

ENACTING FLOOD DISCLOSURE FOR RESILIENT FLORIDA HOMES

About us: *Since 1967, the Environmental Defense Fund is one of the world's leading organizations focused on finding practical and science-based solutions to the most critical environmental challenges.*

Background: Deciding where to live, whether it be renting or buying, is one of the biggest decisions families and individuals can make. Residents want to make sure their homes are protected from potential hazards. That doesn't just include big events like hurricanes--in fact, over a third of Florida properties are at risk of severe flooding in the next 30 years.¹ Just one inch of flooding in the average home causes \$25,000 in damage,² which is not covered by most homeowners or rental insurance policies.

Homeowners and renters often find out their home is vulnerable to flooding, or they are not protected against flood damage only after a storm or natural disaster occurs. For example, after Hurricane Ian in September of 2022 (the costliest storm in Florida history)³, many Florida residents claimed that they were not informed by real estate or insurance agents that they were in FEMA flood zones (where residents are federally required to have flood insurance). Owners and tenants stated that if they had known that the property was flood-prone would have changed their decision to purchase or lease.⁴ Passing a regulatory requirement for a seller or landlords to disclose a property's flood risks or past flood damages (i.e., a "flood disclosure" law) would encourage Floridians to make fiscally informed decisions about flood risk before renting or buying.

The Fiscal Case for Flood Disclosure:

By enacting a flood disclosure law, the Florida legislature could also:

1. **Potentially lower National Flood Insurance premiums for many Florida communities.**

Through the CRS (Community Rating System), the National Flood Insurance Program (NFIP) awards credits towards discounted flood insurance premium rates to communities (counties, cities, towns, etc.) implementing measures to re. Communities participating in CRS could receive credits through Activity 340 (Hazard Disclosure), which includes disclosing flood hazards during real estate transition.⁵ As of October 2023, only 10 out of the 478 FEMA-identified Florida communities do not participate in the NFIP.⁶ 56.4% (264 of 478) of FEMA-identified Florida

¹ Risk Factor. Accessed November 2023. [Flood Factor Report](#).

² FEMA. July 2019. [The Cost of Big Flooding](#).

³ Bucci et al. April 2023. [Tropical Cyclone Report: Hurricane Ian \(AL092022\)](#). National Hurricane Center.

⁴ Chan, M. 2022. [Hundreds of thousands of Florida homes lie in flood-risk areas not recognized by FEMA's flood maps, research group says](#). NBC News.

⁵ FEMA. June 2021. [Community Rating System Overview and Participation](#).

⁶ FEMA. October 2023. [Community Status Book Report: Florida](#)

communities currently participate in CRS⁷ and therefore would immediately be eligible for CRS credit for flood disclosure.

2. Increase the number of homes with flood insurance.

Without flood disclosure, Florida residents are more likely to be uninsured or underinsured in the case of severe flooding and may not know that they must take other precautions to prepare for flood-related disasters. Knowing the level of one's risk helps change patterns of behavior related to flood insurance. For example, one study found that the introduction of a state mandate to disclose at the time of sale that the property is situated within a 100-year floodplain led to an almost 15 percent rise in insurance adoption within these areas.⁸ Furthermore, states with strong flood risk disclosure requirements generally also have a higher percentage of residents with flood insurance.⁹

3. Save homeowners', renters', and taxpayers' money during disaster response.

Without flood insurance, homeowners who experience flooding must request funding from FEMA Individual Assistance (IA) and/or pay tens of thousands of dollars of out-of-pocket costs to rebuild—money that ultimately comes out of taxpayers' pockets. The maximum amount an uninsured flood victim can receive from FEMA IA (\$37,900)¹⁰ is less than 11% of the maximum coverage an insured individual can receive for a single-family home structure and contents from the NFIP (up to \$350,000).¹¹ Furthermore, flood victims rarely receive the maximum amount of FEMA IA funding.¹² Promoting flood insurance will help to ensure that residents are fiscally prepared for flood damage.

4. Support robust free-market capitalism.

Informed decision-making is the cornerstone of a functional free-market system. In real estate and in general commerce, buyers who are aware of the risks and benefits of a product can compare various products based on their individual preferences and needs. This fosters healthy competition among sellers, encouraging them to improve quality, innovate, and offer competitive prices to attract customers.

