

Environmental Conservation

ARTICLE 36

PARTICIPATION IN FLOOD INSURANCE PROGRAMS

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§ 36-0101. Declaration of findings.

The legislature finds and declares that:

1. It is in the interest of the people of this state to provide for participation in the national flood insurance program as enacted by the congress of the United States;
2. The essence of the national flood insurance program is the regulation of land uses within areas identified by the director of the federal emergency management agency as areas of special flood hazard. Land use regulation is principally a matter of local concern; therefore, local governments have the principal responsibility for enacting appropriate land use regulations that will meet federal standards and permit the sale of flood insurance in such communities;
3. Providing for the availability of flood insurance for all residents of the state is the policy of the state; all local governments with land use jurisdiction over any area of special flood hazard must comply with all national flood insurance program requirements so that the residents of such local communities may purchase flood insurance; and
4. All publicly owned facilities within any identified area of special flood hazard must be in compliance with the national flood insurance program requirements.

§ 36-0103. Definitions.

1. "Area of special flood hazard" means any area subject to a one percent or greater chance of flooding in any given year as determined by the federal emergency management agency.
2. "Local government with land use jurisdiction" means a city; a town as to all areas within such town outside the limits of any village; and a village.
3. "National flood insurance program" means that act of congress codified as chapter fifty of title forty-two of the United States code, all acts amendatory thereof and all regulations promulgated thereunder.

§ 36-0105. Local responsibility.

1. Every local government with land use jurisdiction over any area of special flood hazard that was, prior to the effective date of this article, a participant in the national flood insurance program shall continue to maintain such participation in the national flood insurance program.

2. Every local government with land use jurisdiction over any area of special flood hazard that was not, prior to the effective date of this article, directly participating in the national flood insurance program but was relying on state administration of the minimum land use regulations necessary to meet the requirements of the national flood insurance program, must apply for and complete all requirements for participation in the national flood insurance program.

3. Any local government that, after the effective date of this article, is notified by the federal emergency management agency of the existence of an area of special flood hazard within the bounds of such local government shall promptly, within the time frames required by the national flood insurance program, apply for and complete all requirements for participation in the national flood insurance program.

4. Any local government that, prior to the effective date of this article, was notified by the federal emergency management agency of the existence within its bounds of an area of special flood hazard and that has not qualified as of the effective date of this article for participation in the national flood insurance program shall, within the time frames required by the national flood insurance program, apply for and complete all requirements for participation in the national flood insurance program.

§ 36-0107. Powers of local governments.

Notwithstanding any other law:

1. All local governments with land use jurisdiction over any area of special flood hazard shall, and are authorized to, take any action necessary to achieve and maintain participation in the national flood insurance program.

2. Any local law or ordinance adopted for the purpose of qualifying a local government as a participant in the national flood insurance program shall apply to any construction or improvement undertaken within any such local government by any county, city, town, village, school district or public improvement district.

§ 36-0109. Sanctions.

Any local government with land use jurisdiction that fails to qualify for participation in the national flood insurance program, or that has had its participation terminated by the federal emergency management agency, faces sanctions under federal law including, in areas of special flood hazard, ineligibility for flood disaster aid, ineligibility for federally provided loans or federally guaranteed financing, including residential and other mortgages granted by any banking institution that is a member of the federal deposit insurance corporation or other federal instrumentality. The state of New York will cooperate with the federal government in the enforcement of these sanctions.

§ 36-0111. Flood hazard evaluation of state facilities, lands and programs.

1. State agencies shall take affirmative action to minimize flood hazards and losses in connection with state-owned and state-financed buildings, roads and other facilities, the disposition of state land and properties, the administration of state and state-assisted planning programs, and the preparation and administration of state building,

sanitary and other pertinent codes. Such action shall include, but not be limited to, requirements for the evaluation and reduction of flood hazards in the siting, planning, construction and maintenance of such facilities and the administration of such programs; needed and economically feasible flood-proofing and other protective measures of existing state facilities; and appropriate flood hazard restrictions binding upon purchasers and persons acquiring state lands and properties, or interests therein, and their successors.

2. The commissioner shall assist state agencies in determining and evaluating flood hazards and alternative protective measures, and shall promulgate regulations, in consultation with the director of the budget, to govern the review by the commissioner of potential flood hazards at proposed construction sites of state, and state-financed facilities. Such regulations shall ensure that reviews thereunder shall be coordinated with those of appropriate environmental impact statements, project notification and review systems, and state capital construction funding requests.

3. The department, pursuant to designation by the governor, shall act as the state coordinating agency for the national flood insurance program in order to assist in its review of state agency activities and to serve as a resource for local governments.

§ 36-0113. Miscellaneous.

1. In order to assure the continued availability of flood insurance in any community described in subdivision two or four of section 36-0105 of this article while it completes the process of qualifying as a participant in the national flood insurance program, the department is authorized and directed to provide technical assistance necessary to enable such local governments to assume their responsibilities in as expeditious a manner as possible.

2. The commissioner shall review, and appropriately amend or repeal, all regulations of the department relating to the implementation of the former article thirty-six of the environmental conservation law which was repealed by the same chapter of the laws of nineteen hundred ninety-two that enacted this article thirty-six.

3. Nothing contained in this article shall be construed to affect the validity of any local law or ordinance heretofore enacted by any local government.

4. If any provision of this article or the application thereof to any person or circumstances shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section or the application of any part thereof to any other person or circumstances and to this end the provisions of this article are hereby declared to be severable.