

# Task force identifies post-Irene legal issues

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Tropical Storm Irene upended houses, personal property and lives in Vermont. The natural disaster, which destroyed more than 700 homes and caused hundreds of millions of dollars in damage to state and local roads, also led to unprecedented legal questions.

Vermonters, in some cases, not only lost their belongings and homes, but also their land. Should towns redraw property boundaries in situations where a former dooryard has been reduced to river bed?

Other residents faced the sure knowledge that they would never repay hundreds of thousands of dollars on mortgages for properties that no longer exist. In rare instances, victims of the raging floodwaters faced both stark realities. What, if anything, can banks and municipalities do if residents walk away from their mortgage obligations?

Meanwhile, mobile home owners are unable to take on more debt because their housing devalues quickly over time and they don't have asset capacity.

Though the state's community banks have been quick to respond, certain out-of-state banks, namely Bank of America, have not been as generous with property owners' who face foreclosure, according to Senate President Pro Tempore John Campbell.

"There are going to be individuals out there who still have a large mortgage," Campbell. "Bank of America has not been keen to rush in to help."

The Post-Irene Property Law Task Force attempted to address questions about foreclosures, boundary lines and practical steps to secure federal flood insurance over the course of two months of research and meetings. The task force was divided into five subgroups that tackled legal issues around foreclosures, finance and insurance, hazard mitigation, flood insurance, public records and housing. Members of the task force represented Vermont Legal Aid, the Vermont League of Cities and Towns, the Vermont Bar Association and the Vermont Bankers Association.

Lawmakers and experts in municipal and property law who were enlisted in the effort went back to the green books, and they found, to their surprise, that case law and legislation developed in the 19th century covered most of the bases.

Instead of wholesale changes to existing legislation, the task force recommends tweaks to holdover bills from last session and modifications to the body of state statutes that comprise property law.

The report is a 10-page rundown of recommendations tacked onto a half-inch thick booklet that includes all of the relevant statutes, old legislative studies and records of the task force meetings.

Here are a few of the recommendations to lawmakers:

- More expansive mediation program options for property owners that face foreclosure;
- Creation of a state-run hazard mitigation program (a buyout of personal property in the flood plain)
- An examination of the banking industry's response to Irene
- Mandated "tie-downs" for propane tanks
- Creating a single point of contact for Vermonters seeking private, government and nonprofit resources in the wake of a natural disaster;
- Incentivizing municipal participation in the National Flood Insurance Program;
- Analysis of the expedited permitting process post-Irene
- A standardized approach across municipalities for the long-term preservation of public records

- The creation of a rental housing registry/database;
- How to address topsoil losses, rebuilding issues on the floodplain and the cleanup of unclaimed debris on private property.

In a procedural move that hadn't been invoked since 1965, Senate President Pro Tem John Campbell called for a Committee of the Whole so that task force representatives could present their findings to the full Senate.

[Read the report.](#)

Legislation that could be affected by task force recommendations include: H.403, H.776, S.211 and H.272.