

[Second Reprint]

ASSEMBLY, No. 1726

STATE OF NEW JERSEY
216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

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**Assemblyman Johnson, Assemblywoman Pinkin, Assemblyman Gusciora,
Senator Greenstein and Assemblywoman Caride**

SYNOPSIS

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

CURRENT VERSION OF TEXT

As amended on November 9, 2015 by the General Assembly pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 12/4/2015)

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,” P.L.1968,
12 c.410 (C.52:14B-1 et seq.), the department shall adopt rules and
13 regulations which delineate as flood hazard areas such areas as, in the
14 judgment of the department, the improper development and use of
15 which would constitute a threat to the safety, health, and general
16 welfare from flooding. **[Such]** These delineations shall identify the
17 various subportions of the flood hazard area for reasonable and proper
18 use according to relative risk, including the delineation of floodways
19 necessary to preserve the flood carrying capacity of natural streams.

20 The department shall¹, within the limits of funds appropriated or
21 otherwise made available therefor,¹ update delineations of flood
22 hazard areas as appropriate as provided in subsection b. of this section.

23 ¹**[At a minimum, the]** The¹ department shall update its delineations of
24 flood hazard areas at least once every 15 years¹ and shall prioritize the
25 preparation of updates based upon flood risk¹. The department may,
26 after public hearing upon notice and pursuant to the **[aforecited]**
27 “Administrative Procedure Act,” revoke, amend, alter, or modify such
28 regulations if in its judgment the public interest so warrants.

29 b. (1) The department shall wherever practicable, make
30 ¹**[floodway]** flood hazard area¹ delineations²**[identical to]** at least as
31 protective as² the¹**[floodway]** floodplain¹ delineations approved by
32 the **[Federal Government]** Federal Emergency Management Agency
33 for the National Flood Insurance Program. Immediately upon
34 adoption of a¹**[floodway]** floodplain¹ delineation approved by the
35 Federal Emergency Management Agency for the National Flood
36 Insurance Program, the department shall include the federal
37 ¹**[floodway]** floodplain¹ delineation²**[into]** as² the department’s
38 ²minimum² flood hazard area delineation for that watercourse,
39 provided that the department has determined that the federal
40 ¹**[floodway]** floodplain¹ delineation is sufficient to carry and

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AEN committee amendments adopted February 24, 2014.

²Assembly amendments adopted in accordance with Governor's recommendations November 9, 2015.

1 discharge the flood flow of the watercourse¹ and is at least as
2 protective of the public safety, health, and general welfare as the
3 department's delineation¹ .

4 (2) Notwithstanding any other provision of law, or rule or
5 regulation adopted pursuant thereto, to the contrary, a person shall
6 apply for a permit or other approval or authorization issued by the
7 department pursuant to the "Flood Hazard Area Control Act,"
8 P.L.1962, c.19 (C.58:16A-50 et seq.), for a site based upon a
9 ¹【floodway】 floodplain¹ delineation² at least as protective as one²
10 approved by the Federal Emergency Management Agency for the
11 National Flood Insurance Program, provided that (a) the federal
12 ¹【floodway】 floodplain¹ delineation is more recent than the
13 department's delineation for the same watercourse, and (b) the
14 department has determined that the federal ¹【floodway】 floodplain¹
15 delineation is sufficient to carry and discharge the flood flow of the
16 watercourse and is at least as protective of the public safety, health,
17 and general welfare as the department's delineation.

18 c. The department shall establish a procedure for reducing any
19 delineated flood hazard area when a change has been made which
20 increases the flood carrying capacity of the concerned stream at that
21 location.

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

23

24 2. This act shall take effect immediately.