



Association of State Floodplain Managers, Inc.

575 D'Onofrio Drive, Suite 200 🌊 Madison WI 🌊 53719

Phone: 608-828-3000 | Fax: 608-828-6319 | Email: asfpm@floods.org | Web: www.floods.org

Executive Director
Chad M. Berginnis, CFM

Associate Director - Operations
Ingrid D. Danler, CFM

Director Emeritus
Larry A. Larson, P.E., CFM

June 27, 2013

The Honorable Christopher Christie
Governor of the State of New Jersey
Office of the Governor
P.O. Box 001
Trenton, New Jersey 08625

Dear Governor Christie,

The Association of State Floodplain Managers (ASFPM) is writing on behalf of its 35 State Chapters and more than 15,000 members to urge you to veto S. 2680, which allows development on piers in Coastal High Hazard Areas throughout the State of New Jersey. This unsafe practice is currently constrained to the jurisdiction of Atlantic City, subject to State safety review, and required to comply with all applicable laws, ordinances, rules, and regulations.ⁱ ASFPM is very concerned that S. 2680 not only removes the requirement for safety review by the State,ⁱⁱ but also expands the scope of this unwise development activity to Coastal High Hazards Areas throughout the State of New Jersey.

As the State of New Jersey continues the long and costly road to recovery from Hurricane Sandy, choices made by property owners and communities working to rebuild will determine how New Jersey fares in future flood events. Communities throughout the nation are working to apply the lessons of Hurricane Sandy to implement safer and more resilient development planning standards and practices. The need for robust safety planning and standards is particularly important along large waterways and coasts, which the State has designated as Coastal High Hazards Areasⁱⁱⁱ specifically for the particular vulnerability of these areas to floodwaters and storm surge. These Coastal High Hazard Areas correspond to V-Zones under the National Flood Insurance Program, considered to be the most dangerous of all Special Flood Hazard Areas.^{iv} For these reasons, we are disappointed to see the New Jersey Legislature pass S. 2680 to expand development in these extremely vulnerable areas, and request that you veto that legislation.

Although S. 2680 requires that local municipalities adopt an ordinance allowing such development prior to permitting it, development in coastal high hazard areas on top of piers is one of the most dangerous and unwise forms of development. Such development carries

Dedicated to reducing flood risk and losses in the nation.

Chair
William Nechamen, CFM
Chief, Floodplain Management
NY State Dept. Env. Conserv.
518-402-8146
wsnecham@gw.dec.state.ny.us

Vice Chair
Ceil C. Strauss, CFM
State Floodplain Manager
MN Dept. Natural Resources
651-259-5713
ceil.strauss@state.mn.us

Secretary
Joy Duperault, CFM
State Floodplain Manager
FL Div. Emergency Mgmt.
850-922-4518
joy.duperault@em.myflorida.com

Treasurer
Joseph Ruggeri, P.E., CFM
State Floodplain Manager
NJ Dept. of Env. Protection
609-292-2296
joseph.ruggeri@dep.state.nj.us

significant consequences in public infrastructure investment, state and local disaster response capabilities, and for the families and businesses that chose to move into what they believe to be safe locations. Additionally, the implications for emergency first responders who risk their lives rescuing those who were unable or unwilling to evacuate are significant. All of these consequences are avoidable.

The State of New Jersey rightly chose to manage dangerous coastal development at the state level, rather than risking local development decisions with significant consequences for State budgets and disaster response and recovery capacity. States and communities working to reduce the costs of future flood disasters and dependence on federal disaster relief are encouraged to sharply constrain and certainly not expand such dangerous development.

