
SENATE BILL 6148

State of Washington

53rd Legislature

1994 Regular Session

By Senators Haugen, Winsley and Drew

Read first time 01/14/94. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to flood damage reduction; amending RCW 86.16.010,
2 86.16.041, 86.16.020, 86.16.045, 86.26.010, 86.26.105, 86.12.200,
3 86.26.050, 86.15.030, 86.15.050, 86.15.160, 58.19.055, and 86.16.031;
4 adding new sections to chapter 86.16 RCW; adding a new section to
5 chapter 38.52 RCW; adding new sections to chapter 86.12 RCW; adding new
6 sections to chapter 64.04 RCW; and creating a new section.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8

PART I

9

FLOOD PLAIN MANAGEMENT

10 **Sec. 101.** RCW 86.16.010 and 1987 c 523 s 1 are each amended to
11 read as follows:

12 The legislature finds that the ~~((alleviation of recurring flood~~
13 ~~damages to public and private property and to the public health and~~
14 ~~safety is a matter of public concern. As an aid in effecting such~~
15 ~~alleviation the state of Washington, in the exercise of its sovereign~~
16 ~~and police powers, hereby assumes full regulatory control over the~~
17 ~~navigable and nonnavigable waters flowing or lying within the borders~~
18 ~~of the state subject always to the federal control of navigation, to~~

1 the extent necessary to accomplish the objects of this chapter. In
2 addition, in an effort to alleviate flood damage and expenditures of
3 government funds, the federal government adopted the national flood
4 insurance act of 1968 and subsequently the flood disaster protection
5 act of 1973. The department of ecology is the state agency in
6 Washington responsible for coordinating the flood plain management
7 regulation elements aspects of the national flood insurance program))
8 climate and topography of the state create conditions that lead to
9 frequent flood events throughout the state, and that several counties
10 in the state have experienced great hardship and loss due to severe and
11 repeated floods. The legislature also finds that some structural
12 solutions to control flooding can disrupt the functions of a healthy
13 river system resulting in significant damage to our riparian resources.
14 The legislature therefore declares that the state flood policy is to
15 reduce long-term flood damage in a manner that minimizes adverse
16 impacts on our river systems.

17 NEW SECTION. Sec. 102. A new section is added to chapter 86.16
18 RCW to read as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout sections 101 through 103 of this act.

21 (1) "Base flood" or "one hundred year flood" means a flood having
22 a one percent chance of being equaled or exceeded in any given year.

23 (2) "Department" means the department of ecology.

24 (3) "Federal emergency management agency floodway" means the
25 channel of the stream and that portion of the adjoining flood plain
26 that is necessary to contain and discharge the base flood flow without
27 increasing the base flood elevation more than one foot.

28 (4) "Flood insurance study" means the official report provided by
29 the federal insurance administration that includes flood profiles and
30 the flood insurance rate map.

31 (5) "Flood insurance rate map" means the official map on which the
32 federal insurance administration has delineated areas of flood hazard.

33 (6) "Flood plain" means any land area susceptible to being
34 inundated by water from any inland or tidal waters creating a general
35 and temporary condition of partial or complete inundation of normally
36 dry land areas.

1 (7) "Flood-prone county" means a county, and all cities and towns
2 within the county, having three or more federally declared flood
3 disasters within the previous fifteen years.

4 (8) "Meander belt" means the present river channel, the portion of
5 the river valley lying within the outside curves of a river channel,
6 and any portion of the river valley that can be identified by previous
7 river channels.

8 (9) "Substantial improvement" means any maintenance, repair,
9 structural modification, addition, or other improvement of a structure
10 that increases the footprint of a structure by fifty percent or more.

11 **Sec. 103.** RCW 86.16.041 and 1989 c 64 s 4 are each amended to read
12 as follows:

13 (1) Beginning July 26, 1987, every county and incorporated city and
14 town shall submit to the department of ecology any new flood plain
15 management ordinance or amendment to any existing flood plain
16 management ordinance. Such ordinance or amendment shall take effect
17 thirty days from filing with the department unless the department
18 disapproves such ordinance or amendment within that time period.