Floridians Taking Action For Flood Disclosure:

Counties and realtors within Florida have already stepped up to ensure residents are aware of a property's flood risk before buying or renting by enacting the following policies:

1. Enacting mandatory flood disclosure through local ordinances.

- a. Leon County Ordinances require a written disclosure when selling or renting a property that has "experienced flooding" or is "flood prone" (Leon County Code of Laws, Section 12-8(b)). Leon County also mandates all applications for new construction orders to complete a flood letter certification dated, signed, and by a licensed professional civil engineer, and if the proposed development is in a regulatory floodway, the developer must provide a floodway encroachment analysis. (See Case Study B)
- b. Miami-Dade County Ordinances require a written disclosure when selling real estate that is in a Coastal High Hazard Area or a Special Flood Hazard Area. (Ord. No. 93-21, § 1, 3-30-93). (See Case Study C)

2. Creating voluntary forms of flood disclosure for use during real estate transactions.

⁷ FEMA. October 2023. [CRS Eligible Communities](#).

⁸ Hanek, E et al. 2011. [Managing California's Water: From Conflict to Reconciliation](#). Public Policy Institute of California

⁹ FEMA. July 2022. [Flood Risk Disclosure: Model State Requirements for Disclosing Flood Risk During Real Estate Transactions](#).

¹⁰ FEMA. October 2021. [Notice of Maximum Amount of Assistance Under the Individuals and Households Program](#).

¹¹ National Flood Insurance Program. Retrieved September 2023. [Summary of Coverage](#). FEMA.

¹² Congressional Research Service. November 2019. [Closing the Flood Insurance Gap](#).

- a. The Pinellas County Government and the Pinellas REALTOR® Organization (PRO) have organized a successful county-wide program educating realtors and residents about flood risk (See Case Study A).
- b. Both the Florida Realtors® and the Northeast Florida Association of Realtors® provide voluntary flood disclosure forms (Appendices A & B) for their members.

Limited existing protection for homeowners and renters:

Current federal law, state legal precedents, and Citizen Insurance policies mandate limited flood disclosure for *some* homeowners and provide little to no protection for renters.

1. State legal precedents require a home seller to disclose any facts or conditions about the property that could have a substantial impact on its value or desirability and that others cannot easily see for themselves (Johnson v. Davis, 480 So.2d 625 (Fla. 1985)). However, it is unclear whether these rulings apply to all flood risks (Nelson v. Wiggs, 699 So. 2d 258 (Fla. Dist. Ct. App. 1997)).¹³ The ambiguity of **existing Florida precedents allows sellers to argue that the flood risk of a property is obvious, or that the seller was unaware of flood risks. A recent national study found that only 35% of respondents were informed of flood risk at their current address before moving into their current residence.**¹⁴
2. Congress mandates that federally regulated or insured lenders must require flood insurance for all buildings located in a Special Flood Hazard Area (SFHA) with a federally backed loan.¹⁵ This requirement effectively ensures that most homeowners are aware their property is in an SFHA, but presents the following issues:
 - a. **failing to inform property owners outside of SFHA that are still at risk of severe floods.** An estimated 350,000 properties in Florida are in areas at risk of severe flooding but are not located in FEMA-designated SFHA.⁴ Across the country, National Flood Insurance Program policyholders outside of FEMA-mapped SFHA account for over 20% of all NFIP flood insurance claims and receive one-third of federal disaster assistance for flooding.¹⁶
 - b. **notifying buyers of flood insurance requirements too late in the negotiating process.** This Congressional mandate does not require a seller to inform a potential buyer before the submission of an official offer for a property, which can make it difficult for potential buyers to select other housing options or negotiate a different price. A 2023 national study found only 41% of SFHA residents learned that their property was in a 100-year floodplain before moving.
3. As of April 1, 2023, Citizens Insurance Agency requires new personal residential policyholders within the SFHA must also have flood insurance coverage. A flood insurance requirement will be phased in for existing policyholders in the next four years.¹⁷ However, the **Citizens Insurance Agency mandate will not apply to homeowners who do not have Citizens Insurance.**

Ensuring Florida is a Leader in Flood Policy:

Florida legislators have historically demonstrated their commitment to the health and well-being of their communities by requiring, during real estate transactions, the disclosure of

¹³ See Barefoot, N *et al.* September 2020. [There Will Be Floods: Armoring the People of Florida to Make Informed Decisions on Flood Risk](#). Florida Bar Journal.

