§ 58-0303. Programs, plans and projects.

1. Eligible restoration and flood risk reduction projects include, but are not limited to costs associated with:

a. (1) projects identified in state and regional management and restoration programs and plans including but not limited to the Great Lakes Action Agenda, Mohawk River Basin Action Agenda, Ocean Action Plan, Hudson River Estuary Action Agenda, Long Island Sound Comprehensive Conservation and Management Plan, South Shore Estuary Reserve Comprehensive Management Plan, Peconic Estuary Comprehensive Conservation and Management Plan, Delaware Action Plan, Susquehanna Action Plan, forest management framework for New York City and New York/New Jersey Harbor Estuary Plan;

(2) local waterfront revitalization plans prepared pursuant to article forty-two of the executive law; and

(3) coastal rehabilitation and shoreline restoration projects, including nature-based solutions;

b. flood risk reduction projects including but not limited to: acquisition of real property; moving, lifting or raising of existing flood-prone infrastructure or structures; relocation, repair, or raising of flood-prone or repeatedly flooded roadways; and projects to remove, alter, or right-size dams, bridges, and culverts, but shall not include routine construction or maintenance undertaken by the state and municipalities which does not provide flood risk reduction benefits; and

c. restoration projects including but not limited to: floodplain, wetland and stream restoration projects; forest conservation; endangered and threatened species projects; and habitat restoration projects, including acquisition of fee title and easements, intended to improve the lands and waters of the state of ecological significance or any part thereof, including, but not limited to forests, ponds, bogs, wetlands, bays, sounds, streams, rivers, or lakes and shorelines thereof, to support a spawning, nursery, wintering, migratory, nesting, breeding, feeding, or foraging environment for fish and wildlife and other biota.

2. The commissioner and the commissioner of the division of housing and community renewal are authorized pursuant to paragraph b of subdivision one of this section to purchase private real property identified as at-risk to flooding, from willing sellers. The commissioner of the division of housing and community renewal shall be authorized to transfer to any state agency or public authority any real property in order to carry out the purposes of this article. In connection therewith, the housing trust fund corporation shall be authorized to create a subsidiary corporation to carry out the program authorized under this subdivision. Such subsidiary corporation shall have all the privileges, immunities, tax exemption and other exemptions of the agency to the extent the same are not inconsistent with this section.

a. The commissioner and the commissioner of the division of housing and community renewal or any other department or state agency that has received funds suballocated pursuant to this section may enter into agreements with municipalities, and not-for-profit corporations for the purpose of implementing a program pursuant to this section.

b. The department and the division of housing and community renewal shall prioritize projects in communities based on past flood risk or those that participate in the federal emergency management agency's (FEMA) community rating system.

c. Any state agency or authority, municipality, or not-for-profit corporation purchasing private real property may expend costs associated with:

(1) the acquisition of real property, based upon the pre-flood fair market value of the subject property;

(2) the demolition and removal of structures and/or infrastructure on the property; and

(3) the restoration of natural resources to facilitate beneficial open space, flood mitigation, and/or shoreline stabilization.

d. Notwithstanding any provision of law to the contrary, any structure which is located on real property purchased pursuant to this program

shall be demolished or removed, provided that it does not serve a use or purpose consistent with paragraph f of this subdivision.

e. Notwithstanding any provision of law to the contrary, real property purchased with funding pursuant to this program shall be property of the state, municipality, or a not-for-profit corporation.

f. Notwithstanding any provision of law to the contrary, real property purchased with funding pursuant to this program shall be restored and maintained in perpetuity in a manner that, aims to increase ecosystem function, provide additional flood damage mitigation for surrounding properties, protect wildlife habitat, and wherever practicable and safe, allow for passive and/or recreational community use. Municipal flood mitigation plans, resilience, waterfront revitalization plans or hazard mitigation plans, when applicable, shall be consulted to identify the appropriate restoration and end-use of the property.

g. All or a portion of the appropriation in this section may be provided to the department or the division of housing and community renewal or suballocated to any other department, state agency or state authority.

h. Private real property identified as at-risk to flooding should generally be limited to those: (1) identified as being within the one hundred-year floodplain on the most recent FEMA flood insurance maps; (2) flooded structures that would qualify for buyout under criteria generally applicable to FEMA post-emergency acquisitions; (3) structures identified in a state, federal, local or regional technical study as suitable for the location of a flood risk management or abatement project in areas immediately proximate to inland or coastal waterways; or (4) structures located in coastal or riparian areas that have been determined by a state, federal, local or regional technical study to significantly exacerbate flooding in other locations.

3. The department, the office of parks, recreation, and historic preservation and the department of state are authorized to provide state assistance payments or grants to municipalities and not-for-profit

corporations and undertake projects pursuant to paragraph a of subdivision one of this section.

4. The department and the office of parks, recreation, and historic preservation are authorized to provide state assistance payments or grants to municipalities and not-for-profit corporations and undertake projects pursuant to paragraph b of subdivision one of this section. Culvert and bridge projects shall be in compliance with the department's stream crossing guidelines and best management practices, and engineered for structural integrity and appropriate hydraulic capacity including, where available, projects flows based on flood modeling that incorporates climate change projections and shall not include routine construction or maintenance undertaken by the state or municipalities.

5. The department and the office of parks, recreation, and historic preservation are authorized to provide state assistance payments or grants to municipalities and not-for-profit corporations and undertake projects pursuant to paragraph c of subdivision one of this section.

6. Provided that for the purposes of selecting projects for funding under paragraphs b and c of subdivision one of this section, the relevant agencies shall develop eligibility guidelines and post information on the department's website in the environmental notice bulletin providing for a thirty-day public comment period and upon adoption post such eligibility guidelines on the relevant agency's website.