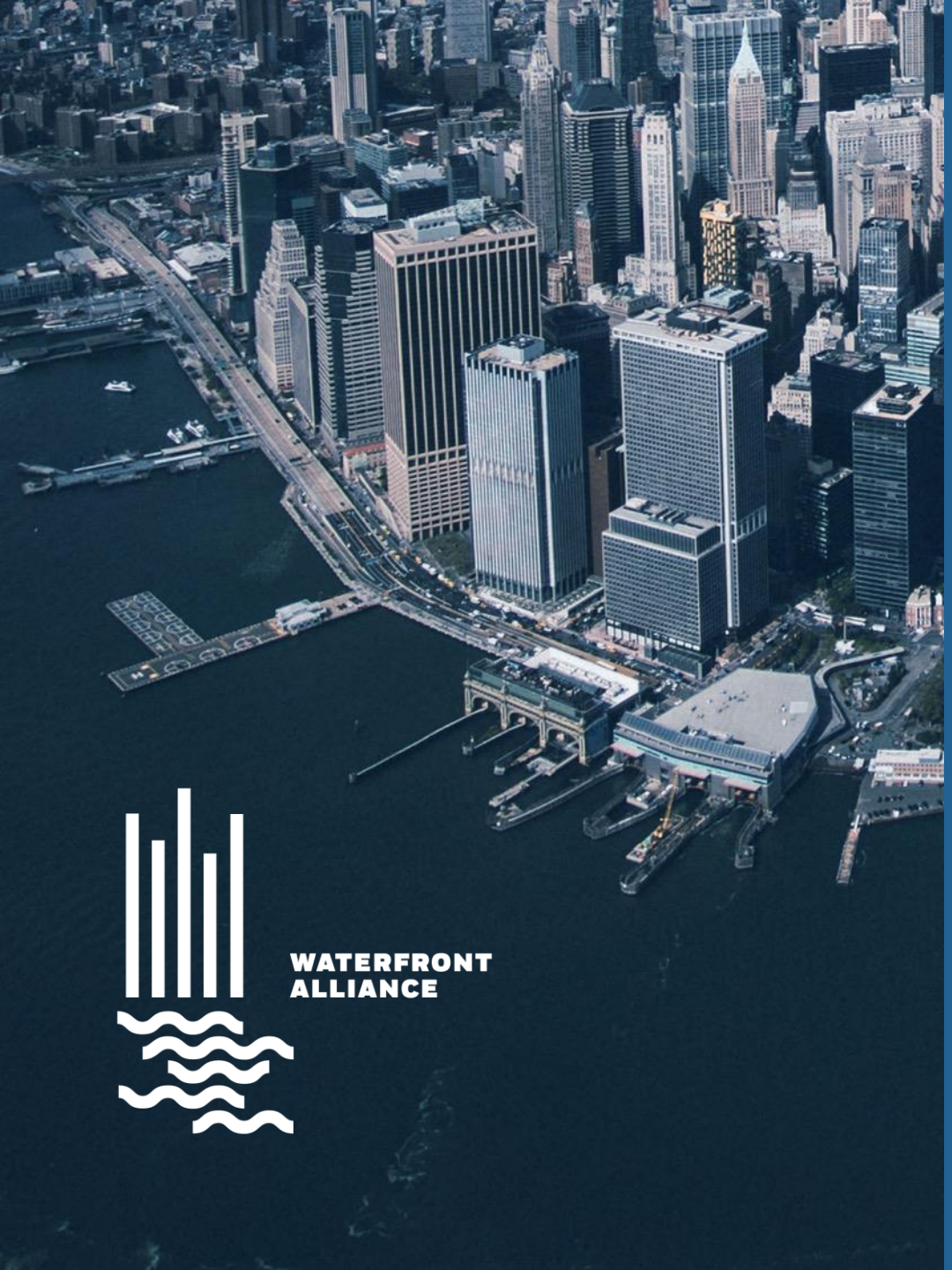


Flood Risk Disclosure

Making Known the Risk of Flooding in New Jersey

MONMOUTH COUNTY CRS QUARTERLY MEETING

JANUARY 12, 2023

Waterfront Alliance
inspires and effects resilient, revitalized, and accessible coastlines for all communities.

WHO WE ARE

HOW TO PROMOTE
RESILIENCE, ECOLOG
AND ACCESS AT TH

Rise to Resilience

The Rise to Resilience coalition has been **ahead of the curve** regarding climate resilience and adaptation advocacy.

Our coalition works as a:

- Convener
- Consensus Builder
- Impactful and Actionable Vehicle
- With Focus on Vulnerable Communities

