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**SUBSTITUTE HOUSE BILL 2934**

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**State of Washington**

**56th Legislature**

**2000 Regular Session**

**By** House Committee on Local Government (originally sponsored by Representative Koster)

Read first time 02/02/2000. Referred to Committee on .

1 AN ACT Relating to accessory buildings and structures within the  
2 flood plain; and amending RCW 86.16.041.

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

4 **Sec. 1.** RCW 86.16.041 and 1999 c 9 s 1 are each amended to read as  
5 follows:

6 (1) Beginning July 26, 1987, every county and incorporated city and  
7 town shall submit to the department of ecology any new flood plain  
8 management ordinance or amendment to any existing flood plain  
9 management ordinance. Such ordinance or amendment shall take effect  
10 thirty days from filing with the department unless the department  
11 disapproves such ordinance or amendment within that time period.

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

15 (a) Restriction of land uses within designated floodways including  
16 the prohibition of construction or reconstruction, repair, or  
17 replacement of residential structures, except for: (i) Repairs,  
18 reconstruction, or improvements to a structure which do not increase  
19 the ground floor area; and (ii) repairs, reconstruction, or

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

19 (b) The minimum requirements of the national flood insurance  
20 program; and

21 (c) The minimum state requirements adopted pursuant to RCW  
22 86.16.031(8) that are applicable to the particular county, city, or  
23 town.

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

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

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

33 (c) Repairs, reconstruction, or improvements to a farmhouse shall  
34 not increase the total square footage of encroachment of the existing  
35 farmhouse;

36 (d) A replacement farmhouse shall not exceed the total square  
37 footage of encroachment of the (~~structure~~) farmhouse it is replacing;

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

4 (f) For substantial improvements, and replacement farmhouses, the  
5 elevation of the lowest floor of the improvement and farmhouse  
6 respectively, including basement, is a minimum of one foot higher than  
7 the base flood elevation;

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

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

13 (i) All other utilities and connections to public utilities are  
14 designed, constructed, and located to eliminate or minimize flood  
15 damage.

16 ~~(4) ((Replacement home siting other than farmhouses must evaluate  
17 flood depth, flood velocity, and flood related erosion, in order to  
18 identify a building site that offers the least risk of harm to life and  
19 property.~~

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

33 ~~((+6))~~ (5) The department shall develop a rule or rule amendment  
34 guiding the assessment procedures and criteria described in subsections  
35 ~~(3)((7))~~ and (4)((7, and (5)) of this section no later than December  
36 31, ~~((1999))~~ 2000.

37 ~~((+7))~~ (6) For the purposes of this section, "farmhouse" means a  
38 single-family dwelling ~~((locating {located}))~~ located on a farm site

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

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