19 (2) The department may disapprove any ordinance or amendment
20 submitted to it under subsection (1) of this section if it finds that
21 an ordinance or amendment does not comply with any of the following:

22 (a) Restriction of land uses within designated federal emergency
23 management agency floodways including the prohibition of construction
24 or reconstruction of residential structures except for: (i) Repairs,
25 reconstruction, or improvements to a structure which do not increase
26 the ground floor area; and (ii) repairs, reconstruction, or
27 improvements to a structure the cost of which does not exceed fifty
28 percent of the market value of the structure either, (A) before the
29 repair, reconstruction, or repair is started, or (B) if the structure
30 has been damaged, and is being restored, before the damage occurred.
31 Work done (~~on structures to comply with existing health, sanitary, or~~
32 ~~safety codes or~~) to structures identified as historic places shall not
33 be included in the fifty percent determination; and

34 (b) The minimum requirements of the national flood insurance
35 program(~~;~~ and

36 ~~(c) The minimum state requirements adopted pursuant to RCW~~
37 ~~86.16.031(8) that are applicable to the particular county, city, or~~
38 ~~town)).~~

1 NEW SECTION. **Sec. 104.** A new section is added to chapter 86.16
2 RCW to read as follows:

3 (1) By May 1, 1994, the department shall establish and use state
4 criteria to evaluate local flood plain management ordinances adopted
5 pursuant to chapter 36.70A or 86.16 RCW solely for the purpose of
6 making funding decisions. The criteria shall be consistent with the
7 planning criteria identified in RCW 86.12.200 but shall recognize and
8 accommodate the need for local flexibility in managing flood hazards.
9 For cities and counties planning under chapter 36.70A RCW, the criteria
10 shall require the local flood plain ordinance to be consistent with the
11 local capital improvement plan. The department may establish more
12 stringent criteria for counties or parts of counties that are flood
13 prone.

14 (2) The department may not issue a grant or loan to fund a flood
15 hazard reduction project under chapter 86.26 RCW to a city or county
16 that has not adopted a flood plain ordinance that has been accepted by
17 the department as meeting the criteria established pursuant to
18 subsection (1) of this section.

19 (3) Within thirty days of receiving a local flood plain ordinance,
20 the department shall make a decision as to whether or not the ordinance
21 meets the criteria developed pursuant to subsection (1) of this section
22 and transmit the decision to the applicable city or county and to the
23 department of community, trade, and economic development. If the
24 department finds that an ordinance does not meet the criteria, it shall
25 provide a specific written statement explaining the deficiencies of the
26 ordinance.

27 NEW SECTION. **Sec. 105.** A new section is added to chapter 38.52
28 RCW to read as follows:

29 (1) An applicant for state matching funds for the public assistance
30 and mitigation programs under P.L. 93-288 Secs. 404, 406, and 407, is
31 eligible only if the department of community, trade, and economic
32 development has received a statement from the department of ecology
33 verifying that the county, city, or town has adopted a flood plain
34 ordinance that meets the criteria established pursuant to section
35 104(1) of this act.

36 (2) Within a flood-prone county, an applicant for state matching
37 funds for the public assistance and mitigation programs under P.L. 93-
38 288 Secs. 404, 406, and 407, is eligible only if the county has

1 prepared a local comprehensive flood hazard management plan meeting the
2 requirements of RCW 86.12.200. This requirement is in addition to the
3 requirement under subsection (1) of this section.

4 (3) The department shall reference or incorporate in the state
5 flood hazard mitigation plan each local ordinance that meets the
6 criteria established pursuant to section 104(1) of this act.

7 (4) Nothing in subsection (2) of this section prohibits a state
8 agency or tribal government from receiving state matching funds for the
9 public assistance and mitigation programs under P.L. 93-288 Secs. 404,
10 406, and 407.

11 **Sec. 106.** RCW 86.16.020 and 1989 c 64 s 1 are each amended to read
12 as follows:

13 State-wide flood plain management regulation shall be exercised
14 through: (1) Local governments' administration of the national flood
15 insurance program regulation requirements, (2) the establishment of
16 minimum state requirements for flood plain management that ~~((equal))~~
17 include the minimum federal requirements for the national flood
18 insurance program, and (3) the issuance of regulatory orders. This
19 regulation shall be exercised over the planning, construction,
20 operation and maintenance of any works, structures and improvements,
21 private or public, which might, if improperly planned, constructed,
22 operated and maintained, adversely influence the regimen of a stream or
23 body of water or might adversely affect the security of life, health
24 and property against damage by flood water.