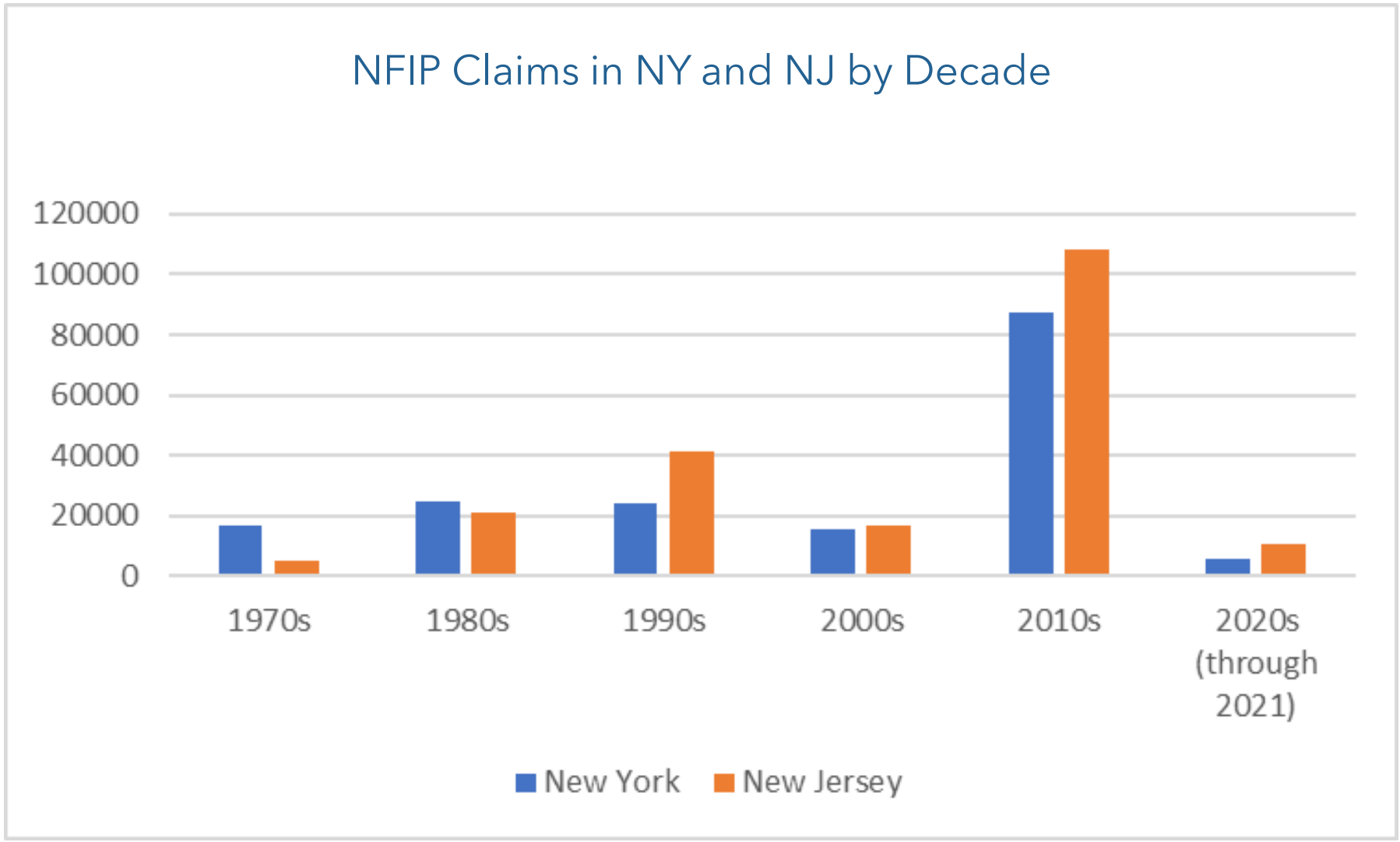
GOAL: ENSURE THAT PEOPLE, INFRASTRUCTURE, AND NATURAL ECOSYSTEMS ARE PREPARED AND PROTECTED FOR THE IMPACTS OF CLIMATE CHANGE.

RISE TO RESILIENCE
OUR COMMUNITIES, OUR FUTURE

Rise to Resilience Coalition Action

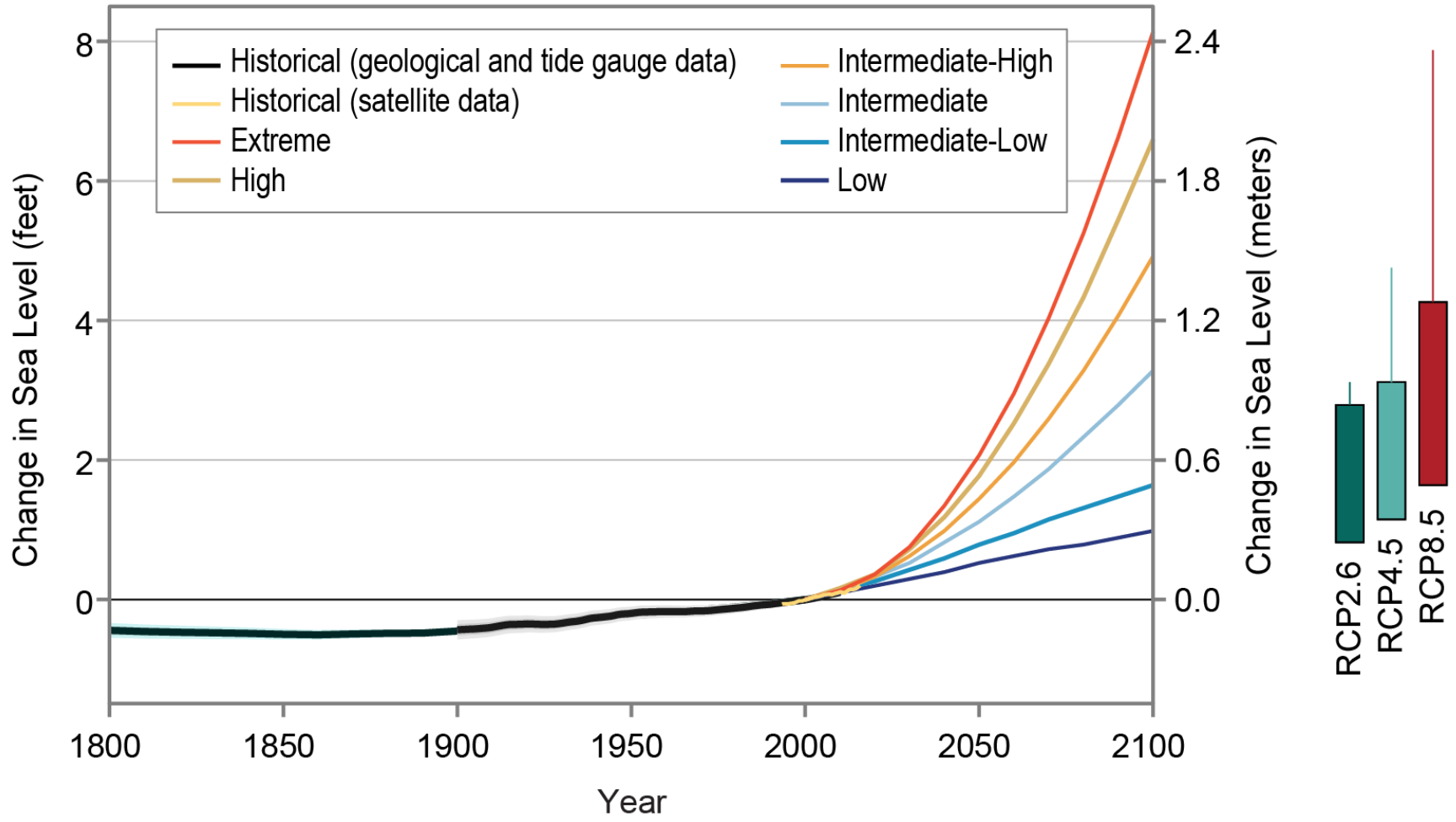
Policy	Undertake activities that lead to **policy and legislative victories; be proactive and reactive.**
Access	Increase **influence and access**. Position R2R partners, **especially grassroots**, for access.
Leadership	**Inspire leadership in the coalition**. **Elevate grassroots voices** that can help mobilize political action.
Visibility	Grow the coalition's presence and awareness of adaptation issues