¹⁴ Fannie Mae. December 2023. [Consumer Flood Risk Awareness and Insurance Study](#).

¹⁵ FEMA. July 2020. [Laws and Regulations](#).

¹⁶ FEMA. March 2021. [Everything You Need to Know About Flood Insurance from NFIP](#).

¹⁷ Citizens. March 2023. [Flood Insurance Coverage Rules Kick In for Citizens](#).

1. a property's potential for coastal erosion (Florida Statutes §161.57),
2. knowledge of lead-based paint (Florida Statutes §381.983),
3. the dangers associated with radon gas (Florida Statutes §404.056(5)).

Enacting state-wide policies and laws requiring flood disclosure for buyers and renters would continue the legacy of Florida legislators working to ensure the safety and prosperity of their constituents. By currently relying solely on voluntary disclosure and local ordinances, Florida is falling behind other states in flood safety. Florida received an “F” when rated against other states nationally for flood risk disclosure laws.¹⁸ Meanwhile, Texas, Louisiana, and Mississippi are leading the way as models for flood disclosure (See Case Studies D & E), and, in total, 31 states have enacted comprehensive flood disclosure for real estate transactions (Appendix C).

We cannot wait until disaster strikes again before ensuring Floridians are prepared for flood hazards.

RECOMMENDATIONS:

1. **Mandatory Flood Risk Disclosure:** Require sellers to provide a comprehensive flood risk disclosure statement for all real estate transactions and rental agreements. This statement should include information about historical flood data, flood zones, prior flooding incidents, past flood insurance claims, previous disaster-related aid, federal mandates to purchase flood insurance, and any mitigation measures in place.
2. **Standardized Flood Risk Assessment:**
 - Develop a standardized flood risk assessment tool or form that sellers can use to provide accurate and consistent information to potential buyers.
 - Encourage the use of certified flood risk assessors or engineers to conduct assessments, ensuring the accuracy of flood risk information.
3. **Flood Zone Identification:** Require sellers to identify the property's flood zone classification as per FEMA's flood maps. This information should be prominently displayed in property listings and disclosure documents.
4. **Disclosure Timelines:** Establish clear timelines for when flood risk information must be disclosed during the real estate transaction process, such as at the time of listing, offer, or closing. This ensures that buyers have adequate time to consider flood risk.
5. **Insurance Information:** Mandate the inclusion of flood insurance information in the disclosure, including whether the property is eligible for the National Flood Insurance Program (NFIP) and the current cost of flood insurance for the property.
6. **Community Resilience Information:** Provide buyers with information about the community's efforts to mitigate flood risk, such as flood control infrastructure, floodplain management regulations, and future flood risk projections.
7. **Education and Outreach:** Develop educational materials and resources for buyers and sellers to understand flood risk and mitigation options. These materials should be easily accessible and promoted by relevant authorities.
8. **Enforcement and Penalties:**
 - Establish clear enforcement mechanisms and penalties for non-compliance, such as fines or the potential invalidation of the transaction.
 - Ensure that there are mechanisms for buyers to seek legal remedies in cases of non-disclosure or misleading flood risk information.

¹⁸ Natural Resources Defense Council. August 2023. [How States Stack Up on Flood Disclosure.](#)

9. **Adaptation and Mitigation Incentives:** Explore options for providing incentives to property owners who invest in flood risk reduction measures, such as grants, tax incentives, or reduced insurance premiums.
10. **Regular Updating:** Require periodic updates of flood risk information, particularly in cases where there are changes in flood maps, infrastructure improvements, or other relevant factors.
11. **Public Access to Information:** Make flood risk disclosure information publicly accessible through online platforms or databases to assist researchers, policymakers, and other stakeholders in understanding flood risk trends and patterns.
12. **Collaboration and Data Sharing:** Promote collaboration among government agencies, insurance providers, and real estate industry stakeholders to share flood risk data and promote more accurate risk assessments.