25 **Sec. 107.** RCW 86.16.045 and 1989 c 64 s 6 are each amended to read
26 as follows:

27 A county, city, or town may adopt flood plain management ordinances
28 or requirements that exceed state requirements or the minimum federal
29 requirements of the national flood insurance program ~~((without
30 following the procedures provided in RCW 86.16.031(8)))~~.

31 **Sec. 108.** RCW 86.26.010 and 1984 c 212 s 2 are each amended to
32 read as follows:

33 The department of ecology shall have charge for the state of the
34 administration and enforcement of all laws relating to flood
35 ~~((control))~~ hazard management and shall adopt rules as necessary to
36 implement the provisions of this chapter.

1 (2) A comprehensive flood ~~((control))~~ hazard management plan shall
2 include the following elements:

3 ~~((1))~~ (a) Designation of areas that are susceptible to periodic
4 flooding, from inundation by bodies of water or surface water runoff,
5 or both, including the river's meander belt or floodway;

6 ~~((2))~~ (b) Establishment of a comprehensive scheme of flood
7 ~~((control))~~ hazard protection and improvements for the areas that are
8 subject to such periodic flooding, that includes: ~~((a))~~

9 (i) Determining the need for, and desirable location of, flood
10 ~~((control))~~ hazard reduction improvements to protect or preclude flood
11 damage to structures, works, and improvements, based upon a
12 ~~((cost/benefit))~~ cost-benefit ratio between the expense of providing
13 and maintaining these improvements and the benefits arising from these
14 improvements; ~~((b))~~

15 (ii) Establishing the level of flood protection that each portion
16 of the system of flood ~~((control))~~ hazard reduction improvements will
17 be permitted; ~~((c))~~

18 (iii) Identifying the positive and negative impacts of periodic
19 flooding to riparian natural resources;

20 (iv) Identifying potential impacts of in-stream flood hazard
21 reduction work on the state's in-stream resources, meander belt, or
22 floodway and considering alternatives to in-stream flood ~~((control))~~
23 hazard reduction work; ~~((d))~~

24 (v) Identifying flood storage areas where flood waters could be
25 directed during a flood to avoid damage to buildings and other
26 structures; ~~((and (e)))~~

27 (vi) Identifying areas where a river may migrate into a new channel
28 and considering alternatives to protect the new channel;

29 (vii) Identifying practices that will avoid long-term accretion of
30 sediments; and

31 (viii) Identifying sources of revenue that will be sufficient to
32 finance the comprehensive scheme of flood ~~((control))~~ hazard management
33 protection and improvements, including but not limited to compensating
34 owners of land designated as a flood storage area;

35 ~~((3) Establishing))~~ (c) Establishment of land use regulations,
36 within a river's meander belt or floodway that ~~((preclude the location~~
37 of structures, works, or improvements in critical portions of such
38 areas subject to periodic flooding, including a river's meander belt or
39 floodway, and permitting only flood-compatible land uses in such areas;

1 ~~(4) Establishing restrictions on~~): (i) Allow only flood-
2 compatible land-uses. These uses may include, but shall not be limited
3 to agriculture, recreation, and transportation; (ii) restrict
4 construction activities ((in areas subject to periodic floods that
5 require the flood proofing of those structures that are permitted to be
6 constructed or remodeled; and

7 ~~(5) Establishing~~); and (iii) establish restrictions on land
8 clearing activities and development practices that exacerbate flood
9 problems by increasing the flow or accumulation of flood waters, or the
10 intensity of drainage, on low-lying areas. Land clearing activities do
11 not include forest practices as defined in chapter 76.09 RCW.

12 (3) Each comprehensive flood hazard management plan prepared by a
13 city, town, or special district shall be consistent with the county
14 flood hazard management plan. Each plan prepared by a county shall
15 include criteria to judge consistency. At a minimum, the criteria
16 shall be based on the ability of the plan to:

17 (a) Protect existing flood storage and conveyance;

18 (b) Control storm water runoff; and

19 (c) Meet the goals of subsection (1) of this section.

20 (4) Inconsistencies between a county flood hazard management plan
21 and a city, town, or special district comprehensive flood hazard
22 management plan shall be resolved by a growth management hearings
23 board.

