

---

HOUSE BILL 2934

---

State of Washington

56th Legislature

2000 Regular Session

By Representative Koster

Read first time 01/24/2000. Referred to Committee on Local Government.

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  
7 and 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. However, the floodway  
8 prohibition in this subsection does not apply to existing farmhouses in  
9 designated floodways that meet the provisions of subsection (3) of this  
10 section;

11 (b) The minimum requirements of the national flood insurance  
12 program; and

13 (c) The minimum state requirements adopted pursuant to RCW  
14 86.16.031(8) that are applicable to the particular county, city, or  
15 town.

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

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

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

25 (c) Repairs, reconstruction, or improvements to a farmhouse shall  
26 not increase the total square footage of encroachment of the existing  
27 farmhouse;

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

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

33 (f) For substantial improvements, and replacement farmhouses, the  
34 elevation of the lowest floor of the improvement and farmhouse  
35 respectively, including basement, is one foot higher than the base  
36 flood elevation;

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

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

4 (i) All other utilities and connections to public utilities are  
5 designed, constructed, and located to eliminate or minimize flood  
6 damage.

7 (4) The department may recommend to the permitting authority to  
8 approve the construction, reconstruction, repair, replacement, or  
9 relocation within the designated floodway of accessory buildings and  
10 structures. The department is authorized to assess the need for the  
11 accessory buildings and structures for farm operations, the risk of  
12 harm to life and property posed by the specific conditions of the  
13 floodway, and any conditions or restrictions on accessory buildings and  
14 structures that may eliminate or mitigate any such risks. Based upon  
15 these assessments and scientific analysis of depth, velocity, and  
16 flood-related erosion, the department may exercise best professional  
17 judgment in making recommendations to approve, or approve with  
18 conditions, the construction, reconstruction, repair, replacement, or  
19 relocation of accessory buildings and structures. The department's  
20 recommendation to approve the construction, reconstruction, repair,  
21 replacement, or relocation of accessory buildings and structures  
22 constitutes a waiver of the floodway prohibition subject to any  
23 conditions or restrictions recommended by the department.

24 (5) Replacement home siting other than farmhouses must evaluate  
25 flood depth, flood velocity, and flood-related erosion, in order to  
26 identify a building site that offers the least risk of harm to life and  
27 property.

28 ((+5)) (6) For all other residential structures located in a  
29 designated floodway and damaged by flooding or flood-related erosion,  
30 the department is authorized to assess the risk of harm to life and  
31 property posed by the specific conditions of the floodway, and, based  
32 upon scientific analysis of depth, velocity, and flood-related erosion,  
33 may exercise best professional judgment in recommending to the  
34 permitting authority, repair, replacement, or relocation of such  
35 damaged structures. The ((effect of the)) department's recommendation  
36 to ((allow)) approve repair or replacement of a flood-damaged residence  
37 within the designated floodway ((is)) constitutes a waiver of the  
38 floodway prohibition.

1        ~~((6))~~ (7) The department shall develop a rule or rule amendment  
2 guiding the assessment procedures and criteria described in subsections  
3 (3), ~~((4))~~ (5), and ~~((5))~~ (6) of this section no later than  
4 December 31, 1999. The department shall develop a rule or rule  
5 amendment guiding the assessment procedures and criteria described in  
6 subsection (4) of this section no later than December 31, 2000.

7        ~~((7))~~ (8) For the purposes of this section~~((7))~~:

8        (a) "Farmhouse" means a single-family dwelling ~~((locating~~  
9 ~~{located}))~~ located on a farm site where resulting agricultural  
10 products are not produced for the primary consumption or use by the  
11 occupants and the farm owner; and

12        (b) "Accessory building or structure" means a farm building or  
13 structure other than a farmhouse that is: (i) Located on a farm site  
14 designated as agricultural land of long-term commercial significance  
15 under RCW 36.70A.170; and (ii) necessary for the production on the farm  
16 of agricultural products that are not produced for the primary  
17 consumption or use by the occupants and the farm owner.

--- END ---