

SSB 5649 - H COMM AMD  
By Committee on Local Government

ADOPTED 02/27/2024

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the office of  
4 Chehalis basin in the department of ecology is directed to  
5 aggressively pursue implementation of an integrated strategy for  
6 long-term flood damage reduction in the Chehalis river basin. The  
7 legislature recognizes that restrictions on improvements to  
8 residential structures located in floodways may impede the office's  
9 ability to successfully carry out the Chehalis basin strategy.  
10 Therefore, the legislature intends to create additional regulatory  
11 flexibility to allow substantial improvements to residential  
12 structures for the primary purpose of reducing risk of flood damage  
13 in floodways.

14 **Sec. 2.** RCW 86.16.041 and 2000 c 222 s 1 are each amended to  
15 read as follows:

16 (1) Beginning July 26, 1987, every county and incorporated city  
17 and town shall submit to the department of ecology any new floodplain  
18 management ordinance or amendment to any existing floodplain  
19 management ordinance. Such ordinance or amendment shall take effect  
20 (~~thirty~~) 30 days from filing with the department unless the  
21 department disapproves such ordinance or amendment within that time  
22 period.

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

26 (a) Restriction of land uses within designated floodways  
27 including the prohibition of construction or reconstruction, repair,  
28 or replacement of residential structures, except for: (i) Repairs,  
29 reconstruction, or improvements to a structure which do not increase  
30 the ground floor area; and (ii) repairs, reconstruction, or  
31 improvements to a structure the cost of which does not exceed

1 ((fifty)) 50 percent of the market value of the structure either, (A)  
2 before the repair, reconstruction, or repair is started, or (B) if  
3 the structure has been damaged, and is being restored, before the  
4 damage occurred. Any project for improvement of a structure to  
5 correct existing violations of state or local health, sanitary, or  
6 safety code specifications that have been identified by the local  
7 code or building enforcement official and which are the minimum  
8 necessary to ensure safe living conditions shall not be included in  
9 the ((fifty)) 50 percent determination. However, the floodway  
10 prohibition in this subsection does not apply to existing farmhouses  
11 in designated floodways that meet the provisions of subsection (3) of  
12 this section, ((or)) to ((substantially—damaged)) existing  
13 residential structures other than farmhouses that meet the depth and  
14 velocity and erosion analysis in subsection (4) of this section, or  
15 to structures identified as historic places;

16 (b) The minimum requirements of the national flood insurance  
17 program; and

18 (c) The minimum state requirements adopted pursuant to RCW  
19 86.16.031(8) that are applicable to the particular county, city, or  
20 town.

21 (3) Repairs, reconstruction, replacement, or improvements to  
22 existing farmhouse structures located in designated floodways and  
23 which are located on lands designated as agricultural lands of long-  
24 term commercial significance under RCW 36.70A.170 shall be permitted  
25 subject to the following:

26 (a) The new farmhouse is a replacement for an existing farmhouse  
27 on the same farm site;

28 (b) There is no potential building site for a replacement  
29 farmhouse on the same farm outside the designated floodway;

30 (c) Repairs, reconstruction, or improvements to a farmhouse shall  
31 not increase the total square footage of encroachment of the existing  
32 farmhouse;

33 (d) A replacement farmhouse shall not exceed the total square  
34 footage of encroachment of the farmhouse it is replacing;

35 (e) A farmhouse being replaced shall be removed, in its entirety,  
36 including foundation, from the floodway within ((ninety)) 90 days  
37 after occupancy of a new farmhouse;

38 (f) For substantial improvements, and replacement farmhouses, the  
39 elevation of the lowest floor of the improvement and farmhouse

1 respectively, including basement, is a minimum of one foot higher  
2 than the base flood elevation;

3 (g) New and replacement water supply systems are designed to  
4 eliminate or minimize infiltration of flood waters into the system;

5 (h) New and replacement sanitary sewerage systems are designed  
6 and located to eliminate or minimize infiltration of flood water into  
7 the system and discharge from the system into the flood waters; and

8 (i) All other utilities and connections to public utilities are  
9 designed, constructed, and located to eliminate or minimize flood  
10 damage.

11 (4) (a) For all substantially damaged residential structures other  
12 than farmhouses that are located in a designated floodway, the  
13 department, at the request of the town, city, or county with land use  
14 authority over the structure, is authorized to assess the risk of  
15 harm to life and property posed by the specific conditions of the  
16 floodway, and, based upon scientific analysis of depth, velocity, and  
17 flood-related erosion, may exercise best professional judgment in  
18 recommending to the permitting authority, repair, replacement, or  
19 relocation of such damaged structures. The effect of the department's  
20 recommendation, with the town, city, or county's concurrence, to  
21 allow repair or replacement of a substantially damaged residential  
22 structure within the designated floodway is a waiver of the floodway  
23 prohibition.

24 (b) For proposed projects that substantially improve residential  
25 structures in a designated floodway for the primary purpose of  
26 reducing risk of flood damage, the department, at the request of the  
27 town, city, or county with land use authority over the structures, is  
28 authorized to assess the risk of harm to life and property posed by  
29 the specific conditions of the floodway, and, based upon scientific  
30 analysis of depth, velocity, and flood-related erosion, may exercise  
31 best professional judgment in recommending to the permitting  
32 authority whether a project should proceed. The effect of the  
33 department's recommendation, with the town, city, or county's  
34 concurrence, to allow a project to proceed within the designated  
35 floodway is a waiver of the floodway prohibition.

36 (5) The department shall develop a rule or rule amendment guiding  
37 the assessment procedures and criteria described in subsections (3)  
38 and (4) of this section no later than December 31, 2000.

39 (6) For the purposes of this section, "farmhouse" means a single-  
40 family dwelling located on a farm site where resulting agricultural

1 products are not produced for the primary consumption or use by the  
2 occupants and the farm owner."

3 Correct the title.

EFFECT: Provides that the floodway prohibition may be waived for proposed projects that substantially improve residential structures in the designated floodway for the primary purpose of reducing risk of flood damage under certain conditions, and clarifies that such residential structures do not have to be substantially damaged to qualify for the potential waiver.

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