24 ~~(5) A comprehensive flood ((control)) hazard management plan shall~~
25 ~~be subject to the minimum requirements for participation in the~~
26 ~~national flood insurance program((7)) and any flood plain requirements~~
27 ~~exceeding the minimum national flood insurance program ((that have been~~
28 ~~adopted by the department of ecology for a specific flood plain~~
29 ~~pursuant to RCW 86.16.031, and rules adopted by the department of~~
30 ~~ecology pursuant to RCW 86.26.050 relating to flood plain management~~
31 ~~activities)).~~

32 (6) When a county plans under chapter 36.70A RCW, it ((may)) shall
33 incorporate the portion of its comprehensive flood control management
34 plan relating to land use restrictions in its comprehensive plan and
35 development regulations adopted pursuant to chapter 36.70A RCW.

36 NEW SECTION. Sec. 202. A new section is added to chapter 86.12
37 RCW to read as follows:

1 (1) Each county comprehensive flood hazard management plan shall be
2 consistent with any other county flood hazard management plan prepared
3 for the same watershed.

4 (2) Inconsistencies between a county comprehensive flood management
5 plan and another county comprehensive flood management plan prepared
6 for the same watershed shall be resolved by a growth management
7 hearings board upon petition of the department of ecology, a local
8 government within the watershed, or twenty-five or more citizens in the
9 area of the watershed.

10 **Sec. 203.** RCW 86.26.050 and 1991 c 322 s 6 are each amended to
11 read as follows:

12 (1) State participation shall be in such preparation of
13 comprehensive flood ~~((control))~~ hazard management plans under this
14 chapter and chapter 86.12 RCW, cost sharing feasibility studies for new
15 flood ~~((control))~~ hazard reduction projects, ~~((projects pursuant to
16 section 33, chapter 322, Laws of 1991,))~~ and flood ~~((control
17 maintenance))~~ hazard reduction projects as are affected with a general
18 public and state interest, as differentiated from a private interest,
19 and as are likely to bring about public benefits commensurate with the
20 amount of state funds allocated thereto.

21 (2) The department of ecology shall adopt rules concerning the
22 flood plain management activities of a county, city, or town that are
23 adequate to protect or preclude flood damage to structures, works, and
24 improvements, including the restriction of land uses within a river's
25 meander belt or floodway to only flood-compatible uses.

26 (3) No participation for flood ~~((control maintenance))~~ hazard
27 reduction projects may occur with a county or other municipal
28 corporation unless the director of ecology has approved the flood plain
29 management ~~((activities))~~ ordinances of the county, city, or town
30 having planning jurisdiction over the area where the flood ~~((control
31 maintenance))~~ hazard reduction project will be, on the one hundred year
32 flood plain surrounding such area.

33 ~~((The department of ecology shall adopt rules concerning the flood
34 plain management activities of a county, city, or town that are
35 adequate to protect or preclude flood damage to structures, works, and
36 improvements, including the restriction of land uses within a river's
37 meander belt or floodway to only flood-compatible uses. Whenever the
38 department has approved county, city, and town flood plain management~~

1 activities, as a condition of receiving an allocation of funds under
2 this chapter, each revision to the flood plain management activities
3 must be approved by the department of ecology, in consultation with the
4 department of fisheries and the department of wildlife.))

5 (4) No participation with a county or other municipal corporation
6 for flood ((control maintenance)) hazard reduction projects may occur
7 unless the county engineer of the county within which the flood
8 ((control maintenance)) hazard reduction project is located certifies
9 that a comprehensive flood ((control)) hazard management plan has been
10 completed and adopted by the appropriate local authority, or is being
11 prepared for all portions of the river basin or other area, within
12 which the project is located in that county, that are subject to
13 flooding with a frequency of one hundred years or less.

14 ((+3)) (5) Participation for flood ((control maintenance)) hazard
15 reduction projects and preparation of comprehensive flood ((control))
16 hazard management plans shall be made from grants made by the
17 department of ecology from the flood ((control)) hazard reduction
18 assistance account. In making allocation decisions on planning grants,
19 the department shall give first priority to counties that have been
20 designated as flood prone. The comprehensive flood ((control)) hazard
21 management plans of flood-prone counties, and any revisions to the
22 plans, must be approved by the department of ecology, in consultation
23 with affected Indian tribes, the department of transportation, and the
24 department of ((fisheries and the department of)) fish and wildlife as
25 a condition of receiving funds for hazard reduction projects under this
26 chapter. ((The department may only grant financial assistance to local
27 governments that, in the opinion of the department, are making good
28 faith efforts to take advantage of, or comply with, federal and state
29 flood control programs.))

30 (6) For purposes of this section, "flood hazard reduction project"
31 means any structural or nonstructural project.