Flood Damages are Increasing



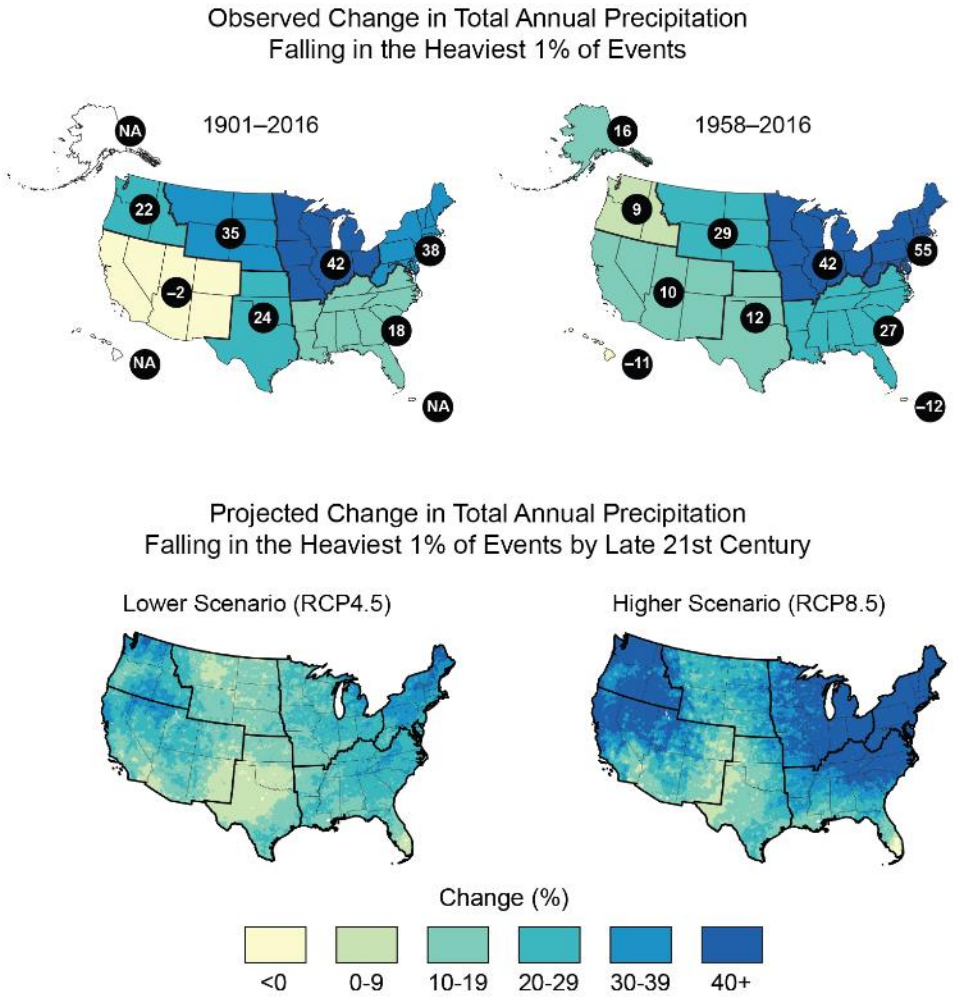
Source: FEMA

Historical and Projected Global Sea Level Rise



Source: Fourth National Climate Assessment, Vol II – Impacts, Risks, and Adaptation in the United States