CASE STUDY A: Leon County

COUNTY ACTIONS:

Code 1992, § 12-8; Ord. No. 09-09, § 1, 3-19-2009: In 2009, Leon County Ordinances mandated a written disclosure when selling or renting a property that frequently floods or that has experienced flooding.

Leon County Code of Laws, Section 12-8(b) states:

“It shall be unlawful for a seller or landlord of residential property, with knowledge that such property has experienced flooding or is otherwise flood prone, to fail to disclose such facts in writing to a prospective buyer or tenant when such flood conditions are not readily observable and are not known to the prospective buyer or tenant. In addition to the penalties contained herein, the failure of a seller or landlord to provide such disclosure in advance of entering into either a purchase and sale agreement, in the case of a prospective buyer, or an oral or written lease agreement, in the case of a prospective tenant, shall create a rebuttable presumption that the seller or landlord has failed to disclose facts that materially affect the value of such property and shall entitle the purchaser or tenant to seek to recover from the seller, in accordance with the remedies available at law, any damages resulting from such failure to disclose.”

Code Ord. No. 21-02 , § 3, 1-26-2021: As of 2021, Leon County requires all applications for new construction orders to complete a flood letter certification dated, signed, and by a licensed professional civil engineer. The certificate requires the identification of “any applicable base flood elevations, surface water elevations associated with flood hazard areas, and flood protection elevations.” Furthermore, if the proposed development is in a regulatory floodway, the developer must provide “a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations.”

IMPACT: Leon County Government has a Class 5 Community Rating System (CRS) rating from the National Flood Insurance Program because of the County-wide flood mitigation efforts, including community education about flood risk. This CRS rating means property owners in the County will receive discounted NFIP flood insurance premiums, with a community-wide saving of \$117,000 per year.

Flood Risk Disclosure Questions in “Leon County Flood Letter Certification Form”¹⁹

Property Floodplain Information

Check one of the following statements- 1 (low risk), 2 (moderate risk) or 3 (high risk- FEMA insurance probably required):

1. ☐ All of the property is at or above the Flood Protection Elevation. (i.e. Base Flood Elevation plus a safety factor of 1 or 3.0 feet as set forth in the Flood Protection Elevation definition in the Leon County Land Development Code) Not limited to only FEMA delineated flood zones.
2. ☐ Some or all of the property is lower than the Flood Protection Elevation (as set forth the Flood Protection Elevation definition), and all of the property is located at or above the Base Flood Elevation (100-year flood elevation). (Complete Elevation Section below)
3. ☐ Some or all of the property is located below the Base Flood Elevation (100-year flood elevation). (Complete Elevation Section below)

Elevation Section

If No. 2 or No. 3 above is selected, provide the following information:

Base Flood Elevation: _____

Flood Protection Elevation: _____ (BFE + 1 or 3.0 ft. as required by definition)

_____ Required minimum finished floor elevation for residential construction (NAVD88).

Note: Elevation Certificate is not required if the location where the structure is proposed is outside the Flood Protection Elevation area which must be delineated on the site plan. Or

_____ Required floodproof elevation if commercial (NAVD88). (Elevation of residential accessory structures can be below BFE if floodproofed and vented. Garages can be below the FPE if there is floodproofing and vents.)

¹⁹ Leon County. April 2022. [Leon County Flood Letter Certification Form](#).

CASE STUDY B:

Miami-Dade County

COUNTY ACTION: Ord. No. 93-21, § 1, 3-30-93: In 1993, Miami-Dade County mandated a written disclosure when selling property in a Coastal High Hazard Area or a Special Flood Hazard Area.

Miami-Dade County, Code of Laws Chapter 11-C states:

“In any contract for the sale of improved real estate located in unincorporated Metropolitan Miami-Dade County which is in a Coastal High Hazard Area, the seller shall include in the contract or a rider to the contract the following disclosure in not less than ten-point bold-faced type:

THIS HOME OR STRUCTURE IS LOCATED IN A COASTAL HIGH-HAZARD AREA. IF THIS HOME OR STRUCTURE IS BELOW THE APPLICABLE FLOOD ELEVATION LEVEL AND IS SUBSTANTIALLY DAMAGED OR SUBSTANTIALLY IMPROVED, AS DEFINED IN CHAPTER 11C OF THE METROPOLITAN Miami-Dade COUNTY CODE, IT MAY, AMONG OTHER THINGS, BE REQUIRED TO BE RAISED TO THE APPLICABLE FLOOD ELEVATION LEVEL.