32 NEW SECTION. Sec. 204. A new section is added to chapter 86.12
33 RCW to read as follows:

34 (1) A county legislative authority may impose a tax on each owner
35 of a surface mining operation located within the county and in which
36 gravel is mined. The tax shall be at a rate not exceeding one dollar
37 on each cubic yard of gravel mined. At the option of the county
38 legislative authority, the following may be exempt from the tax:

1 Gravel taken from property owned by a governmental entity; and/or
2 gravel removed from a river bed where the removal aids in flood
3 control.

4 (2) The proceeds from the tax imposed under subsection (1) of this
5 section may be used only for the following flood control purposes:

6 (a) To pay for or assist in paying for the costs of flood control
7 measures on old logging roads where the measures are designed to limit
8 or prevent the transfer of sediments to river systems;

9 (b) To pay for the costs of planning activities relating to the
10 origin of sediments, the transfer of sediments, and the deposit of
11 sediments;

12 (c) To pay for or assist in paying for the removal of sediments
13 from river systems; and

14 (d) To pay for the costs of collecting the tax.

15 **Sec. 205.** RCW 86.15.030 and 1969 ex.s. c 195 s 2 are each amended
16 to read as follows:

17 Upon receipt of a petition asking that a zone be created, or upon
18 motion of the board, the board shall adopt a resolution which shall
19 describe the boundaries of such proposed zone; describe in general
20 terms the flood control needs or requirements within the zone; set a
21 date for public hearing upon the creation of such zone, which shall be
22 not more than thirty days after the adoption of such resolution.
23 Notice of such hearing and publication shall be had in the manner
24 provided in RCW 36.32.120(7).

25 At the hearing scheduled upon the resolution, the board shall
26 permit all interested parties to be heard. Thereafter, the board may
27 reject the resolution or it may modify the boundaries of such zone and
28 make such other corrections or additions to the resolutions as they
29 deem necessary to the accomplishment of the purpose of this chapter:
30 PROVIDED, That if the boundaries of such zone are enlarged, the board
31 shall hold an additional hearing following publication and notice of
32 such new boundaries: PROVIDED FURTHER, That the boundaries of any zone
33 shall generally follow the boundaries of the watershed area affected:
34 PROVIDED FURTHER, That the immediately preceding proviso shall in no
35 way limit or be construed to prohibit the formation of a county-wide
36 flood control zone district authorized to be created by RCW 86.15.025.

1 Within (~~ten~~) thirty days after final hearing on a resolution, the
2 board shall issue its (~~order~~) ordinance creating the flood control
3 zone district.

4 **Sec. 206.** RCW 86.15.050 and 1961 c 153 s 5 are each amended to
5 read as follows:

6 The board (~~of county commissioners of each county~~) shall be ex
7 officio, by virtue of their office, supervisors of the zones created in
8 each county. The supervisors of the district shall conduct the
9 business of the flood control zone district according to the regular
10 rules and procedures that it adopts.

11 **Sec. 207.** RCW 86.15.160 and 1986 c 278 s 60 are each amended to
12 read as follows:

13 For the purposes of this chapter the supervisors may authorize:

14 (1) An annual excess ad valorem tax levy within any zone or
15 participating zones when authorized by the voters of the zone or
16 participating zones under RCW 84.52.052 and 84.52.054;

17 (2) An assessment upon property, including state property,
18 specially benefited by flood control improvements or storm water
19 control improvements imposed under chapter 86.09 RCW;

20 (3) Within any zone or participating zones an annual ad valorem
21 property tax levy of not to exceed fifty cents per thousand dollars of
22 assessed value when the levy will not take dollar rates that other
23 taxing districts may lawfully claim and that will not cause the
24 combined levies to exceed the constitutional and/or statutory
25 limitations, and the additional levy, or any portion thereof, may also
26 be made when dollar rates of other taxing units is released therefor by
27 agreement with the other taxing units from their authorized levies
28 under chapter 39.67 RCW;

29 (4) A charge, under RCW 36.89.080 through 36.89.100, for the
30 furnishing of service to those who are receiving or will receive
31 benefits from storm water control facilities and who are contributing
32 to an increase in surface water runoff. Except as otherwise provided
33 in RCW 90.03.525, any public entity and public property, including the
34 state and state property, shall be liable for the charges to the same
35 extent a private person and privately owned property is liable for the
36 charges, and in setting these rates and charges, consideration may be

1 made of in-kind services, such as stream improvements or donation of
2 property;

3 (5) The creation of local improvement districts and utility local
4 improvement districts, the issuance of improvement district bonds and
5 warrants, and the imposition, collection, and enforcement of special
6 assessments on all property, including any state-owned or other
7 publicly-owned property, specially benefited from improvements in the
8 same manner as provided for counties by chapter 36.94 RCW.