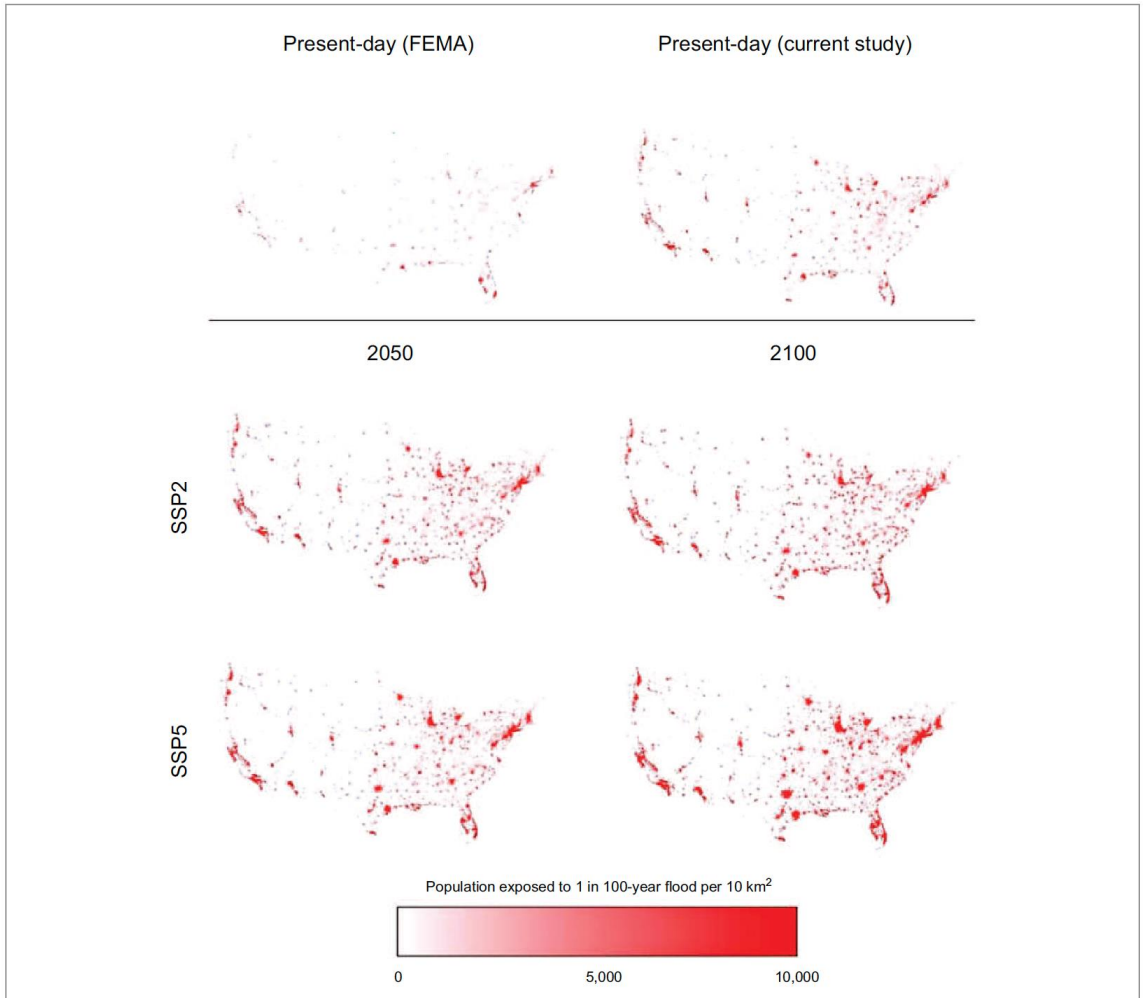
Observed and Projected Change in Extreme Precipitation



Heavy precipitation events have become more frequent and intense since 1901 in nearly every region of the country, with the largest changes in the northern Great Plains, the Midwest, and the **Northeast**.

Source: Fourth National Climate Assessment, Vol II – Impacts, Risks, and Adaptation in the United States

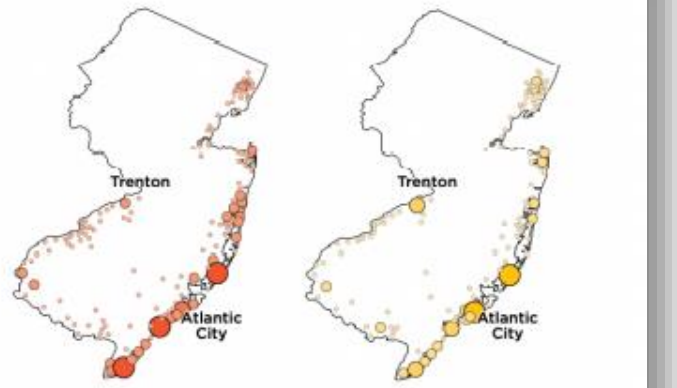
Distribution of Population Exposed to a 1 in 100-year Flood Across the US for the Present and Future



Source: Wing, Oliver, et. al., Estimates of Present and Future Flood Risk in the Conterminous United States (2018).

Over the next 30 years, roughly **62,000 homes** in New Jersey will be at risk of chronic flooding.