(b)In any contract for the sale of improved real estate located in unincorporated Metropolitan Miami-Dade County which is in a Special Flood Hazard Area, the seller shall include in the contract or a rider to the contract the following disclosure in not less than ten-point boldfaced type:

THIS HOME OR STRUCTURE IS LOCATED IN A SPECIAL FLOOD HAZARD AREA. IF THIS HOME OR STRUCTURE IS BELOW THE APPLICABLE FLOOD ELEVATION LEVEL AND IS SUBSTANTIALLY DAMAGED OR SUBSTANTIALLY IMPROVED, AS DEFINED IN CHAPTER 11C OF THE METROPOLITAN MIAMI-DADE COUNTY CODE, IT MAY, AMONG OTHER THINGS, BE REQUIRED TO BE RAISED TO THE APPLICABLE FLOOD ELEVATION LEVEL.”

Flood Risk Disclosure Questions in “Unincorporated Miami-Dade County Flood Zone Disclosure”²⁰

CHECK ONE:

☐ This home or structure IS located in a COASTAL HIGH HAZARD AREA.

If this home or structure is below the applicable flood elevation level and is substantially damaged or substantially improved, as defined in Chapter 11C of the Metropolitan Miami-Dade County Code, it may, among other things, be required to be raised to the applicable flood elevation level.

☐ This home or structure is located in a SPECIAL FLOOD HAZARD AREA. If this home or structure is below the applicable flood elevation level and is substantially damaged or substantially improved, as defined in Chapter 11C of the Metropolitan Miami-Dade County Code, it may, among other things, be required to be raised to the applicable flood elevation level.

☐ This home or structure IS NOT located in either a coastal high-hazard area or a special flood hazard area.

²⁰ Miami-Dade County. Retrieved September 2023. [Unincorporated Miami-Dade County Flood Zone Disclosure.](#)

CASE STUDY A: Pinellas County

COUNTY ACTION: Pinellas County Government and PRO (Pinellas REALTOR® Organization) partnered to create the Pinellas County Real Estate Flood Disclosure Program which includes three major components:

1. **Flood Information and Disclosure Brochure**, a pamphlet with a fillable section for real estate professionals to enter a property's flood risk, evacuation level, and insurance requirement information (see **Pinellas County Voluntary Flood Risk Pamphlet below**).
2. **Real Estate Flood Disclosure Map App**, which is a mapping system that contains all the information needed to complete the disclosure brochure.
3. **Flood Disclosure and Map Service Classes**, providing instructions about how to use the online Pinellas County Flood Map Service to obtain flood information and how to complete the brochure. As well as training sessions, taught by County staff, twice a year, that cover flood hazards, flood zones, evacuation zones, property protection, building regulations, preparedness, and flood insurance.²¹

IMPACT: In July 2023, Pinellas County Government earned a Class 2 Community Rating System (CRS) rating from the National Flood Insurance Program because of the County's Real Estate Flood Disclosure Program and other County-wide flood mitigation efforts. This improved CRS rating means property owners in the County will receive a 40% discount on NFIP flood insurance premiums starting April 1, 2024. This highest rating a community in Florida has ever received and is estimated to save residents over \$10 million per year on NFIP premiums.²²

²¹ Pinellas County. Retrieved September 2023. [Real Estate Flood Disclosure Program](#).

²² Pinellas County. July 2023. [Pinellas County earns improved Class 2 rating from National Flood Insurance Program](#).

Flood Risk Disclosure Questions in **“Pinellas County Flood Information and Disclosure Brochure”²³**

ADDRESS OR PARCEL ID: _____

DATE: _____

☐ This property is in a Special Flood Hazard Area (SFHA), which is a high-risk area. Flood insurance is required for structures in the SFHA on this property if they have a mortgage from a federally regulated or insured lender.

OR

☐ This property is in a moderate or low-risk area. Flood insurance is recommended, and you may be eligible for a highly discounted preferred risk rate.

