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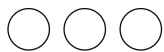
OPINION

# Commentary: New York homebuyers have the right to know a house's flood risk

Our flood hazard disclosure laws are among the weakest in the country. A bill before the state Senate could change that.

**Michael B. Gerrard and Joel Scata**

June 7, 2023



The kitchen of a home Schoharie that had been flooded by Hurricane Irene is seen on Nov. 18, 2011. Lori Van Buren

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New York is no stranger to devastating flooding. When a house floods, damages can include water-logged drywall, warped floors, ruined mechanical systems and mold infections. Flooding has ripple effects that disrupt people's lives and livelihoods, such as missed work or school and temporary or permanent displacement.

That's why prospective homebuyers must have a right to know a property's flood history *before* deciding to call it home.

A measure before the state Legislature would give buyers the right to know a property's flood risk. The Assembly has already passed a bill granting buyers this right. Now the Senate must act to ensure homebuyers have the ability to protect their families from flooding.

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Hundreds of thousands of Americans already live in homes that have flooded. And a home that has flooded once is more likely to flood again. The more information homebuyers have about flooding, the better equipped they are to avoid or mitigate the next potential disaster. Unfortunately, obtaining such information is not easy for buyers here in New York. The Empire State lacks adequate flood hazard disclosure requirements concerning real estate transactions in at least two ways.

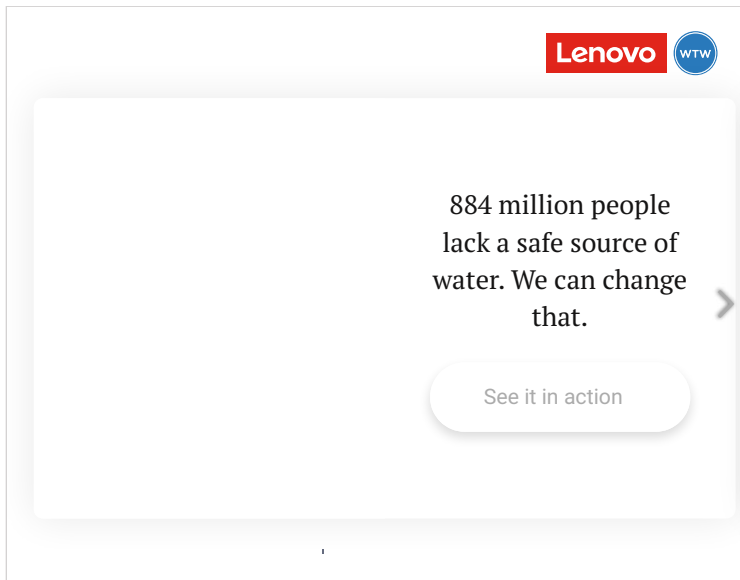
First, New York has a loophole through which an owner can opt out of disclosure through paying a \$500 fee. Eight out of 10 sellers have used this provision to avoid disclosure entirely. Second, even if a seller were to provide a buyer with the New York Property Condition Disclosure Statement, they would need to disclose only a minimum amount of information concerning a property's flood risk in comparison to other states. New York currently receives an "F" in a [50-state assessment](#) of flood-related disclosure laws prepared by Columbia Law School's Sabin Center and the Natural Resources Defense Council.

Further, home buyers are hard pressed to find property-specific flood information, such as the number of times a home has flooded, from other sources. The Federal Emergency Management Agency is prohibited from disclosing property-specific flood data due to the Privacy Act. Home inspection also might not reveal such information, especially if the damage has been repaired. Certain private services provide some information on flood mapping and history, but some of them charge for it, and not all of them provide information at the address level. None of them interview the sellers, who would know whether they had experienced flooding while owning the property, and would have to disclose this under the proposed law.

In New York, the lack of disclosure concerning flooding can have serious financial ramifications. According to a [study by Milliman](#), New York home buyers who purchase previously flooded homes can expect to pay, on average, more than \$90,000 over a 30-year mortgage to repair flood-related damage compared with a home that has not previously flooded.



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The Senate bill (S5400) would require sellers to disclose to homebuyers whether a property:



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- is in a FEMA-designated flood area, such as an area subject to a 100-year or 500-year fl

- is subject to any requirement under federal law to obtain and maintain flood insurance on the property;
- has a FEMA elevation certificate available for it;
- and had a claim for flood damage to the property filed with any insurance provider, including the National Flood Insurance Program.

These long-overdue reforms would ensure that New York homebuyers are fully informed about the risks of flooding so they can take the necessary steps to protect their belongings and families. The Senate must follow the Assembly's lead.

*Michael B. Gerrard is a professor at Columbia Law School and founder and director of the Sabin Center for Climate Change Law. Joel Scata is senior attorney at the Natural Resources Defense Council.*

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