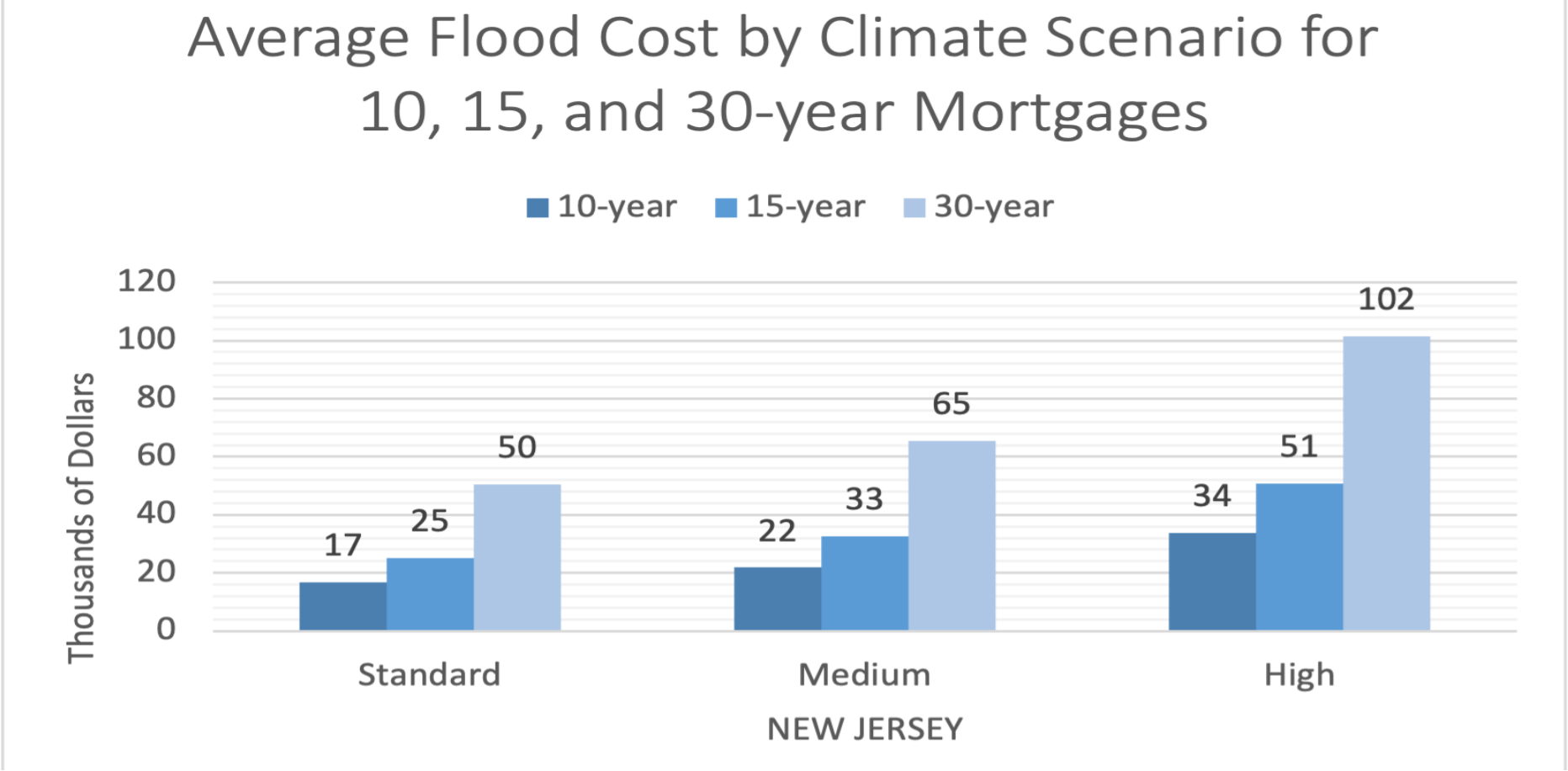
Figure 1: Communities at Risk



Source: Union of Concerned Scientists

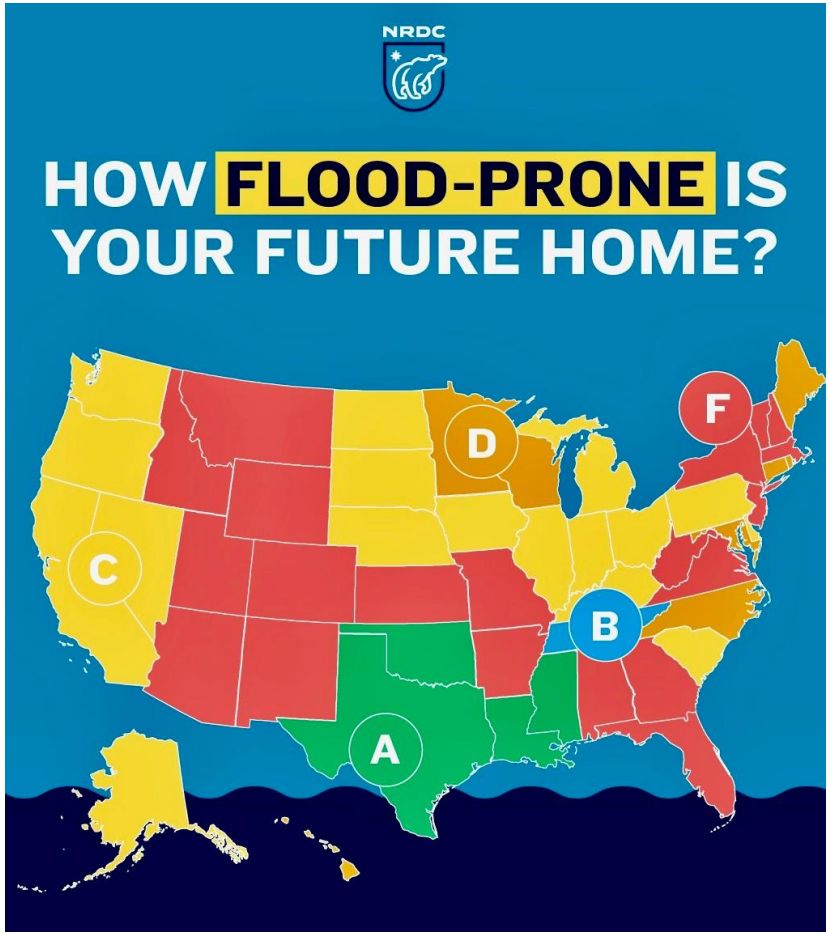
This figure balloons to over **245,000 homes** by 2100.