ALSO MAY APPLY:

☐ Flood insurance through the NFIP may not be available at this property because it is in an area designated under the Coastal Barrier Resources Act. Coverage may be obtained in the private market. Contact your insurance agent for more information.

☐ This property is in a storm surge area.

☐ This property is in evacuation zone _____.

Comments: _____

This form does not imply that the referenced property will or will not be free from flooding or damage and does not create liability on the part of the realtor, Pinellas County or any officer or employee thereof.

²³ Pinellas County. September 2021. [Know the Flood Risk Before Buying or Building Brochure.](#)

CASE STUDY D: Texas (Post Hurricane Harvey)

After Hurricane Harvey, Texas legislators prepared for future natural disasters by enacting a comprehensive flood disclosure law during the purchase of real estate through Texas Property Code § 5.008. This statute, amended in 2019, requires sellers to provide written notice of a property's condition to the purchaser and mandates the use of an official disclosure form developed by the Texas Real Estate Commission.

During real estate transactions, Texas officially mandates the disclosure of:

- the location of the property in a flood hazard area and/or the FEMA Flood Zone in which the property is located
- the presence of an active flood insurance policy for the property
- previous flood events and/or flood-related property damage
- any past flood insurance claims
- any past disaster-related aid provided (federal, state, or local)
- other related disclosures (e.g., elevation certificates, etc.)⁹

Flood Risk Disclosure Questions in Texas “Seller’s Disclosure Notice”²⁴

6. Are you (Seller) aware of any of the following conditions?*

a. Write Yes (Y) if you are aware, write No (N) if you are not aware.

☐ Present flood insurance coverage

☐ Previous flooding due to a failure or breach of a reservoir or a controlled or emergency release of water from a reservoir

☐ Previous water penetration into a structure on the property due to a natural flood event

b. Write Yes (Y) if you are aware and check wholly or partly as applicable, write No (N) if you are not aware.

☐ Located () wholly () partly in a 100-year floodplain (Special Flood Hazard Area-Zone A, V, A99, AE, AO, AH, VE, or AR)

☐ Located () wholly () partly in a 500-year floodplain (Moderate Flood Hazard Area-Zone X (shaded))

☐ Located () wholly () partly in a floodway

☐ Located () wholly () partly in a flood pool

☐ Located () wholly () partly in a reservoir

If the answer to any of the above is yes, explain (attach additional sheets as necessary):

*For purposes of this notice: "100-year floodplain" means any area of land that: (A) is identified on the flood insurance rate map as a special flood hazard area, which is designated as Zone A, V, A99, AE, AO, AH, VE, or AR on the map; (B) has a one percent annual chance of flooding, which is considered to be a high risk of flooding; and (C) may include a regulatory floodway, flood pool, or reservoir.

"500-year floodplain" means any area of land that: (A) is identified on the flood insurance rate map as a moderate flood hazard area, which is designated on the map as Zone X (shaded); and (B) has a two-tenths of one percent annual chance of flooding, which is considered to be a moderate risk of flooding.

"Flood pool" means the area adjacent to a reservoir that lies above the normal maximum operating level of the reservoir and that is subject to controlled inundation under the management of the United States Army Corps of Engineers.

"Flood insurance rate map" means the most recent flood hazard map published by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.).

"Floodway" means an area that is identified on the flood insurance rate map as a regulatory floodway, which includes the channel of a river or other watercourse and the adjacent land areas that must be reserved for the discharge of a base flood, also referred to as a 100-year flood, without cumulatively increasing the water surface elevation more than a designated height.

"Reservoir" means a water impoundment project operated by the United States Army Corps of Engineers that is intended to retain water or delay the runoff of water in a designated surface area of land.

7. Have you (Seller) ever filed a claim for flood damage to the property with any insurance provider, including the National Flood Insurance Program (NFIP)?*

☐ Yes ☐ No. If yes, explain (attach additional sheets as necessary):

*Homes in high risk flood zones with mortgages from federally regulated or insured lenders are required to have flood insurance. Even when not required, the Federal Emergency Management Agency (FEMA) encourages homeowners in high risk, moderate risk, and low risk flood zones to purchase flood insurance that covers the structure(s) and the personal property within the structure(s).

