New York is set to become one of the largest states to make home sellers disclose past flood damage at their property and future risks of inundation.

The Democratic-dominated state Legislature on June 9 approved legislation requiring flood disclosure, marking a victory for environmental advocates who have been pushing legislatures in the United States to adopt laws that they say could shed light on the dangers of living in flood-prone areas.

“We hope it sets the tone not just for the region but the rest of the nation,” said Tyler Taba, senior manager for climate policy at the New York-based Waterfront Alliance, which lobbied for the bill.
New York has received low scores for flood disclosure by the Federal Emergency Management Agency and the Natural Resources Defense Council. FEMA last year gave New York a score of 2 out of 10 on flood disclosure requirements, putting it behind states such as North Dakota, Indiana and Ohio.

The NRDC, which has led the national campaign for disclosure, gave New York a grade of “F” in a state-by-state assessment in 2018.

Joel Scata, an NRDC attorney focused on water impacts and climate change, told E&E News that New York would receive the highest rating and “become a nationwide leader” in flood disclosure if the bill becomes law.

Flooding can be “financially ruinous” to people who buy a home and don’t purchase flood insurance because they don’t know the flood history or risk, Scata said.

The measure is now before Gov. Kathy Hochul (D), who is widely expected to sign it following her approval last year of a similar bill that requires flood disclosure on rental leases. A Hochul spokesperson said the governor is reviewing the bill.

The measure would take effect 180 days after becoming law.

The bill received final legislative approval following a testy debate on the state Assembly floor.

Assemblmember Edward Flood, a Republican from Long Island, fired questions at the bill’s sponsor and said the measure would threaten property sellers who inadvertently make an error on a flood disclosure form.

“Is it fair to say that we’re putting an onerous risk on a seller for not filling out something correctly?” Flood said to Assemblmember Robert Carroll, a Democrat from Brooklyn.

“No. It’s not fair to say you’re putting an onerous risk on somebody selling a home to simply answer some straightforward questions about the condition of the property they own,” Carroll shot back.

The bill passed easily in the Assembly and the Senate. Republicans cast all of the opposing votes.

Carroll had introduced flood disclosure bills in each of the past two years. The measure failed in 2021. In 2022, a bill passed, but only after lawmakers removed disclosure for property sellers and required disclosure only in rental leases.

“We met with a lot of legislators this year,” said Taba of the Waterfront Alliance, adding that some lawmakers had been confused about state law.

New York has an unusual law that lets sellers skip filling out a state form that documents the condition of their property by giving a buyer a $500 credit toward the purchase price. The recently passed bill would remove the provision and require every seller to fill out the form, which documents a range of property conditions including flood risk and previous flood damage.
“This will make sure that when people are making the most important purchase of their life, they are going into it with their eyes wide open and know all the risks,” Carroll said on the Assembly floor.

New York has sustained some of the highest flood costs in the United States, including tens of billions of dollars in damage from Superstorm Sandy in 2012.

But it was Hurricane Ida in 2021 that motivated New York lawmakers to push for flood disclosure, Taba said. Ida was much smaller and more concentrated than Sandy, but it killed 13 New York City residents when rainfall overwhelmed the city’s sewer system and caused widespread flooding.

Many of the deaths occurred in residential basements located outside high-risk flood areas as identified by FEMA.

New York follows a pattern of states requiring thorough flood disclosure after devastating flooding.

Disclosure laws in Louisiana and Texas are rated by FEMA as the nation’s strongest by a wide margin. Louisiana adopted its law shortly after Hurricane Katrina in 2005. Texas approved its measure after Hurricane Harvey in 2017.

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