Undisclosed Flood Damage Financially Soaks Home Buyers



Source: Estimating undisclosed flood risk in real estate transactions

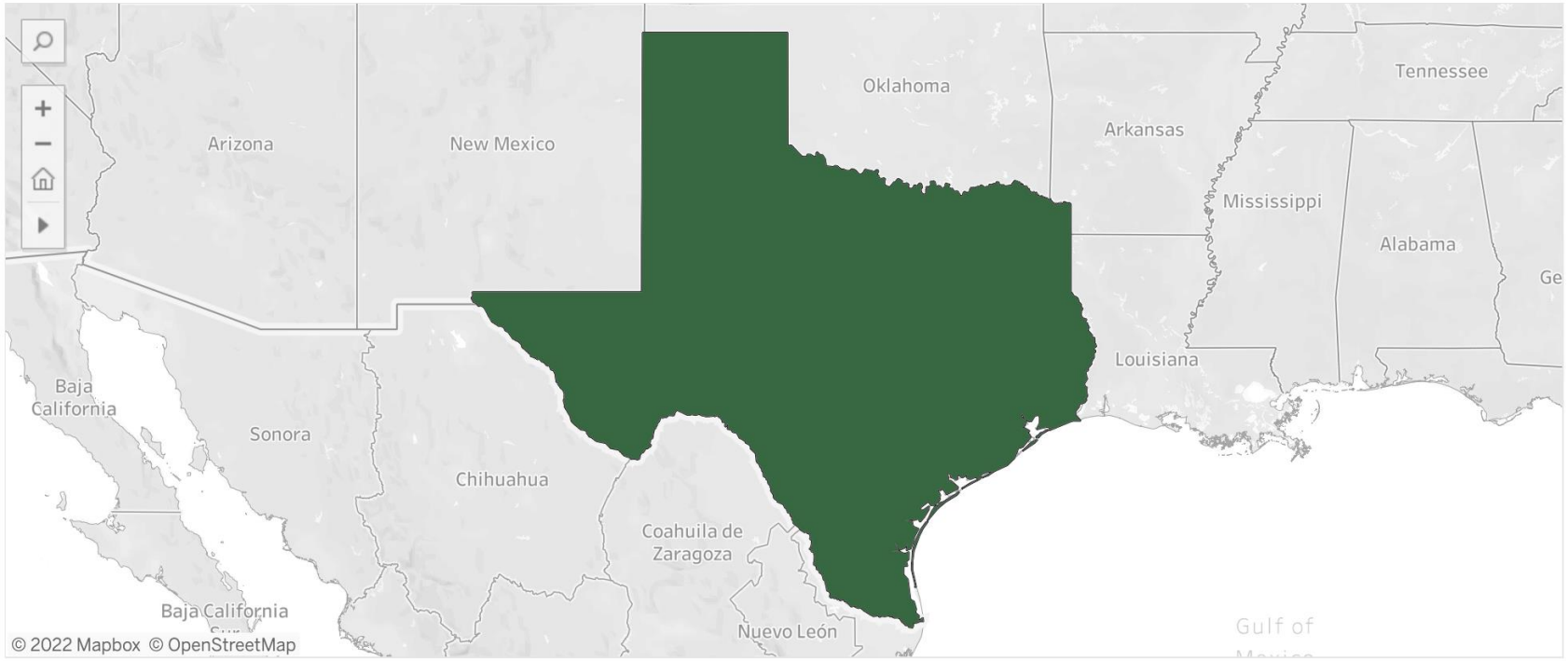
Flood Disclosure Laws Across the Nation



New Jersey ranks among the weakest states, despite high flood risks.

Source: Natural Resources Defense Council (NRDC)

Texas



Texas | A (Best)

Texas's disclosure law requires the seller to disclose whether:

- there has been previous water damage to a structure due to a natural flood event;
- there has been previous flooding due to a natural failure or breach of a reservoir or a controlled emergency release of water from a reservoir;
- the property is located wholly or partly in a 100-year floodplain, a 500-year floodplain, or a reservoir;
- the seller has ever filed a claim for flood damage to property with any insurance provider, including the National Flood Insurance Program;
- flood insurance covers the property; and
- the seller ever received assistance from FEMA or the U.S. Small Business Administration (SBA) for flood damage to the property.

