

## **Flood insurance lawsuit aimed at ‘basement’ definition**

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A federal lawsuit accusing insurance companies of unfairly denying flood claims could have broad ramifications for Long Islanders who were denied coverage because their first floors were classified as basements. The class-action suit, filed in Newark, says insurers are wrongly refusing to pay for flood-damaged furniture, rugs and other items in garden apartments, split-level houses and sunken living rooms by misapplying the definition of “basement.” “We have found that rooms are being deemed as basements when the definition does not fit,” said Jeffrey Bronster, a lawyer who filed the suit against Fidelity National Property and Casualty Insurance, State Farm, Travelers and several other companies. A lawyer representing the insurers did not return calls seeking comment. The companies named in the suit administer policies for the National Flood Insurance Program, an arm of the federal government. The program, run by the Federal Emergency Management Agency, provides the vast majority of flood coverage in the United States because private companies generally consider the policies too risky. Regular homeowner policies cover damage from wind, fire and other events — but not floods. FEMA defines a basement as any room whose floor is “below grade on all sides.” That means if the ground level outside is higher than the floor within — even by an inch — it is considered a basement. Sen. Charles Schumer (D-N.Y.) said in a written statement the agency needs a more common-sense definition. “It’s absurd for a living room or dining room with a floor an inch below ground level to be considered a basement,” he said. The Jersey City man who filed the lawsuit, Patrick Donnelly, lives in a garden apartment whose front door is several steps below grade. His rear door, however, opens onto a level backyard, Bronster said. Nonetheless, a flood insurance adjuster deemed the entire apartment to be a basement, denying Donnelly coverage for his ruined furniture. On Long Island, adjusters have told legions of people living in split levels, high ranches and other houses in Oceanside, Massapequa and elsewhere that their first floors are basements, leaving them uninsured for tens of thousands of dollars in losses. James Lang, who was told the kitchen and living room of his flooded West Islip split-level were in a basement, has started a petition on the White House website, urging FEMA to change its definition. “We

have invested thousands of dollars in these rooms, and they are taxed as living space,” said Lang, 68. “Now the insurance companies are telling us they are basements? It’s wrong.”