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Dawne Shand and Jennifer Balinsky Armini

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 establishing a Massachusetts flood risk protection program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Dawne Shand</i>	<i>1st Essex</i>	<i>1/13/2025</i>
<i>Jennifer Balinsky Armini</i>	<i>8th Essex</i>	<i>1/13/2025</i>

HOUSE No.

[Pin Slip]

The Commonwealth of Massachusetts

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

An Act establishing a Massachusetts flood risk protection 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 Preamble

2 Climate change is causing significant increases in sea level, floods and storms, and
3 threatening the environment, human health and safety. Becoming resilient to these impacts
4 depends on the commonwealth’s ability to visualize and adapt to flood risk today and into the
5 future. The statewide flood risk protection program is voluntary and creates and implements a
6 long term strategy to facilitate the acquisition of property from willing property owners at risk of
7 being inundated by floods, and that suffer, or are projected to suffer, repetitive or substantial
8 flood damage. The program relies on nature-based solutions to protect communities from climate
9 impacts today and in the future; prioritizes the allocation of benefits to low-income residents and
10 environmental justice populations; and creates a new trust fund intended to be funded using state
11 funds and to leverage local, federal and private funds and insurance programs with the same or
12 similar purposes.

13 Section 1. Flood Risk Protection Program

14 Notwithstanding any special or general law to the contrary, the secretaries of the
15 executive office of energy and environmental affairs, executive office of housing and economic
16 development, and executive office of public safety and security shall develop and administer a
17 statewide flood risk protection program. The program shall acquire properties which are, or are
18 projected to be, repetitively or substantially damaged by floods. Funds deposited in the flood risk
19 protection trust fund shall cover the acquisition of property from willing owners; structure
20 demolition; relocation of impacted property owners, tenants and lessees; coastal, floodplain and
21 wetland restoration; and creation of open space for conservation and recreational purposes to be
22 protected in perpetuity.

23 Section 2. Definitions

24 As used in this chapter the following words shall have the following meanings:

25 “Contiguous properties”, two or more adjoining parcels.

26 “Cluster properties”, two or more properties that, although non-contiguous, are within
27 proximity.

28 “Eligible entity”, an entity with expertise in land conservation and restoration, including a
29 state agency, nonprofit land trust, nonprofit conservation organization, local governmental body
30 or community development corporation. For the purposes of this chapter, a local governmental
31 body includes a town, city, county, district, commission, board and regional governmental unit.

32 "Environmental justice population", as defined in Section 62 of chapter 30 of the general
33 laws.

34 “Flood risk”, property at risk of being inundated by water or mudflow and that currently
35 suffers or is projected to suffer repetitive or substantial flood damage as determined by the best
36 available climate, flooding, erosion, and sea level rise data and modeling.

37 “Nature-based solutions”, as defined in section 1 of chapter 21N of the general laws.

38 Section 3. Program Eligibility

39 The following shall be eligible under this program:

40 (a)Property that is a flood risk and used for residential, nonprofit, or small business
41 purposes, as defined by section 1 of chapter 40W of the general laws, including the buildings and
42 structures thereon.

43 (b)Projects that receive, or do not receive, funding from the federal emergency
44 management agency.

45 Section 4. Program Requirements

46 The following shall be requirements under this chapter:

47 (a)This program is voluntary and so property shall only be acquired from a willing seller
48 or sellers.

49 (b)Property shall be acquired at fair market value of land, buildings and structures.
50 Damaged property shall be valued at pre-loss fair market value. The process for calculating fair
51 market value and pre-loss fair market value shall be defined through regulation.

52 (c) No less than 75 percent of program funds shall be reserved for eligible property
53 owners that are (i) low-income, defined as a household income 65 percent of the state median
54 income or less, or (ii) located within an environmental justice population.

55 (d) Acquired properties shall be conserved in perpetuity and maintained as open space for
56 conservation and recreation purposes by an eligible entity or entities. Public access shall be
57 required unless access is prohibited under state or local law.

58 (e) New and permanent engineered structures and other improvements shall not be erected
59 on any property acquired under this chapter unless such structures or improvements are critical to
60 complete a nature-based solutions project, are open on all sides (restrooms excepted), can be
61 easily moved, and are functionally related to open space use. These restrictions, along with the
62 right to enforce the same, are deemed to be covenants running with the land in perpetuity and are
63 binding on subsequent successors, grantees, or assigns.

64 (f) Any conveyance is subject to rights outstanding in third parties for existing easements.

65 Section 5. Statewide Flood Risk Assessment and Standards

66 The secretary of the executive office of energy and environmental affairs shall use the
67 best available climate data and models, and sea level rise, tidal, coastal, riverine flooding data,
68 and models, to assess the current and future flood risk to property statewide. To assess current
69 and future flood risk, the secretary shall solicit input from the executive office of housing and
70 economic development and the executive office of public safety and security; and shall consult
71 with federal agency experts and scientific, technical and insurance experts.

72 Following the development of each statewide assessment, the secretary shall create and
73 update standards used to evaluate properties that may be acquired from a willing seller or sellers
74 under this chapter. The standards shall be used to set priorities based on the following factors:

75 (1) Properties that are a flood risk.

