

# SENATE BILL REPORT

## SB 5649

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As Reported by Senate Committee On:  
Local Government, Land Use & Tribal Affairs, February 16, 2023

**Title:** An act relating to floodproofing improvements to residential structures undertaken in accordance with the Chehalis basin strategy.

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

**Sponsors:** Senator Braun.

**Brief History:**

**Committee Activity:** Local Government, Land Use & Tribal Affairs: 2/14/23, 2/16/23 [DPS].

**Brief Summary of First Substitute Bill**

- Provides that the Department of Ecology's recommendation to waive the floodway prohibition for the repair and replacement of substantially damaged residential structure may apply to proposed projects that substantially improve residential structures for the primary purpose of reducing risk of flood damage.

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### SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

**Majority Report:** That Substitute Senate Bill No. 5649 be substituted therefor, and the substitute bill do pass.

Signed by Senators Lovelett, Chair; Salomon, Vice Chair; Torres, Ranking Member; Kauffman and Short.

**Staff:** Maggie Douglas (786-7279)

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*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 National Flood Insurance Program (NFIP), administered by the Federal Emergency Management Agency, provides flood insurance to property owners, renters, and businesses to reduce the economic impacts of floods. The NFIP is a public-private partnership between the federal government, the property and casualty insurance industry, states, local officials, lending institutions, and property owners.

Floodplain Management. The Department of Ecology (Ecology) is responsible for coordinating floodplain management regulations of the NFIP. Counties and incorporated cities are required to adopt floodplain management ordinances that comply with the minimum standards set forth in the NFIP and state statute. Floodplain management ordinances may restrict development in floodways and require flood resistant or floodproofed buildings in flood-prone areas. Jurisdictions required to adopt floodplain management ordinances must submit any new ordinances or amendments to existing ordinances to Ecology.

Ecology may disapprove any ordinance or amendment if it finds the ordinance or amendment does not comply with:

- the restriction of land uses within designated floodways, including the prohibition of construction or reconstruction, repair, or replacement of residential structures, except for:
  1. repairs, reconstruction, or improvements to a structure which do not increase the ground floor area;
  2. repairs, reconstruction, or improvements to a structure the cost of which does not exceed 50 percent of the market value of the structure either before the repair is started or, if the structure has been damaged, before the damage occurred; and
- the minimum requirements of the national flood insurance program; and
- the minimum state requirements adopted under the floodplain management program that are applicable to a particular county, city, or town.

Ecology, at the request of a local jurisdiction, may assess the risk of harm to life and property posed by specific conditions of the floodway, and may exercise best professional judgement in recommending to the permitting authority the repair, replacement, or relocation of damaged structures. Ecology's recommendation to allow repair or replacement of a substantially damaged residential structure within the designated floodway is a waiver of the floodway prohibition.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (First Substitute):** Ecology's recommendation to allow repair or replacement of a substantially damaged residential structure within the designated floodway may apply to proposed projects that substantially improve residential structures for the primary purpose of reducing risk of flood damage.

**EFFECT OF CHANGES MADE BY LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS COMMITTEE (First Substitute):**

- Removes exemption from prohibition of construction or reconstruction within a designated floodway for dry or wet floodproofing improvements to residential structures

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Proposed Substitute:** *The committee recommended a different version of the bill than what was heard.* PRO: This bill would allow smaller projects basin wide that will protect people's homes from major flooding. Right now, if a resident has a home in a floodway and they want to protect it against damage from a flood, they are prohibited from doing so if the cost of those improvements is greater than 50 percent of the value of the home. FEMA has reevaluated flood mappings creating a new floodway. A few homes are now in the new floodway area, lowering their value, bringing any repairs above that 50 percent value. Consequentially these homeowners are not able to make vital floodproofing improvements to their residences. This is a way to build resilience for families who want to stay where they are at or do not have the means to relocate.

OTHER: Washington's flood law mirrors the federal floodplain rules, and includes a higher regulatory standard that prohibits new residential construction in the floodway. State law prohibits substantial improvements to homes in the floodway. Current law provides that the Department of Ecology may provide a site-specific waiver for improvements to repair if homes in the floodway have been damaged. This bill would allow those improvements to happen before the damage occurs.

**Persons Testifying:** PRO: Senator John Braun, Prime Sponsor; Robert Gordon, Mayor, Town Of Bucoda.

OTHER: Tim Gates, WA Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** No one.