9 **PART III**

10 **FLOOD HAZARD INFORMATION**

11 **Sec. 301.** RCW 58.19.055 and 1992 c 191 s 5 are each amended to
12 read as follows:

13 (1) A public offering statement shall contain the following
14 information:

15 (a) The name, and the address or approximate location, of the
16 development;

17 (b) The name and address of the developer;

18 (c) The name and address of the management company, if any, for the
19 development;

20 (d) The relationship of the management company to the developer, if
21 any;

22 (e) The nature of the interest being offered for sale;

23 (f) A brief description of the permitted uses and use restrictions
24 pertaining to the development and the purchaser's interest therein;

25 (g) The number of existing lots, parcels, units, or interests in
26 the development and either the maximum number that may be added to the
27 development or the fact that such maximum number has not yet been
28 determined;

29 (h) A list of the principal common amenities in the development
30 which materially affect the value of the development and those that
31 will or may be added to the development;

32 (i) The identification of any real property not in the development,
33 the owner of which has access to any of the development, and a
34 description of the terms of such access;

35 (j) The identification of any real property not in the development
36 to which owners in the development have access and a description of the
37 terms of such access;

- 1 (k) The status of construction of improvements in the development,
2 including either the estimated dates of completion if not completed or
3 the fact that such estimated completion dates have not yet been
4 determined; and the estimated costs, if any, to be paid by the
5 purchaser;
- 6 (l) The estimated current owners' association expense, if any, for
7 which a purchaser would be liable;
- 8 (m) An estimate of any payment with respect to any owners'
9 association expense for which the purchaser would be liable at closing;
- 10 (n) The estimated current amount and purpose of any fees not
11 included in any owners' association assessments and charged by the
12 developer or any owners' association for the use of any of the
13 development or improvements thereto;
- 14 (o) Any assessments which have been agreed to or are known to the
15 developer and which, if not paid, may constitute a lien against any
16 portion of the development in favor of any governmental agency;
- 17 (p) The identification of any parts of the development which any
18 purchaser will have the responsibility for maintaining;
- 19 (q) A brief description of any blanket encumbrance which is subject
20 to the provisions of RCW 58.19.180;
- 21 (r) A list of any physical hazards known to the developer which
22 particularly affect the development or the immediate vicinity in which
23 the development is located and which are not readily ascertainable by
24 the purchaser;
- 25 (s) A brief description of any construction warranties to be
26 provided to the purchaser;
- 27 (t) Any building code violation citations received by the developer
28 in connection with the development which have not been corrected;
- 29 (u) A statement of any unsatisfied judgments or pending suits
30 against any owners' association involved in the development and a
31 statement of the status of any pending suits material to the
32 development of which the developer has actual knowledge;
- 33 (v) A notice which describes a purchaser's right to cancel the
34 purchase agreement or extend the closing under RCW 58.19.045(3),
35 including applicable time frames and procedures;
- 36 (w) A list of the documents which the prospective purchaser is
37 entitled to receive from the developer before the rescission period
38 commences;
- 39 (x) A notice which states:

1 "A purchaser may not rely on any representation or express warranty
2 unless it is contained in the public offering statement or made in
3 writing signed by the developer or by any person identified in the
4 public offering statement as the declarant's agent";

5 (y) A notice which states:

6 "This public offering statement is only a summary of some of the
7 significant aspects of purchasing an interest in this development and
8 any documents which may govern or affect the development may be
9 complex, may contain other important information, and create binding
10 legal obligations. You should consider seeking assistance of legal
11 counsel"; and

12 (z) Any other information and cross-references which the developer
13 believes will be helpful in describing the development to the
14 recipients of the public offering statement, all of which may be
15 included or not included at the option of the developer.

16 (2) The public offering statement shall include copies of each of
17 the following documents: Any declaration of covenants, conditions,
18 restrictions, and reservations affecting the development; any survey,
19 plat, or subdivision map; the articles of incorporation of any owners'
20 association; the bylaws of any owners' association; the rules and
21 regulations, if any, of any owners' association; current or proposed
22 budget for any owners' association; and the balance sheet of any
23 owners' association current within ninety days if assessments have been
24 collected for ninety days or more.

