

2022 -- S 2297

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO WATERS AND NAVIGATION-PROTECTION FROM UNSAFE DAMS

Introduced By: Senators Sosnowski, Euer, Ruggerio, Valverde, DiMario, F Lombardi,  
Felag, Lombardo, Ciccone, and Gallo

Date Introduced: February 15, 2022

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative findings.

2 (1) The department of environmental management ("DEM") is responsible for inspecting  
3 the state's six hundred and sixty nine (669) dams, reviewing and approving plans for construction  
4 or substantial alteration of dams, ordering repairs or other action to address unsafe conditions and,  
5 submitting an annual report on dams.

6 (2) Per DEM's 2020 dam safety report, there are ninety-five (95) "high hazard" dams in  
7 Rhode Island, thirty-seven (37) of which are "unsafe". There are also eighty-one (81) "significant  
8 hazard" dams in Rhode Island "thirty-six (36) of which are "unsafe".

9 (3) An "unsafe" dam poses an unreasonable risk of failure that will result in a probable loss  
10 of human life or major economic loss.

11 (4) This chapter will allow and authorize DEM to protect the public from unsafe dams  
12 whose owners are unknown or financially unable to make necessary repairs to or removal of a dam.

13 SECTION 2. Title 46 of the General Laws entitled "WATERS AND NAVIGATION" is  
14 hereby amended by adding thereto the following chapter:

15 CHAPTER 19.1

16 PROTECTION FROM UNSAFE DAMS

17 46-19.1-1. Definitions.

18 As used in this chapter:

19 (1) "Department" means the Rhode Island department of environmental management

1 ("DEM").

2 (2) "Director" means the director of the department of environmental management, or  
3 designee.

4 (3) "Fund" means the Rhode Island orphan and insolvent dam financial responsibility fund  
5 established herein.

6 (4) "High hazard dam" means a dam where failure or improper operation will result in a  
7 probable loss of human life.

8 (5) "Insolvent dam" means the owner or owners of the dam do not have the financial means  
9 to pay the cost to repair or remove the dam.

10 (6) "Orphan dam" means a dam for which DEM has determined that no owner can be  
11 identified.

12 (7) "Owner" means any person, corporation, group, or other entity who or that holds  
13 exclusive or joint title to, or lawful possession of a dam.

14 (8) "Significant hazard dam" means a dam where failure or improper operation results in  
15 no probable loss of human life but can cause major economic loss, disruption of lifeline facilities  
16 or impact other concerns detrimental to the public's health, safety or welfare.

17 (9) "Unsafe" means the condition of the dam is such that an unreasonable risk of failure  
18 exists that will result in a probable loss of human life or major economic loss.

19 **46-19.1-2. Orphan and insolvent dam fund.**

20 (a) There is hereby established the Rhode Island orphan and insolvent dam fund.

21 (b)(1) The fund shall consist of any funds that the state may, from time to time, appropriate,  
22 as well as money received as gifts, grants, bequests, donations, or other funds from any public or  
23 private sources that are intended to serve the purposes of the Rhode Island orphan and insolvent  
24 dam fund.

25 (2) The department shall make every effort to solicit assistance, monetary and otherwise,  
26 from the municipality where an orphan or insolvent dam is located.

27 (c) All funds collected pursuant to this section shall be deposited in the Rhode Island  
28 orphan and insolvent dam fund and shall be disbursed according to the purposes expressed in § 46-  
29 19.1-3.

30 **46-19.1-3. Purpose of fund.**

31 (a) The purpose of the fund shall be to facilitate the repair or removal of high hazard or  
32 significant hazard dams that are unsafe when the dam is an orphan or insolvent dam.

33 (b) Nothing contained in this chapter shall be construed to prevent subrogation by the State  
34 of Rhode Island against any responsible party, for all sums of money that the fund shall be obligated

1 to pay pursuant to the provisions of this chapter, plus reasonable attorneys' fees and costs of  
2 litigation.

3 **46-19.1-4. Administration and records of the fund.**

4 (a) The director shall administer the fund in accordance with this chapter.

5 (b) The department shall develop procedures governing the expenditure of, and accounting  
6 for, money expended from the fund.

7 (c) The department shall maintain accounting records relating to the income and expenses  
8 of the fund.

9 **46-19.1-5. Expenditure of fund money.**

10 The director may only expend money from the fund if it has been determined that a  
11 responsible party does not exist or the responsible party is unable or unwilling to provide repair or  
12 removal of the dam. The director shall make a reasonable effort to have the responsible party repair  
13 or remove the dam or agree to pay for any actions resulting from the repair or removal that may be  
14 required by law prior to the expenditure of money from the fund.

15 **46-19.1-6. Right of subrogation.**

16 The state shall have the right of subrogation against any responsible party for all sums of  
17 money that the fund shall be obligated to pay pursuant to the provisions of this chapter, plus  
18 reasonable attorneys' fees and costs of litigation.

19 **46-19.1-7. Regulations.**

20 The director may adopt all rules and regulations necessary for the administration and  
21 enforcement of this chapter.

22 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO WATERS AND NAVIGATION-PROTECTION FROM UNSAFE DAMS

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1           This act would establish an orphan and insolvent dam fund for the purpose of facilitating  
2 or, as a last resort, the repair or removal of high hazard or significant hazard dams that are unsafe  
3 when the dam is classified as an orphan or insolvent dam. The state would have the right of  
4 subrogation against any responsible party for all sums of money expended by the fund plus  
5 reasonable attorneys' fees and costs of litigation.

6           This act would take effect upon passage.

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