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“Automatic Variance” Bill For Federal Emergency Management Agency (FEMA) Base Elevations Passes New Jersey Legislature

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On June 20, 2013, the NJ Senate and the NJ General Assembly unanimously approved a bill that would exempt homes affected by Superstorm Sandy from development regulations on building heights. Normally, homeowners must apply to their local municipality for a variance when construction alters the original zoning plan of the property. Given the new base flood elevations from FEMA, this bill streamlines the process for raising homes along the Jersey Shore by eliminating the variance application process under certain conditions.

Homeowners in flood zones may raise their homes to the new FEMA levels plus an additional three feet in order to qualify for flood insurance; they face the potential for a higher premium if they do not raise their homes. Unfortunately, the new heights of raised homes often conflict with local zoning laws. This bill would exempt Sandy-damaged homes from these zoning laws with the following restrictions: (1) It applies only to structures damaged in Hurricane Sandy that existed on October 28, 2012, and (2) It does *not* apply to homes whose original vertical and horizontal dimensions have been altered in any way since the storm, assuming that the structure could have been raised without the alteration(s). In addition to the automatic variance for raising the house, the bill also provides an automatic variance, if necessary, for constructing a staircase to match the new height of the house.

Upon being signed by Gov. Christie, the law will take effect immediately and will assist in speeding up the rebuilding and recovery process along the Jersey Shore.

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