

HOUSE BILL REPORT

SSB 5649

As Passed House - Amended:

February 27, 2024

Title: An act relating to improvements to residential structures to reduce risk of flood damage.

Brief Description: Concerning floodproofing improvements to residential structures undertaken in accordance with the Chehalis basin strategy.

Sponsors: Senate Committee on Local Government, Land Use & Tribal Affairs (originally sponsored by Senator Braun).

Brief History:

Committee Activity:

Local Government: 3/22/23, 3/24/23 [DP], 2/16/24, 2/20/24 [DPA].

Floor Activity:

Passed House: 2/27/24, 95-0.

Brief Summary of Substitute Bill (As Amended by House)

- Allows the Department of Ecology, with the local government's concurrence, to waive the prohibition on the construction, repair, or replacement of a residential structure within a designated floodway for a proposed project that substantially improves the residential structure for the primary purpose of reducing the risk of flood damage.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass as amended. Signed by 7 members: Representatives Duerr, Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Berg, Griffey and Riccelli.

Staff: Kellen Wright (786-7134).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

National Flood Insurance Program.

The federal government has established the National Flood Insurance Program (NFIP) to offer property owners insurance against flood damage and to reduce flood damage through floodplain management. Through the NFIP, flood insurance is made available to communities that adopt restrictions on floodplain development.

Floodplain Management in Washington.

Floodplain management in Washington is exercised through local government administration of the NFIP regulation requirements, the establishment of statewide minimum requirements for floodplains, and the issuance of regulatory orders for the planning, construction, operation, and maintenance of any works, structures, or improvements that might, if improperly planned, constructed, operated, or maintained, lead to increased floodwater damage.

The Department of Ecology (Department) is responsible for coordinating floodplain management for the state. The Department is charged with, among other things, reviewing local government floodplain management ordinances.

All local governments must submit any new or amended floodplain management ordinances to the Department for review. The ordinance may take effect 30 days after the submission to the Department, unless the Department disapproves the ordinance. The Department may disapprove any ordinance that does not comply with:

- minimum NFIP requirements;
- minimum state requirements; or
- restrictions on land use within designated floodways, including the prohibition on the construction, repair, or replacement of residential structures, except for repairs or improvements that do not increase the ground floor area, and repairs and improvements that do not cost more than 50 percent of the market value of the property prior to the repair or improvement, or, in the case of repairs to a damaged building, prior to the damage.

The prohibition on construction, repair, replacement, or substantial improvement does not apply to existing farmhouses located on lands of long-term agricultural significance under certain conditions. The Department, with the concurrence of the local government, can also waive the prohibition on the repair or replacement of a substantially damaged residential structure if the Department assesses the risk posed by the specific conditions of the floodway and, exercising its best professional judgment, recommends the repair or replacement of the structure, and the local government concurs.

A floodway is the channel of a watercourse plus any adjacent floodplain areas that must be kept free of encroachment so that the 100-year flood discharge can be conveyed without increasing the elevation of the 100-year flood by more than 1 foot. A 100-year flood is a

flood that has a 1 percent chance of being equaled or exceeded in any given year.

Summary of Amended Bill:

The Department, with the concurrence of the local government, may waive the prohibition on the construction, repair, or replacement of a residential structure within a designated floodway for a proposed project that substantially improves the residential structure for the primary purpose of reducing the risk of flood damage if the Department assesses the risk posed by the specific conditions of the floodway and, exercising its best professional judgment, recommends that the project proceed.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 27, 2024.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This committee heard this bill last year. It is trying to make a simple change to the law to allow for those living in a floodway to potentially mitigate the damage from a flood. Currently, they can apply for a waiver to repair damage, but cannot apply for one ahead of time to make improvements to prevent the damage. This is important for families that live in the floodway, and who have potentially lived there for generations. This will help to avoid them being pushed out of their homes because of additional repair costs. This bill is particularly important for small or mid-sized homes, because the prohibition on substantial improvements applies to improvements that cost 50 percent or more of the home's value, and you get to that threshold more quickly for smaller homes. This would not give a blanket waiver, but only allow for a waiver after a case-by-case analysis. This bill would give more flexibility for mitigating flood risk.

(Opposed) None.

Persons Testifying: Senator John Braun, prime sponsor; and Jonathon Loos, Washington State Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.