8. Have you (Seller) ever received assistance from FEMA or the U.S. Small Business Administration (SBA) for flood damage to the property? ☐ Yes ☐ No. If yes, explain (attach additional sheets as necessary):

²⁴ [Texas Property Code § 5.008 \(2023\)](#)

CASE STUDY E: Louisiana

Since the devastation of Hurricane Katrina in 2005, Louisiana has become a national leader in flood disclosure, strengthening home disclosure laws in 2008, 2013, and 2018, and Louisiana legislators have prepared for future flood hazards by mandating a full flood risk disclosure during the purchase of real estate through Louisiana Revised Statute § 9:3196-3200. The current statute requires sellers to provide written notice of a property's condition to the purchaser and mandates the use of an official disclosure form developed by the Louisiana Real Estate Commission or another form that contains substantially the same information.

During real estate transactions, Louisiana officially mandates the disclosure of:

- Location of the property in a flood hazard area and/or the FEMA Flood Zone (e.g., A, V, X) in which the property is located
- A federal requirement to purchase flood insurance at the property
- The presence of an active flood insurance policy for the property
- The current cost of flood insurance premiums for the property
- Previous flood events and/or flood-related property damage
- Any past flood insurance claims
- Past flood insurance claim dates and amounts
- Any past disaster-related aid provided (federal, state, or local)
- Past disaster-related aid dates and amount
- Other related disclosures (e.g., elevation certificates)⁹

Flood Risk Disclosure Questions Contained in Louisiana's "Mandated Property Disclosure Document"²⁵

1. Has any flooding, water intrusion, accumulation, or drainage problem been experienced with respect to the land: (a) during the time the SELLER owned the property? If yes, indicate the nature and frequency of the defect at the end of this section. (b) prior to the time the SELLER owned the property? []Y []N []UNK

If yes, indicate the nature and frequency of the defect at the end of this section.

2. Has any structure on the property ever flooded, by rising water, water intrusion or otherwise? a. during the time the SELLER owned the property? []Y []N

b. prior to the time the SELLER owned the property? []Y []N []UNK

If yes, give the nature and frequency of the defect at the end of this section.

3. What is/are the flood zone classification(s) of the property? _____ What is the source and date of this information? Check all that apply.

[] Survey / Date _____

[] Elevation Certificate / Date _____

[] Other / Date _____

[] FEMA Flood Map - <https://msc.fema.gov/portal> or <https://www.floodsmart.gov/floodmap-zone/find-yours>

Other: _____

²⁵ Louisiana State Real Estate Commission. January 2022. [Mandated Property Disclosure Document](#).

4. SPECIAL FLOOD HAZARD AREAS. If the property is located within a designated special flood hazard area on a map prepared by the Federal Emergency Management Agency, the federal law (42 U.S.C. § 4104a, et seq.), mandates that prospective purchasers be advised that flood insurance may be required as a condition of obtaining financing. Is the property within a designated special flood hazard area? ☐ Y ☐ N

5. Is there flood insurance on the property? ☐ Y ☐ N

IF YES, A COPY OF THE POLICY DECLARATIONS PAGE SHALL BE ATTACHED AND BECOME PART OF THIS PROPERTY DISCLOSURE DOCUMENT.

6. Does SELLER have a flood elevation certificate that will be shared with BUYER? ☐ Y ☐ N

7. Has the SELLER made a private flood insurance claim for this property?

☐ Y ☐ N ☐ UNK

a. If YES, was the claim approved? ☐ Y ☐ N ☐ UNK

b. If YES, what was the amount received? _____

8. Did the previous owner make a private flood insurance claim for this property?

☐ Y ☐ N ☐ UNK

a. If YES, was the claim approved? ☐ Y ☐ N ☐ UNK

b. If YES, what was the amount received? _____

9. Has the SELLER made an NFIP claim for this property? ☐ Y ☐ N ☐ UNK

a. If YES, was the claim approved? ☐ Y ☐ N ☐ UNK

b. If YES, what was the amount received? _____

10. Did the previous owner make an NFIP claim for this property? ☐ Y ☐ N ☐ UNK

a. If YES, was the claim approved? ☐ Y ☐ N ☐ UNK

b. If YES, what was the amount received? _____

11. FLOOD DISASTER INSURANCE. If the SELLER or previous owner has previously received federal flood disaster assistance and such assistance was conditioned upon obtaining and maintaining flood insurance on the property, federal law, i.e., 42 U.S.C. § 5154a, mandates that prospective purchasers be advised that they will be required to maintain insurance on the property and that if insurance is not maintained and the property is thereafter damaged by a flood disaster, the purchaser may not be eligible for additional Federal flood disaster assistance. To the best of the SELLER's knowledge, has federal flood disaster assistance been previously received with regard to the property? ☐ Y ☐ N ☐ UNK

