
SENATE BILL 5649

State of Washington

68th Legislature

2023 Regular Session

By Senator Braun

Read first time 01/31/23. Referred to Committee on Local Government,
Land Use & Tribal Affairs.

1 AN ACT Relating to floodproofing improvements to residential
2 structures undertaken in accordance with the Chehalis basin strategy;
3 amending RCW 86.16.041; and creating a 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 floodproofing residential structures may
10 be part of the office's strategy; however, restrictions on
11 improvements to residential structures located in floodways may
12 impede the office's ability to successfully carry out the Chehalis
13 basin strategy. Therefore, the legislature intends to create
14 additional regulatory flexibility for floodproofing residential
15 structures located in floodways in order to encourage successful
16 implementation of the Chehalis basin strategy.

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

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

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

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

9 (a) Restriction of land uses within designated floodways
10 including the prohibition of construction or reconstruction, repair,
11 or replacement of residential structures, except for: (i) Repairs,
12 reconstruction, or improvements to a structure which do not increase
13 the ground floor area; and (ii) repairs, reconstruction, or
14 improvements to a structure the cost of which does not exceed
15 (~~fifty~~) 50 percent of the market value of the structure either, (A)
16 before the repair, reconstruction, or repair is started, or (B) if
17 the structure has been damaged, and is being restored, before the
18 damage occurred. Any project for improvement of a structure to
19 correct existing violations of state or local health, sanitary, or
20 safety code specifications that have been identified by the local
21 code or building enforcement official and which are the minimum
22 necessary to ensure safe living conditions shall not be included in
23 the (~~fifty~~) 50 percent determination. However, the floodway
24 prohibition in this subsection does not apply to existing farmhouses
25 in designated floodways that meet the provisions of subsection (3) of
26 this section, (~~or~~) to substantially damaged residential structures
27 other than farmhouses that meet the depth and velocity and erosion
28 analysis in subsection (4) of this section, (~~or~~) to structures
29 identified as historic places, or to dry or wet floodproofing
30 improvements to residential structures undertaken in accordance with
31 the Chehalis basin strategy as provided in RCW 43.21A.732;

32 (b) The minimum requirements of the national flood insurance
33 program; and

34 (c) The minimum state requirements adopted pursuant to RCW
35 86.16.031(8) that are applicable to the particular county, city, or
36 town.

37 (3) Repairs, reconstruction, replacement, or improvements to
38 existing farmhouse structures located in designated floodways and
39 which are located on lands designated as agricultural lands of long-

1 term commercial significance under RCW 36.70A.170 shall be permitted
2 subject to the following:

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

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

7 (c) Repairs, reconstruction, or improvements to a farmhouse shall
8 not increase the total square footage of encroachment of the existing
9 farmhouse;

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

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

15 (f) For substantial improvements, and replacement farmhouses, the
16 elevation of the lowest floor of the improvement and farmhouse
17 respectively, including basement, is a minimum of one foot higher
18 than the base flood elevation;

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

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

24 (i) All other utilities and connections to public utilities are
25 designed, constructed, and located to eliminate or minimize flood
26 damage.

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

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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