25 If any of the foregoing documents listed in this subsection are not
26 available because they have not yet been executed, adopted, or
27 recorded, drafts of such documents shall be provided with the public
28 offering statement, and, before closing the sale of an interest in the
29 development, the purchaser shall be given copies of any material
30 changes between the draft of the proposed documents and the final
31 documents.

32 (3) The disclosures required by subsection (1)(v), (x), and (y) of
33 this section shall be located at the top of the first page of the
34 public offering statement and be typed or printed in ten-point bold
35 face type size.

36 (4) The disclosures required by subsection (1)(r) of this section
37 shall be listed on a separate page from the other disclosures required
38 by this section and shall be printed or typed in ten-point type. If

1 the development or any portion of the development described in the
2 public offering statement is located within the area mapped as the one
3 hundred year flood plain as shown on flood insurance rate maps provided
4 by the federal emergency management agency for the national flood
5 insurance program, this shall be listed as a physical hazard under
6 subsection (1)(r) of this section.

7 NEW SECTION. **Sec. 302.** A new section is added to chapter 64.04
8 RCW to read as follows:

9 The seller of real property located in an area mapped in the one
10 hundred year flood plain, as shown on the most recent flood insurance
11 rate maps provided by the federal emergency management agency for the
12 national flood insurance program, shall inform the buyer that the
13 property is located in the one hundred year flood plain and may be
14 subject to land use restrictions. The seller shall inform the buyer in
15 the first written document constituting an agreement of sale. Proof of
16 notification prior to closing is the responsibility of the seller.

17 NEW SECTION. **Sec. 303.** A new section is added to chapter 64.04
18 RCW to read as follows:

19 The location of real property within the area mapped as the one
20 hundred year flood plain, as shown on flood insurance rate maps
21 provided by the federal emergency management agency for the national
22 flood insurance program, is declared to be a hidden defect in the real
23 property that shall be disclosed by the seller of the real property or
24 an ownership interest in the real property.

25 **Sec. 304.** RCW 86.16.031 and 1989 c 64 s 3 are each amended to read
26 as follows:

27 The department of ecology shall:

28 (1) Review and approve county, city, or town flood plain management
29 ordinances pursuant to RCW 86.16.041;

30 (2) When requested, provide guidance and assistance to local
31 governments in development and amendment of their flood plain
32 management ordinances;

33 (3) Provide technical assistance to local governments in the
34 administration of their flood plain management ordinances;

35 (4) Provide local governments and the general public with
36 information related to the national flood insurance program;

1 (5) When requested, provide assistance to local governments in
2 enforcement actions against any individual or individuals performing
3 activities within the flood plain that are not in compliance with
4 local, state, or federal flood plain management requirements;

5 (6) Establish state minimum requirements that (~~equal minimum~~)
6 include federal requirements for the national flood insurance program;

7 (7) Assist counties, cities, and towns in identifying the location
8 of the one hundred year flood plain, and petitioning the federal
9 government to alter its designations of where the one hundred year
10 flood plain is located if the federally recognized location of the one
11 hundred year flood plain is found to be inaccurate; and

12 (8) (~~Establish minimum state requirements for specific flood~~
13 ~~plains that exceed the minimum federal requirements for the national~~
14 ~~flood insurance program, but only if:~~

15 ~~(a) The location of the one hundred year flood plain has been~~
16 ~~reexamined and is certified by the department as being accurate;~~

17 ~~(b) negotiations have been held with the affected county, city, or~~
18 ~~town over these regulations;~~

19 ~~(c) public input from the affected community has been obtained; and~~

20 ~~(d) the department makes a finding that these increased~~
21 ~~requirements are necessary due to local circumstances and general~~
22 ~~public safety)) File copies of the flood insurance rate maps, provided
23 by the federal emergency management agency for the national flood
24 insurance program, with the county auditor in each county in which
25 property shown on the maps is located. The department shall, on an
26 annual basis, file revised maps with each county auditor in counties
27 for which the maps are revised.~~

28 **PART IV**

29 **MISCELLANEOUS**

30 NEW SECTION. **Sec. 401.** Part headings as used in this act
31 constitute no part of the law.

32 NEW SECTION. **Sec. 402.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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