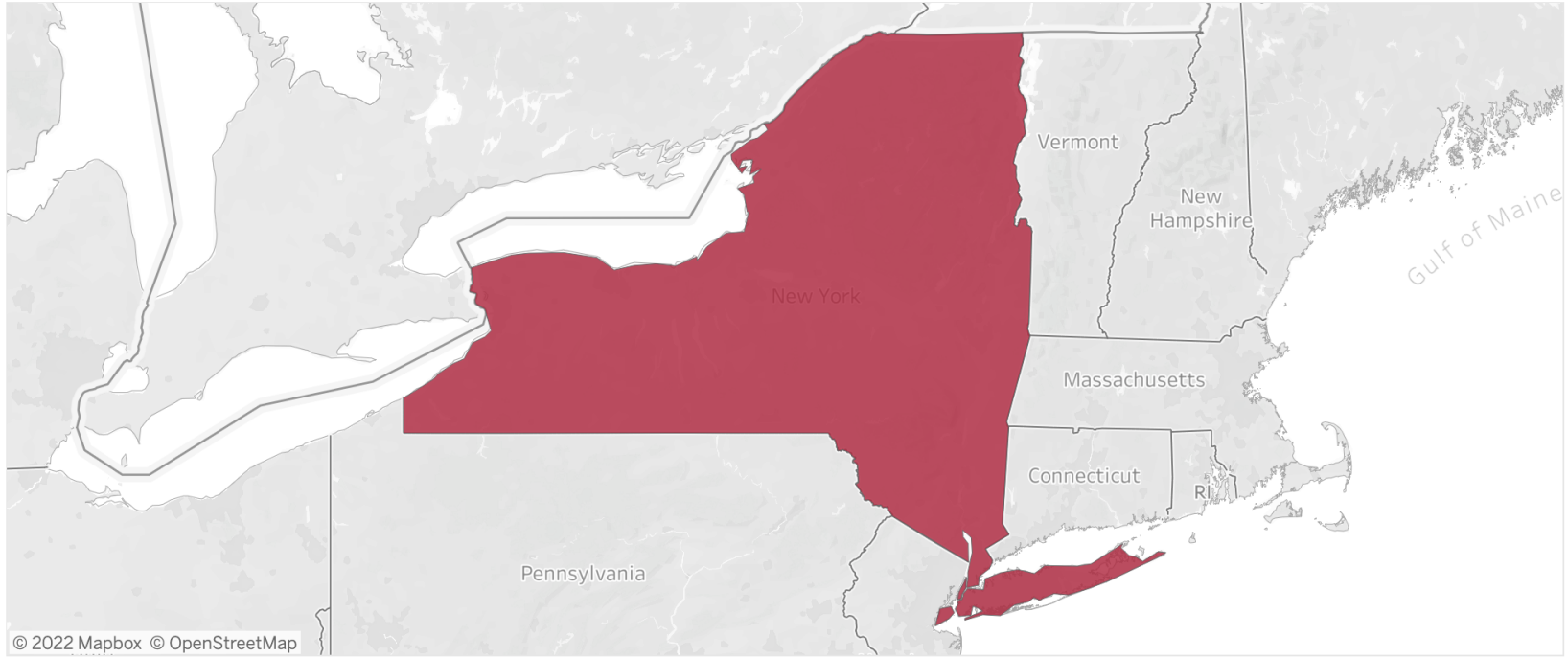
Louisiana

Louisiana | A (Best)

Per Louisiana's disclosure law, the Real Estate Commission developed mandatory property disclosure requirements. The seller must divulge whether:

- any flooding, water intrusion, accumulation, or drainage problem has been experienced with respect to the land and, if so, the nature and frequency of the defect;
- the property is in a flood zone, and if yes, the flood zone classification(s) of the property and the source and date of this information;
- the seller has an elevation certificate;
- any structure on the property has ever taken water on by flooding and, if so, the nature and frequency of the defect;
- there is flood insurance on the property; and
- the seller and/or previous owner was a recipient of federal disaster aid that would require an owner to obtain and maintain flood insurance on the property, and, if yes, the type of aid and amount received.

New York



New York | F (None)

New York's disclosure law requires the seller to disclose whether any or all of the property is located in a designated floodplain and, if so, whether there have been any flooding problems that resulted in standing water on any portion of the property.

However, under New York law, if a seller fails to provide a disclosure statement, the seller owes the buyer a $500 credit toward the purchase price at the closing (see N.Y. Real Prop. Law §465(1)). In practice, many New York sellers view this incredibly low penalty as an opportunity to opt out of having to disclose issues concerning the property. As such, New York's disclosure law stacks the deck against buyers when it come to learning about a property's flood risks or past flood damages much like a "buyer beware" jurisdiction.

New Jersey

New Jersey | F (None)

New Jersey has no statutory or regulatory requirements for a seller to disclose a property's flood risks or past flood damages to a potential buyer. As such, New Jersey home buyers are greatly disadvantaged when it comes to learning of a home's past flood history or potential for future flooding.

However, New Jersey courts have held that sellers must disclose any known material defects in the property that others cannot easily observe (see Weintraub v. Krobatsch, 64 N.J. 445 (1974)). Whether such a ruling would be applicable to flood hazards, such as a property being located in a flood zone, is unclear.