76 (2) Properties owned by low-income property owners and properties within an
77 environmental justice population.

78 (3) Clustered properties or contiguous properties.

79 (4) Projects that will further protect the public health and safety of first responders,
80 neighbors and local communities.

81 (5) Projects that protect, restore, and enhance wildlife habitat, fisheries, agricultural lands,
82 drinking water supplies, ecosystem services, and that offer conservation and recreation
83 opportunities for public use.

84 The statewide standards shall be noticed for public comment no later than 180 days after
85 enactment.

86 A statewide flood risk assessment shall be updated every five years and include a
87 statewide evaluation of the program's impact on flood risk and benefits to the public. The
88 secretary shall provide a detailed report on each updated assessment to the joint committee on
89 environment, natural resources and agriculture every five years, and shall make every updated
90 assessment available for public view.

91 Section 6. Roles and Responsibilities

92 (1)The secretaries of the executive office of energy and environmental affairs, executive
93 office of housing and economic development, and executive office of public safety and security
94 shall divide the following roles and responsibilities depending on agency expertise:

95 (a)Develop an outreach, education and awareness program for local governmental bodies
96 and owners, tenants and lessees of properties that are a flood risk.

97 (b)Provide technical assistance to property owners interested in selling their property.

98 (c)Establish procedures to support property owners, tenants, and lessees in need of
99 relocation assistance.

100 (d)Facilitate relationships between a property owner and eligible entities when possible.

101 (e)Develop a pre-approval acquisition program that includes partnerships with eligible
102 entities to promote efficient and timely property transfers, minimize hardships on property
103 owners, and discourage repetitive rehabilitation, repairing and rebuilding of flood risk properties.

104 (2)The executive office of energy and environmental affairs and its agencies may acquire
105 and conserve flood risk property on behalf of the commonwealth, when in the commonwealth's
106 interest, and when there is no other eligible entity available to acquire an owner's property.

107 Section 7. Flood Risk Protection Program Trust Fund

108 (1)The secretary of energy and environmental affairs shall create and administer the flood
109 risk protection program trust fund into which shall be deposited: (a) any revenues or other
110 financing sources directed to the fund by appropriation; (b) bond revenues authorized by the
111 general court and designated to be credited to the fund; (c) any income derived from the
112 investment credited to the fund; (d) funds from public or private sources including, but not

113 limited to, gifts, federal or private grants, donations, rebates and settlements received by the
114 commonwealth that are designated to be credited to the fund; and (e) all other amounts credited
115 or transferred into the fund from any other source.

116 (2) Amounts credited to the fund may be used, without further appropriation, to provide
117 grants to an eligible entity, as defined by this chapter, costs associated with implementation of
118 the flood risk protection program including upfront costs or reimbursement for (a) the acquisition
119 of property; (b) fees for necessary appraisals, title searches, title insurance, property inspections,
120 and surveys, environmental assessments and other necessary site-specific due diligence; (c) the
121 controlled demolition, removal and disposal of buildings and structures. Buildings and structures
122 deemed historically significant will be documented and options for relocation or deconstruction
123 shall be explored before they are demolished. Archaeological resources will be documented and
124 saved under the supervision of a professional archaeologist, and if applicable, in consultation
125 with a tribal representative; (d) relocation assistance for homeowners, tenants and lessees; and
126 (e) site restoration and stabilization including nature-based solutions that enhance climate
127 resiliency and restore and conserve fish and wildlife habitat.

128 (3) The secretary shall assess all funding secured from other public and private sources for
129 a project before awarding a grant from the fund for that project, to ensure that the total amount
130 paid from the fund does not exceed the total value of the project.

131 (4) The amounts expended from the fund during any fiscal year for the costs of employees
132 shall not exceed 5 per cent of total funds expended from the fund in that fiscal year.

133 (5) Monies deposited into the flood risk protection program trust fund that are not
134 expended at the end of each fiscal year shall not revert to the general fund and shall be available
135 for expenditure in the subsequent fiscal year.

136 (6) Annually, and not later than December 1 of each year, the secretary of energy and
137 environmental affairs shall report on the activities of the fund to the clerks of the house of
138 representatives and the senate and to the house and senate committees on ways and means. The
139 report shall include an accounting of expenditures made from the fund with a description of the
140 purpose of each expenditure, an accounting of amounts credited to the fund and any unexpended
141 balance remaining in the fund.

142 Section 8. Regulations

143 The secretaries of the executive office of energy and environmental affairs, executive
144 office of housing and economic development, and executive office of public safety and security
145 shall promulgate rules, regulations and guidelines for the administration and oversight of this
146 chapter no later than 180 days after enactment.

147 Section 9. Interagency Coordination

148 The secretaries of the executive office of energy and environmental affairs, executive
149 office of housing and economic development, and executive office of safety and security shall
150 enlist, engage, collaborate and coordinate with external experts and stakeholders regarding the
151 creation and implementation of the flood risk protection program. Such experts and stakeholders
152 shall include but are not limited to the environmental justice advisory council established by
153 section 62L of chapter 30 of the general laws, the global warming solutions act implementation
154 advisory committee, and homeowners, tenants, insurers, and municipal officials.