

SENATE, No. 2208

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED OCTOBER 1, 2012

Sponsored by:

Senator ROBERT M. GORDON

District 38 (Bergen and Passaic)

Senator BARBARA BUONO

District 18 (Middlesex)

SYNOPSIS

Amends “Flood Hazard Area Control Act” to require DEP to take certain actions concerning delineations of flood hazard areas and floodways.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/30/2012)

1 AN ACT concerning mapping of flood hazard areas and amending
2 P.L.1962, c.19.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 3 of P.L.1962, c.19 (C.58:16A-52) is amended to read
8 as follows:

9 3. a. The department shall study the nature and extent of the
10 areas affected by flooding in the State. After public hearing upon
11 notice, and pursuant to the "Administrative Procedure Act,"
12 P.L.1968, c.410 (C.52:14B-1 et seq.), the department shall adopt
13 rules and regulations which delineate as flood hazard areas such
14 areas as, in the judgment of the department, the improper
15 development and use of which would constitute a threat to the
16 safety, health, and general welfare from flooding. **[Such]** These
17 delineations shall identify the various subportions of the flood
18 hazard area for reasonable and proper use according to relative risk,
19 including the delineation of floodways necessary to preserve the
20 flood carrying capacity of natural streams. The department shall
21 update delineations of flood hazard areas as appropriate as provided
22 in subsection b. of this section. At a minimum, the department shall
23 update its delineations of flood hazard areas at least once every 15
24 years. The department may, after public hearing upon notice and
25 pursuant to the **[aforecited]** "Administrative Procedure Act,"
26 revoke, amend, alter, or modify such regulations if in its judgment
27 the public interest so warrants.

28 b. (1) The department shall wherever practicable, make floodway
29 delineations identical to the floodway delineations approved by the
30 **[Federal Government]** Federal Emergency Management Agency
31 for the National Flood Insurance Program. Immediately upon
32 adoption of a floodway delineation approved by the Federal
33 Emergency Management Agency for the National Flood Insurance
34 Program, the department shall include the federal floodway
35 delineation into the department's flood hazard area delineation for
36 that watercourse, provided that the department has determined that
37 the federal floodway delineation is sufficient to carry and discharge
38 the flood flow of the watercourse.

39 (2) Notwithstanding any other provision of law, or rule or
40 regulation adopted pursuant thereto, to the contrary, a person may
41 apply for a permit or other approval or authorization issued by the
42 department pursuant to the "Flood Hazard Area Control Act,"
43 P.L.1962, c.19 (C.58:16A-50 et seq.), for a site based upon a
44 floodway delineation approved by the Federal Emergency
45 Management Agency for the National Flood Insurance Program,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 provided that (a) the federal floodway delineation is more recent
2 than the department's delineation for the same watercourse, and (b)
3 the department has determined that the federal floodway delineation
4 is sufficient to carry and discharge the flood flow of the
5 watercourse and is at least as protective of the public safety, health,
6 and general welfare as the department's delineation.

7 c. The department shall establish a procedure for reducing any
8 delineated flood hazard area when a change has been made which
9 increases the flood carrying capacity of the concerned stream at that
10 location.

11 (cf: P.L.1979, c.359, s.4)

12

13 2. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill amends the "Flood Hazard Area Control Act" to direct
19 the Department of Environmental Protection (DEP) to take certain
20 actions concerning delineations of flood hazard areas and
21 floodways.

22 Currently, the "Flood Hazard Area Control Act" requires the
23 DEP to study the nature and extent of the areas affected by flooding
24 in the State and to "delineate as flood hazard areas such areas as, in
25 the judgment of the department, the improper development and use
26 of which would constitute a threat to the safety, health, and general
27 welfare from flooding." The act further provides that the DEP,
28 wherever practicable, is to make floodway delineations identical to
29 the floodway delineations approved by the federal government for
30 the National Flood Insurance Program (NFIP).

31 This bill directs the DEP to update its delineations of flood
32 hazard areas as frequently as may be necessary to incorporate
33 floodway delineations as provided by the bill, and at a minimum, at
34 least once every 15 years. Further, upon FEMA's adoption of a
35 new floodway delineation, the bill directs the DEP to incorporate
36 that federal floodway delineation into the department's flood hazard
37 area delineation for that watercourse, provided that the DEP
38 determines that the federal floodway delineation is sufficient to
39 carry and discharge the flood flow of the watercourse.

40 Lastly, the bill provides that a person may apply for a permit, or
41 any other type of approval or authorization, issued by the DEP
42 pursuant to the "Flood Hazard Area Control Act," for a site based
43 upon a floodway delineation approved by FEMA for the NFIP,
44 provided that (1) the federal floodway delineation is more recent
45 than the DEP's delineation for the same watercourse, and (2) the
46 DEP determines that the federal floodway delineation is sufficient
47 to carry and discharge the flood flow of the watercourse and is at
48 least as protective of the public safety, health, and general welfare

S2208 GORDON, BUONO

4

1 as the department's delineation. Under the DEP's current rules and
2 regulations, if there is a DEP delineation of a particular flood
3 hazard area and floodway, a permit applicant is required to use the
4 DEP's delineation even if there is a more recent FEMA delineation.
5 This bill would allow for a more recent FEMA delineation to be
6 used, provided that the DEP determines that the FEMA delineation
7 is at least as protective as the department's delineation.

8 Over the years, many flood maps have become outdated due to
9 urban growth, changes in river flows and coastlines, and even flood
10 mitigation efforts. Accurate and up-to-date delineations of
11 floodways and flood hazard areas are essential to inform State and
12 local officials and property owners of changing flood risks. It is the
13 sponsor's intent that this legislation assist in that regard by
14 requiring the DEP to quickly evaluate any newly released FEMA
15 floodway delineations and to allow permit applicants to apply for a
16 permit using the federal floodway delineation when it is at least as
17 protective as the DEP's delineation.