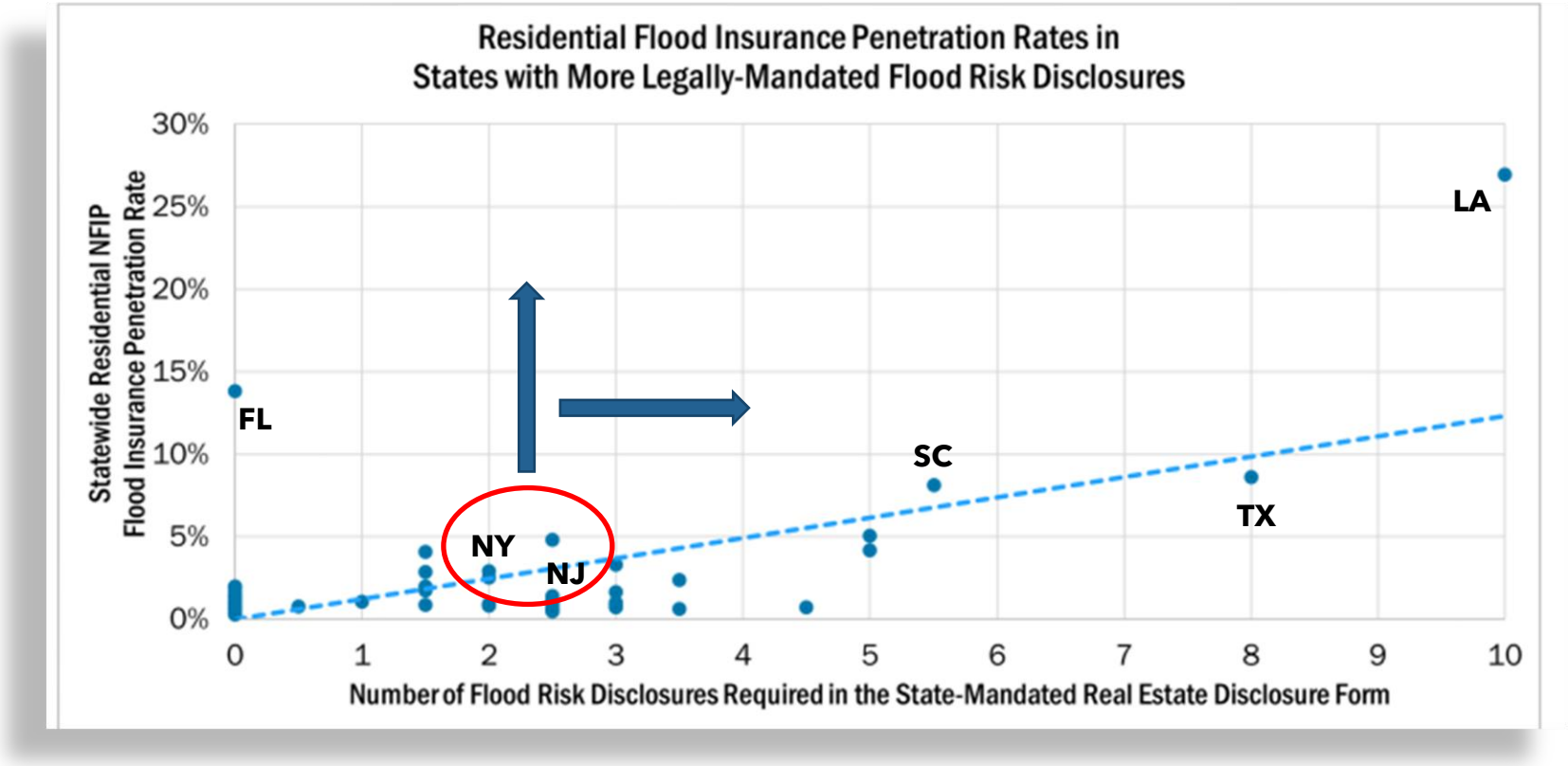
Flood Disclosure Legislation: Consumer Protection, Transparency, Future Planning

State	Whether the property is in a flood hazard area and/or the FEMA Flood Zone	A federal requirement to purchase flood insurance at the property	The presence of an active flood insurance policy for the property	The current cost of flood insurance premiums for the property	Previous flood events and/or flood-related property damage	Any past flood insurance claims	Past flood insurance claim dates and amount of damage	Any past disaster-related aid provided	Past disaster-related aid dates and amounts	Other related disclosures (e.g., elevation certificates)	Strength of Flood Risk Disclosure Requirements
New Jersey	1	0.5			1						2.5
New Mexico											0
New York	1	0.5			0.5						2

Source: Federal Emergency Management Agency (FEMA)

Implications on Flood Insurance

Increased awareness can increase uptake of flood insurance by **15% or more**. Homeowners tend to underestimate flood risks.



Source: Federal Emergency Management Agency (FEMA)

Flood Risk Disclosure: New Jersey Legislation

SENATE, No. 3110

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED SEPTEMBER 29, 2022

Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)
Senator RICHARD J. CODEY
District 27 (Essex and Morris)

Co-Sponsored by:
Senators Cruz-Perez, Pou and Turner

SYNOPSIS

Requires sellers of real property and landlords to make certain notifications regarding flooding.

CURRENT VERSION OF TEXT

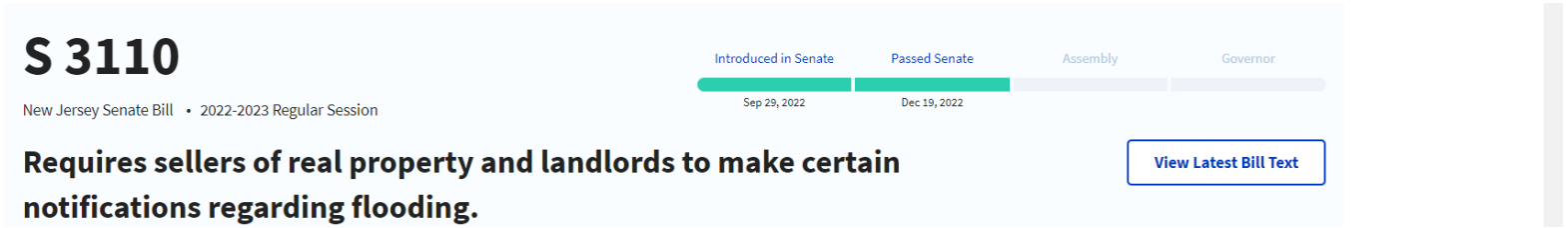
As amended by the Senate on November 21, 2022.

(Sponsorship Updated As Of: 12/19/2022)

Flood Risk Disclosure: New Jersey Legislation

SENATE BILL S3110 AND ASSEMBLY BILL 4783

- Requires sellers of **real property** and **landlords** to make certain notifications regarding flooding.



Thank You

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