

FINAL BILL REPORT

ESHB 2934

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Synopsis as Enacted

Brief Description: Making changes to flood plain construction limitations.

Sponsors: Representative Koster.

House Committee on Local Government

Senate Committee on State & Local Government

Background:

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 for construction activities which might affect the security of life, health and property must comply with the NFIP and state requirements for flood plain management.

State and local flood plain management regulations are based on designated special flood hazard areas on Federal Emergency Management Agency (FEMA) maps. The DOE establishes 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 also may disapprove such designs and plans if the local flood plain management ordinance or amendment does not restrict land uses within designated floodways, including prohibiting 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.

Work done to comply with local health, sanitary, or safety codes is exempt from the 50 percent determination regarding market value for purposes of the floodway prohibition. Historic structures are also exempt from the 50 percent determination.

Legislation enacted in 1999 exempted existing farmhouses in designated floodways from the general floodway prohibition against substantial repair or reconstruction provided certain conditions are satisfied. The 1999 legislation also allowed the DOE to consider recommending repair or replacement of residential structures other than

farmhouses and required the DOE to adopt rules by December 31, 1999, related to the new authority.

Summary of Bill:

The exemption from the 50 percent determination related to floodway construction for work done to comply with local health, sanitary or safety codes is amended. Projects to correct local health, sanitary, or safety code violations identified by a local code or building enforcement official are exempt from the 50 percent determination if they are the minimum necessary to ensure safe living conditions.

The exemption from the 50 percent determination related to floodway construction for structures identified as historic places is replaced with an exemption from the floodway prohibition for historic structures.

Substantially damaged residential structures, other than farmhouses, located in designated floodways may also be exempt from the floodway prohibition under certain circumstances. Upon request of a local government, the DOE may recommend repair, replacement or relocation of substantially damaged residential structures other than farmhouses. The DOE must assess the risk of harm to life and property posed by floodway conditions and base its recommendation on scientific analysis of depth, velocity and flood-related erosion. The DOE's recommendation, with the local government's concurrence, to allow repair or replacement of such a substantially damaged residential structure is a waiver of the floodway prohibition.

The deadline for the DOE to develop rules related to the assessment procedures and criteria for repair, replacement or relocation of residential structures other than farmhouses is extended to December 31, 2000.

Votes on Final Passage:

House 97 0

Senate 46 0

Effective: June 8, 2000