

Local Government Committee

BILL ANALYSIS HB 2066

TITLE OF THE BILL: Allowing the reconstruction of a damaged dwelling, owned by a commercial farmer, located in a floodway.

WHAT THIS BILL DOES: *Allows reconstruction or replacement of existing farmhouses located in designated floodways under certain circumstances.*

SPONSORS: Representatives Dunshee and Linville

HEARING DATE: Thursday, February 25, 1999

FISCAL NOTE: Not requested.

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BACKGROUND:

The federal National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 were enacted in an effort to alleviate flood damages and expenditures of government funds. The Department of Ecology (DOE) is the state agency responsible for coordinating the flood plain management regulation elements of the national flood insurance program in Washington.

State statute provides that flood plain management regulations applicable to construction of structures and other activities which might affect the security of life, health and property against damage by flood water are to include:

- local government administration of national flood insurance program regulatory requirements;
- minimum state requirements for flood plain management that equal the minimum federal requirements for the national flood insurance program; and
- regulatory orders to ensure compliance.

State and local flood plain management regulations are based on areas designated as special flood hazard areas on Federal Emergency Management Agency maps provided for the national flood insurance program. Violation of the flood plain management regulation may subject a person to civil penalties.

The DOE is required to establish the minimum state requirements. The DOE has authority to approve or reject designs and plans for structures or works to be constructed across the floodway of any stream or water body in the state. The DOE also has authority to approve or reject local flood plain management ordinances and amendments and to provide technical and other assistance to local governments with respect to flood plain management.

A local flood plain management ordinance or amendment takes effect thirty days from filing with the DOE unless the DOE disapproves it within that period. The DOE may disapprove a local flood plain ordinance or amendment if the DOE finds that it does not comply with the minimum requirements of the national flood insurance program or the minimum state requirements established by the DOE. The DOE also has authority to disapprove if the local flood plain management ordinance or amendment does not restrict land uses within designated floodways, including prohibition of 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 fifty percent of the structure's market value either before the repair started or before the damage occurred.

SUMMARY:

A residence that has lost at least fifty percent of its value from damage or destruction may be reconstructed or replaced in a designated floodway at a cost exceeding fifty percent of market value if:

- the residence is owned by a farmer and used as his or her principal residence;
- the farmer's principal livelihood involves commercial farm activities on land immediately adjacent to the residence;
- the adjacent land is designated as agricultural land of long-term commercial significance according to Growth Management Act requirements;
- the reconstructed or replacement residence:
 - is located on the same site as the damaged or destroyed residence;
 - does not exceed the total square footage of the damaged or destroyed residence;
 - does not increase the total square footage of encroachment of the damaged or destroyed residence into the floodway;
- no potential building site outside the designated floodway exists for a replacement farmhouse on the adjacent land;
- the lowest floor elevation (including basement) of the reconstructed or replaced residence must be one foot higher than the base flood elevation;
- a new and replacement water supply system must be designed to eliminate or minimize flood water infiltration or sanitary sewer discharge into flood waters; and
- utilities and utility connections must be located to eliminate or minimize flood damage.