a. If YES, from which federal agency (e.g., FEMA, SBA)? _____

b. If YES, what was the amount received? _____

c. If YES, what was the purpose of the assistance (e.g., elevation, mitigation, restoration)? _____

APPENDIX A:

Excerpt of voluntary Seller's Property Disclosure Form provided by Florida Realtors®, Inc²⁶

Flood Risk Disclosure Questions in **Florida Realtors® "Seller's Property Disclosure Form"**

3. WATER INTRUSION; DRAINAGE; FLOODING

a. Has past or present water intrusion affected the Property?

☐ Y ☐ N ☐ UNK

b. Have past or present drainage or flooding problems affected the Property?

☐ Y ☐ N ☐ UNK

c. Is any of the Property located in a special flood hazard area?

☐ Y ☐ N ☐ UNK

d. Is any of the Property located seaward of the coastal construction control line?

☐ Y ☐ N ☐ UNK

e. Does your lender require flood insurance?

☐ Y ☐ N ☐ UNK

f. Do you have an elevation certificate? If yes, please attach a copy.

☐ Y ☐ N ☐ UNK

g. If any answer to questions 3a. – 3d. is yes, please explain: _____

²⁶ Florida Realtors. September 2016. [Seller's Property Disclosure –Residential.](#)

APPENDIX B:

Excerpt of voluntary Seller's Property Disclosure Form provided by Northeast Florida Association of Realtors®, INC for organization members²⁷

Flood Risk Disclosure Questions in **Northeast Florida Association of Realtors®, Inc.**
"Seller's Property Disclosure Form"

6. ADDITIONS/REMODELING/INSURANCE CLAIMS

a. Has there been any structural damage or damage to personal property which may have resulted from casualties including, but not limited to, fire, wind, water, flood, hail or sinkholes?

☐ Y ☐ N ☐ UNK

b. If yes, are you aware if any insurance claims were filed?

☐ Y ☐ N

c. Have you made any additions, structural changes or other alterations to the Property?

☐ Y ☐ N

If yes, did you obtain all necessary permits? ☐ Y ☐ N

Was/Were the permit(s) closed out (finalized)? ☐ Y ☐ N

...

17. FLOOD ZONE/DRAINAGE/BOUNDARIES

a. Is any portion of the Property in a special flood hazard area for which a lender may require flood insurance?

☐ Y ☐ N

If yes, please attach a copy of the flood elevation certificate if available.

b. Are you aware of any past or present drainage/flood problems affecting the Property?

☐ Y ☐ N

c. Are you aware of any encroachments or boundary line disputes affecting the Property?

☐ Y ☐ N

APPENDIX D:

List of States with Comprehensive Flood Disclosure Laws

4. Alaska
5. Arizona
6. California
7. Connecticut
8. Delaware
9. Hawaii
10. Illinois
11. Iowa
12. Kentucky
13. Louisiana
14. Maryland
15. Michigan
16. Minnesota
17. Mississippi
18. Nebraska
19. Nevada
20. New Jersey

²⁷ Northeast Florida Association of Realtors. December 2017. [Seller's Property Disclosure Form.](#)

21. New York
22. North Carolina
23. North Dakota
24. Ohio
25. Oklahoma
26. Oregon
27. Pennsylvania
28. Rhode Island
29. South Carolina
30. South Dakota
31. Tennessee
32. Texas
33. Washington
34. Wisconsin

See the Association of Realtors²⁸ and NRDC map¹⁸ for more details on each state's disclosure laws.

²⁸ National Association of Realtors. February 2019. [State Flood Hazard Disclosures Survey](#).