

1 H.805

2 Introduced by Representative Krebs of South Hero

3 Referred to Committee on

4 Date:

5 Subject: Property; conveyance of real estate; mortgage; flood hazard

6 determination

7 Statement of purpose of bill as introduced: This bill proposes to authorize a  
8 cause of action for equitable relief or a cause of action in tort against a person  
9 who incorrectly completes a standard flood hazard determination form for a  
10 bank.

11 An act relating to completion of flood hazard determinations

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 27 V.S.A. § 471 is added to read:

14 § 471. ACTION FOR IMPROPER FLOOD HAZARD AREA

15 DETERMINATIONS

16 (a) Definitions. As used in this section:

17 (1) "Bank" means a bank prohibited under 42 U.S.C. § 4012a and  
18 12 C.F.R. § 22.3 from issuing a mortgage on a building or mobile home  
19 located within a special flood hazard area unless the building or mobile home  
20 is covered for the term of the loan by flood insurance.

1           (2) “Building” shall have the same meaning as in 12 C.F.R. § 22.2.

2           (3) “Licensed professional” means a professional engineer licensed  
3 under 24 V.S.A. chapter 20 or a licensed land surveyor licensed under  
4 24 V.S.A. chapter 45.

5           (4) “Mobile home” shall have the same meaning as in 12 C.F.R. § 22.2.

6           (5) “Special flood hazard area” shall have the same meaning as in  
7 12 C.F.R. § 22.2.

8           (b) Action for flood hazard determination by licensed professional. The  
9 owner of a building or structure may maintain under this section an action for  
10 equitable relief or an action in tort against a company completing a standard  
11 flood hazard determination form for a bank regarding whether a building or  
12 mobile home is located in a special flood hazard area if:

13           (1) the person completing the flood hazard determination form:

14                   (A) completes the form on behalf of a bank;

15                   (B) completes the form for a fee or other consideration; and

16                   (C) offers a guarantee for services provided;

17           (2) the flood hazard determination designated incorrectly that a building  
18 or mobile home is located in a special flood hazard area or is not located in a  
19 special flood hazard area; and

20           (3) the owner of the building or structure suffered damages, including  
21 failure to obtain flood insurance for the building or mobile home.

1        (c) Presumption of correct determination. In an action for equitable relief  
2        or an action in tort under subsection (b) of this section, there shall be a  
3        rebuttable presumption that the flood hazard determination was conducted  
4        correctly if the standard flood hazard determination form is certified with the  
5        seal of a licensed professional. The rebuttable presumption may be overcome  
6        upon a finding of a court, based on the preponderance of the evidence, that the  
7        flood hazard determination was conducted incorrectly.

8        Sec. 2. EFFECTIVE DATE

9        This act shall take effect on July 1, 2014.