

DISCLOSING FLOOD RISK

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WHY IT MATTERS

Climate change is making storms and flood events in Virginia more intense and frequent. Since 2020, Virginia has been affected by 33 events each costing \$1 billion or more.¹ Now more than ever, Virginians deserve to know a home's flood risk before purchasing or renting so they can prepare physically and financially.

Whether you are buying a house or renting an apartment, you should have the right to understand the flood risks associated with that property – particularly when there are existing conditions that only the seller or landlord would know. Transparent disclosure of flood risk empowers Virginians to make informed decisions about their safety and financial security and to take proactive steps such as purchasing flood insurance. Traditional homeowners' insurance policies only cover water damage from accidental appliance or pipe leaks, not flood damage from waterways or stormwater. Flooding can cause significant property damage and loss – only 1 inch of floodwater can cause up to \$27K in damages to a home.² Knowing the risks helps individuals better assess the true cost of buying or renting a property, including the likelihood of future expenses for repairs and the necessity of insurance. Ensuring sellers and landlords disclose actual flood risk also enables communities to be more prepared for the next disaster and bolsters community resilience.

Finally, flood disclosure promotes transparency and trust in the real estate market. When sellers or landlords disclose flood risks, they help create an environment where buyers and renters can trust they are receiving honest and accurate information about their prospective homes. This transparency is essential for maintaining the integrity of real estate transactions and ensuring that consumers are protected.

CURRENT LANDSCAPE

In 2015, Virginia added flood risk to its list of waived disclosures, reiterating that sellers were not required to inform potential buyers about potential flood hazards. This made clear that Virginia's "buyer beware" philosophy, which puts the burden of identifying risks on buyers, extended to flood risk — buyers were responsible for researching and uncovering those risks on their own, despite there being no public information about a structure's flood history. In 2021, the General Assembly enacted a more specific flood disclosure law (SB 1389), requiring sellers to disclose a very limited category of past flood damage – those considered to be "repetitive risk loss" structures for which the **National Flood Insurance Program (NFIP)** has paid two or more claims of \$1,000 or more within a ten-year period. This information is only available to the seller and comes directly from FEMA, but can often be delayed and is therefore not easily accessible. The reach of this provision is extremely limited as only 3% of Virginian properties,³ even in floodplains, have an NFIP policy.

In 2024, HB 863 aimed to close the significant gap in flood disclosure by making it the seller or landlord's responsibil-

ity to disclose additional flood risk factors. These included any instances of past flood damage or flood insurance claims for the property that the owner knows about, and any related flood damage costs for the property, as well as indicating mandatory flood insurance purchase requirements and stating whether the property is in a **100-year or 500-year flood zone**. The bill would have crafted a comprehensive disclosure package to help new homeowners fully understand property risks when committing to a substantial investment in a home. While New Jersey, New York, Vermont, Maine, and Florida have all passed flood risk disclosure bills in the last three years, HB 863 did not pass.

OPPORTUNITIES

Buying a home is generally the most significant purchase a Virginian will make in their life. Real estate transactions therefore present a prime opportunity to align decision-makers, realtors, mortgage lenders, and insurance agents to support flood disclosure in Virginia. By working together, these stakeholders can ensure that homebuyers and renters receive comprehensive information about flood risks so they can make more informed decisions.

There is an opportunity for the Commonwealth to increase the amount of information available to stakeholders on the risks that flooding poses for infrastructure and investors. Mortgage lenders can incorporate flood risk into their lending criteria, ensuring that properties in high-risk areas are adequately insured. When realtors are equipped with accurate flood risk data, they can guide their clients more effectively and ideally before closing contracts, helping them understand potential risks and prevent costly homeowner surprises in the future. Additional research-based policy solutions may be needed in the future to ensure that low-income Virginians can access insurance as a tool to reduce their financial risk from flooding and aren't trapped in flood-prone housing due to their socioeconomic status and lack of alternative housing options.

To further enhance flood disclosure, the **Department of Conservation and Recreation (DCR)** can update the **Virginia Flood Risk Information System (VFRIS)** to generate easy-to-understand reports on property addresses that compile publicly-available information about flood risk, including flooding from sea level rise, rainfall, and coastal flooding. This can be easily attached to any real estate disclosure forms that realtors and potential buyers can easily find.

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TOP TAKEAWAYS

Flood risk disclosure is essential to empower Virginians to make informed decisions about their safety and financial security. Current disclosure requirements are minimal and flood risk is therefore likely to go unreported.

Aligning stakeholders to support comprehensive flood risk disclosure can significantly enhance transparency and community resilience, benefiting both individuals and neighborhoods in Virginia.

DCR needs resources to update VFRIS to provide summaries of publicly available flood risk information for individual properties.



Roads and public access areas begin to nuisance flood as high tide creeps into Norfolk, Va
Photo by Aileen Devlin, Virginia Sea Grant

ENDNOTES

1. "Virginia State Summary of Billion-Dollar Weather and Climate Disasters." *National Centers for Environmental Information*. (June 9, 2024). <https://www.ncei.noaa.gov/access/billions/state-summary/VA>.
2. "The Cost of Flooding." *Federal Emergency Management Agency*. <https://www.floodsmart.gov/cost-flooding>.
3. Federal Emergency Management Agency. Virginia State Profile, (March 2021). https://www.fema.gov/sites/default/files/documents/fema_virginia-state-profile_03-2021.pdf.