

HOUSE BILL REPORT

SSB 5649

As Reported by House Committee On:
Local Government

Title: An act relating to improvements to residential structures to reduce risk of flood damage.

Brief Description: Concerning floodproofing improvements to residential structures undertaken in accordance with the Chehalis basin strategy.

Sponsors: Senate Committee on Local Government, Land Use & Tribal Affairs (originally sponsored by Senator Braun).

Brief History:

Committee Activity:

Local Government: 3/22/23, 3/24/23 [DP].

Brief Summary of Substitute Bill

- Allows the Department of Ecology, with the local government's concurrence, to waive the prohibition on the construction, repair, or replacement of a residential structure within a designated floodway for a proposed project that substantially improves the residential structure for the primary purpose of reducing the risk of flood damage.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 7 members: Representatives Duerr, Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Berg, Griffey and Riccelli.

Staff: Kellen Wright (786-7134).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

National Flood Insurance Program.

The federal government has established the National Flood Insurance Program (NFIP) to offer property owners insurance against flood damage and to reduce flood damage through floodplain management. Through the NFIP, flood insurance is made available to communities that adopt restrictions on floodplain development.

Floodplain Management in Washington.

Floodplain management in Washington is exercised through local government administration of the NFIP regulation requirements, the establishment of statewide minimum requirements for floodplains, and the issuance of regulatory orders for the planning, construction, operation and maintenance of any works, structures or improvements that might, if improperly planned, constructed, operated, or maintained, lead to increased floodwater damage.

The Department of Ecology (Department) is responsible for coordinating floodplain management for the state. The Department is charged with, among other things, reviewing local government floodplain management ordinances.

All local governments must submit any new or amended floodplain management ordinances to the Department for review. The ordinance may take effect 30 days after the submission to the Department, unless the Department disapproves the ordinance. The Department may disapprove any ordinance that does not comply with:

- minimum NFIP requirements;
- minimum state requirements; or
- the restrictions on land use within designated floodways, including the prohibition on the construction, repair, or replacement of residential structures, except for repairs or improvements that do not increase the ground floor area, and repairs and improvements that do not cost more than 50 percent of the market value of the property prior to the repair or improvement, or, in the case of repairs to a damaged building, prior to the damage.

The prohibition on construction, repair, or replacement does not apply to existing farmhouses located on lands of long-term agricultural significance under certain conditions. The Department, with the concurrence of the local government, can also waive the prohibition on the repair or replacement of a substantially damaged residential structure if the Department assesses the risk posed by the specific conditions of the floodway and, exercising its best professional judgment, recommends the repair or replacement of the structure, and the local government concurs.

A floodway is the channel of a watercourse plus any adjacent floodplain areas that must be kept free of encroachment so that the 100-year flood discharge can be conveyed without increasing the elevation of the 100-year flood by more than 1 foot. A 100-year flood is a flood that has a 1 percent chance of being equaled or exceeded in any given year.

Summary of Bill:

The Department, with the concurrence of the local government, may waive the prohibition on the construction, repair, or replacement of a residential structure within a designated floodway for a proposed project that substantially improves the residential structure for the primary purpose of reducing the risk of flood damage if the Department assesses the risk posed by the specific conditions of the floodway and, exercising its best professional judgment, recommends the repair or replacement of the structure, and the local government concurs.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Current state and federal law prevents new structures from being built in the floodway. When existing structures are damaged by flooding, the Department can waive the restrictions to allow repair of the residence to occur. Washington is more restrictive than the federal standards on the prohibition of residential development in the floodway. State law prohibits building new homes or repairing or making substantial improvements to existing structures if the value of the repair or improvement is over 50 percent of the market value of the property. The bill provides that, for structures already in the floodway, the restrictions could also be waived for improvements that make the structures more resilient and resistant to future flooding. If an owner, at their own expense, would like to protect their home from flooding, they should be allowed to, and this helps both reduce insurance claims and the risk to existing structures, which will keep an existing structure livable and safe. The bill originally focused on the Chehalis River basin that has dealt with flooding for over 100 years. New flood maps from the Federal Emergency Management Agency brought existing homes into the floodplain, and a city in the basin wants to improve existing structures to prepare for future floods. Current law would prohibit this. The goal is to allow homes to be elevated or protected from flood damage before the damage happens, in the same circumstances that current law would allow the home to be protected after the home is damaged. This bill would not create a blanket waiver, but only a waiver in very specific circumstances. In order to get the waiver, there are criteria that have to be met in a technical assessment of the property. There are likely few circumstances where this would apply, but it can be an important opportunity to mitigate damage before it happens.

(Opposed) None.

Persons Testifying: Senator John Braun, prime sponsor; and Tim Gates, Washington State Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.