
SUBSTITUTE SENATE BILL 5649

State of Washington

68th Legislature

2023 Regular Session

By Senate Local Government, Land Use & Tribal Affairs (originally sponsored by Senator Braun)

READ FIRST TIME 02/17/23.

1 AN ACT Relating to improvements to residential structures to
2 reduce risk of flood damage; amending RCW 86.16.041; and creating a
3 new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

18 (1) Beginning July 26, 1987, every county and incorporated city
19 and town shall submit to the department of ecology any new floodplain
20 management ordinance or amendment to any existing floodplain

1 management ordinance. Such ordinance or amendment shall take effect
2 (~~thirty~~) 30 days from filing with the department unless the
3 department disapproves such ordinance or amendment within that time
4 period.

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

8 (a) Restriction of land uses within designated floodways
9 including the prohibition of construction or reconstruction, repair,
10 or replacement of residential structures, except for: (i) Repairs,
11 reconstruction, or improvements to a structure which do not increase
12 the ground floor area; and (ii) repairs, reconstruction, or
13 improvements to a structure the cost of which does not exceed
14 (~~fifty~~) 50 percent of the market value of the structure either, (A)
15 before the repair, reconstruction, or repair is started, or (B) if
16 the structure has been damaged, and is being restored, before the
17 damage occurred. Any project for improvement of a structure to
18 correct existing violations of state or local health, sanitary, or
19 safety code specifications that have been identified by the local
20 code or building enforcement official and which are the minimum
21 necessary to ensure safe living conditions shall not be included in
22 the (~~fifty~~) 50 percent determination. However, the floodway
23 prohibition in this subsection does not apply to existing farmhouses
24 in designated floodways that meet the provisions of subsection (3) of
25 this section, (~~or~~) to (~~substantially damaged~~) existing
26 residential structures other than farmhouses that meet the depth and
27 velocity and erosion analysis in subsection (4) of this section, or
28 to structures identified as historic places;

29 (b) The minimum requirements of the national flood insurance
30 program; and

31 (c) The minimum state requirements adopted pursuant to RCW
32 86.16.031(8) that are applicable to the particular county, city, or
33 town.

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

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

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

3 (c) Repairs, reconstruction, or improvements to a farmhouse shall
4 not increase the total square footage of encroachment of the existing
5 farmhouse;

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

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

11 (f) For substantial improvements, and replacement farmhouses, the
12 elevation of the lowest floor of the improvement and farmhouse
13 respectively, including basement, is a minimum of one foot higher
14 than the base flood elevation;

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

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

20 (i) All other utilities and connections to public utilities are
21 designed, constructed, and located to eliminate or minimize flood
22 damage.

23 (4) For all substantially damaged residential structures other
24 than farmhouses that are located in a designated floodway, the
25 department, at the request of the town, city, or county with land use
26 authority over the structure, is authorized to assess the risk of
27 harm to life and property posed by the specific conditions of the
28 floodway, and, based upon scientific analysis of depth, velocity, and
29 flood-related erosion, may exercise best professional judgment in
30 recommending to the permitting authority, repair, replacement, or
31 relocation of such damaged structures. The effect of the department's
32 recommendation, with the town, city, or county's concurrence, to
33 allow repair or replacement of a substantially damaged residential
34 structure within the designated floodway is a waiver of the floodway
35 prohibition.

36 The waiver provision in this subsection also applies to proposed
37 projects that substantially improve residential structures for the
38 primary purpose of reducing risk of flood damage.

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

4 (6) For the purposes of this section, "farmhouse" means a single-
5 family dwelling located on a farm site where resulting agricultural
6 products are not produced for the primary consumption or use by the
7 occupants and the farm owner.

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