Moreover, communities that adopt ordinances allowing development that does not meet the requirements for participation in the National Flood Insurance Program (NFIP) risk compliance action from the Federal Emergency Management Agency (FEMA). The National Flood Insurance Act of 1968 prohibits FEMA from providing flood insurance in a community unless the community adopts and enforces floodplain management regulations that meet or exceed minimum NFIP criteria, and that such standards are applied uniformly throughout the community.^v For example, when the Mississippi State Legislature passed a measure that conflicted with the federal requirements of the NFIP, that body had to backtrack and modify its legislation to avoid endangering NFIP eligibility for the entire state.^{vi}

Governor, you called on Congress to respond quickly in the weeks following Hurricane Sandy with an emergency supplemental appropriations package to assist the families and businesses of your State and to contribute to a resilient recovery. Taxpayers throughout the nation contributed to New Jersey's portion of the \$60.4 Billion disaster relief package – an investment toward a more resilient New Jersey better able to withstand future storms. However, S. 2680 does not prepare the State for future floods. Instead, S. 2680 sets the stage for future flood losses, leaving the State less prepared to withstand storms like Hurricane Sandy, which will be more common in the future. Members of the authorizing committees of Congress – and the Committees on Appropriations – struggled to provide supplemental appropriations for Hurricane Sandy during such difficult economic times for the Nation. No doubt, members of Congress will weigh State and local decisions to allow potentially dangerous, costly, and floodprone development in consideration of future requests for federal disaster appropriations.

ASFPM and the New Jersey Association for Floodplain Management have worked alongside many New Jersey leaders to shape an effective supplemental appropriations package,^{vii} produce guidance for post-disaster hazard mitigation,^{viii} and support knowledge-transfer and technical assistance for local officials,^{ix} among other activities to reduce flood losses in New Jersey and throughout the nation.

We ask that you veto S. 2680 and support the resilient and sustainable recovery of your State through effective coastal development standards grounded in public safety.

ASFPM welcomes the opportunity to talk with you further about ways that the State of New Jersey can reduce the costs and disruption of future flood events. We can be reached at 608-828-3000 and via email to cberginnis@floods.org.

Respectfully,



Chad Berginnis, CFM
Executive Director

CC: David L. Miller, Associate Administrator, Federal Insurance and Mitigation Administration
Laurel A. Blatchford, Executive Director, Hurricane Sandy Rebuilding Task Force
Honorable Marc Ferzan, Director, Governor's Office of Recovery and Rebuilding
Heidi Hoppe, Chair, New Jersey Association for Floodplain Management

ⁱ NJ ADC 7:7E-3.49; R.S.12:5-1 et seq.

ⁱⁱ By changing "may" to "shall be permitted by the Department of Environmental Protection," State review for public safety and environmental impacts is nullified, as permission is automatic. S.2680 §2.a. as amended.

ⁱⁱⁱ "Coastal High Hazard Areas" are defined in New Jersey Administrative Code as "[F]lood prone areas subject to high velocity waters (V zones) as delineated on the Flood Insurance Rate Maps (FIRM) prepared by the Federal Emergency Management Agency (FEMA), and areas within 25 feet of oceanfront shore protection structures, which are subject to wave run-up and overtopping." N.J.A.C. 7:7E-3.18.

^{iv} See 44 C.F.R. 60.3(e) for additional safety requirements for activities proposed in V-Zones. See also guidance from Federal Emergency Management Agency (FEMA) Region II on [Coastal Mapping](#), stating that "Coastal high hazard areas, designated as V zones on the FIRM, are the areas of the coastal floodplain subject to the highest risk."

^v Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022. See also 42 U.S.C. §§ 4012(c), 4022; 44 C.F.R. §§ 60.1, 60.2.

^{vi} Applicability of Section 17-2-9 to County Flood Plain Ordinances and Local Building Codes, Miss. Att'y Gen. 2011-00273, 2011 WL 4383412; Chance Wright, FEMA Replies to AG's Floodplain Request, The Bolivar Commercial, Dec. 5, 2011.

^{vii} [ASFPM Press Release](#) supporting the Administration's request for emergency supplemental appropriations for Hurricane Sandy, December 12, 2012.

^{viii} [ASFPM Whitepaper](#), "Hurricane Sandy Recovery: Using Mitigation to Rebuild Safer and More Sustainable Communities," December 13, 2012.

^{ix} ASFPM has conducted four disaster recovery workshops in New Jersey to date, including curriculae on reducing legal liabilities, nonstructural flood proofing, and hazard mitigation, all available on the [website of the New Jersey Association for Floodplain Management](#).