

FINAL BILL REPORT

ESHB 1963

C 9 L 99

Synopsis as Enacted

Brief Description: Allowing the rebuilding of a farmhouse in a floodway under certain circumstances.

Sponsors: By House Committee on Local Government (Originally sponsored by Representatives Koster, Dunshee, O'Brien, Anderson, G. Chandler, Sump, Dunn, B. Chandler and Mulliken).

House Committee on Local Government
Senate Committee on State & Local Government

Background:

The federal National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 were enacted in an effort to alleviate flood damages and expenditures of government funds. The Department of Ecology (DOE) coordinates the flood plain management regulation elements of the national flood insurance program (NFIP) in Washington. Local flood plain management regulations applicable to construction activities which might affect the security of life, health and property against flood damage must include:

- local government administration of NFIP regulatory requirements;
- minimum state requirements for flood plain management that equal the minimum federal requirements for the NFIP; and
- regulatory orders to ensure compliance.

State and local flood plain management regulations are based on designated special flood hazard areas on Federal Emergency Management Agency (FEMA) maps. Civil penalties may be imposed for violating flood plain management regulations.

The DOE is required to establish minimum state requirements and has authority to approve or reject designs and plans for structures or works constructed across the floodway of any stream or water body in the state. The DOE may provide technical and other assistance to local governments with respect to flood plain management.

A local flood plain management ordinance or amendment takes effect 30 days from filing with the DOE unless disapproved within that period. The DOE may disapprove a local flood plain ordinance or amendment if it does not comply with the minimum NFIP or state requirements. The DOE also may disapprove if the local flood plain management

ordinance or amendment does not restrict land uses within designated floodways, including prohibiting of construction or reconstruction of residential structures except:

- repairs, reconstruction or improvements not increasing ground floor area; and
- repairs, reconstruction or improvements, the cost of which does not exceed 50 percent of the structure's market value either before the repair started or before the damage occurred.

Summary:

An exemption to the floodway prohibition is created for farmhouses, and a mechanism for the DOE to consider waiving the floodway prohibition for other structures is established. A "farmhouse" is defined as a single-family dwelling locating on a farm site where resulting agricultural products are not produced for the primary consumption or use by the dwelling's occupants and owner.

Existing farmhouses in designated floodways and located on lands designated as agricultural lands of long-term commercial significance according to the Growth Management Act (GMA) are exempt from the prohibition against construction or replacement of existing farmhouses in designated floodways if the following conditions are satisfied:

- the new farmhouse replaces of an existing farmhouse on the same farm site;
- no potential building site outside the designated floodway exists for a replacement farmhouse on the same farm;
- replacement, repairs, reconstruction or improvements do not exceed or increase the total square footage of encroachment of the existing farmhouse;
- the entire existing farmhouse, if replaced, is completely removed within 90 days after occupancy of the new farmhouse;
- for substantial improvements and replacements, the lowest floor elevation (including basement) is one foot higher than the base flood elevation;
- new and replacement water supply and sanitary sewer systems are designed to eliminate or minimize flood water infiltration or sanitary sewer discharge into flood waters; and
- utilities and utility connections are located to eliminate or minimize flood damage.

For residential structures other than farmhouses, the DOE, using scientific analysis, may assess the risk of harm to life and property related to the specific floodway conditions and exercise best professional judgment regarding recommendations on repair, replacement, reconstruction or relocation of damaged structures. Siting of replacement homes other than farmhouses must evaluate flood depth, flood velocity and flood-related erosion to identify a building site with the least risk of harm to life and property. The DOE's recommendation to allow repair or replacement constitutes a waiver of the floodway prohibition.

The DOE is required to develop rules to guide assessment procedures and criteria for repair or replacement of farmhouses and other residential structures.

Votes on Final Passage:

House 98 0

Senate 47 0

Effective: April 15, 1999