

1 H.174

2 Introduced by Representative Scheuermann of Stowe

3 Referred to Committee on

4 Date:

5 Subject: Property; conveyance of real estate; mortgage; flood hazard

6 determination

7 Statement of purpose of bill as introduced: This bill proposes to authorize a
8 cause of action for equitable relief or a cause of action in tort against a person
9 who incorrectly completes a standard flood hazard determination form for a
10 bank.

11 An act relating to completion of flood hazard determinations

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 27 V.S.A. § 471 is added to read:

14 § 471. ACTION FOR IMPROPER FLOOD HAZARD AREA

15 DETERMINATIONS

16 (a) Definitions. As used in this section:

17 (1) "Bank" means a bank prohibited under 42 U.S.C. § 4012a and

18 12 C.F.R. § 22.3 from issuing a mortgage on a building or mobile home

19 located within a special flood hazard area unless the building or mobile home

20 is covered for the term of the loan by flood insurance.

1 (2) “Building” shall have the same meaning as in 12 C.F.R. § 22.2.

2 (3) “Licensed professional” means a professional engineer licensed
3 under 26 V.S.A. chapter 20 or a licensed land surveyor licensed under
4 26 V.S.A. chapter 45.

5 (4) “Mobile home” shall have the same meaning as in 12 C.F.R. § 22.2.

6 (5) “Special flood hazard area” shall have the same meaning as in
7 12 C.F.R. § 22.2.

8 (b) Action for flood hazard determination by licensed professional. The
9 owner of a building or structure may maintain under this section an action for
10 equitable relief or an action in tort against a company completing a standard
11 flood hazard determination form for a bank regarding whether a building or
12 mobile home is located in a special flood hazard area if:

13 (1) the person completing the flood hazard determination form:

14 (A) completes the form on behalf of a bank;

15 (B) completes the form for a fee or other consideration; and

16 (C) offers a guarantee for services provided;

17 (2) the flood hazard determination designated incorrectly that a building
18 or mobile home is located in a special flood hazard area or is not located in a
19 special flood hazard area; and

20 (3) the owner of the building or structure suffered damages, including
21 failure to obtain flood insurance for the building or mobile home.

1 (c) Presumption of correct determination. In an action for equitable relief
2 or an action in tort under subsection (b) of this section, there shall be a
3 rebuttable presumption that the flood hazard determination was conducted
4 correctly if the standard flood hazard determination form is certified with the
5 seal of a licensed professional. The rebuttable presumption may be overcome
6 upon a finding of a court, based on the preponderance of the evidence, that the
7 flood hazard determination was conducted incorrectly.

8 Sec. 2. EFFECTIVE DATE

9 This act shall take effect on July 1, 2021.