

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
BILL NO. 2836

By: Martin (Scott) of the House

3
4 and

5 David of the Senate

6
7 (waters and water rights - amending 82 O.S., Section
8 1610 - Oklahoma Floodplain Management Act -
codification - effective date -
9 emergency)

10
11 AUTHOR: Add the following Senate Coauthor: Fields

12 AMENDMENT NO. 1. Page 1, strike the stricken title, enacting clause
and entire bill and insert

13 "[waters and water rights - amending 82 O.S. 2011,
14 Section 1610 - Oklahoma Floodplain Management Act -
15 codification - effective date -
emergency]

16
17 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

18 SECTION 1. AMENDATORY 82 O.S. 2011, Section 1610, is
19 amended to read as follows:

20 Section 1610. A. Floodplain management rules enacted pursuant
21 to the Oklahoma Floodplain Management Act shall only be promulgated
22 by the Oklahoma Water Resources Board in accordance with the
23 Administrative Procedures Act.
24

1 ~~B. Floodplain~~ New or revised floodplain management regulations
2 adopted by a local jurisdiction pursuant to the Oklahoma Floodplain
3 Management Act and any amendments to the regulations shall go into
4 effect thirty (30) days after adoption unless the regulation or
5 amendment specifies a later effective date; provided, that no
6 floodplain management regulation or amendment thereto shall be in
7 force unless published in a newspaper of general circulation
8 regularly published nearest the area of jurisdiction within fifteen
9 (15) days after adoption; provided that publication may be by title
10 or summary of the ordinance, resolution or act.

11 ~~C. At least thirty (30) days prior to the date of adoption of a~~
12 ~~regulation or amendment thereto, written notice shall be furnished~~
13 ~~to the Oklahoma Water Resources Board, accompanied by a copy of each~~
14 ~~proposed regulation or amendment.~~

15 ~~D.~~ B. A certified copy of any regulation or amendment thereto
16 adopted by a floodplain board pursuant to the Oklahoma Floodplain
17 Management Act shall be filed with the Oklahoma Water Resources
18 Board within fifteen (15) days after adoption and one of the
19 following requirements have been met:

20 1. The local jurisdiction shall give notice of a public hearing
21 for any change in floodplain management regulations that directly
22 affect specific properties outside the Special Flood Hazard Area.
23 The public hearing shall be placed on the meeting agenda pursuant to
24 the Oklahoma Open Meeting Act. All affected property owners and

1 other concerned citizens shall be afforded the opportunity to be
2 heard regarding the possible effects of the regulations; or

3 2. New or revised floodplain management regulations adopted by
4 a municipality shall be established by ordinance. All such
5 ordinances shall be considered at a public meeting of the council or
6 board of trustees, which meeting shall be open to the public.
7 Notice of such meeting shall be provided in accordance with the
8 Oklahoma Open Meeting Act.

9 C. The local jurisdiction shall publish the approved
10 regulations in a newspaper of general circulation within or nearest
11 to the county in which the jurisdiction is located within thirty
12 (30) days of adoption; provided that, publication may be by title or
13 summary of the ordinance, resolution or act.

14 D. The local jurisdiction shall send the approved regulations
15 to the Oklahoma Water Resources Board within thirty (30) days of
16 adoption.

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Title 1620.2 of Section 82, unless there
19 is created a duplication in numbering, reads as follows:

20 A. If a local jurisdiction creates or adds to a buffer zone
21 located outside but adjacent to the Special Flood Hazard Area for
22 the purposes of public trails, greenways, open space, conservation
23 easements, parks, recreational uses or similar uses not primarily
24 and directly related to floodplain management, flood hazard

1 reduction or stormwater quality management, the local jurisdiction
2 must pay the landowner of record just compensation based on the
3 total fair market value of the land affected by the action, subject
4 to the following exceptions:

5 1. Public roadways, rights of ways, public and private utility
6 easements, lines or appurtenances or drainage easements used to
7 support the development of the land within the jurisdiction;

8 2. Development restrictions enacted by local jurisdictions
9 regarding stormwater management, including but not limited to
10 restrictions designed to address pollution from municipal separate
11 storm sewer systems, or "MS4s", under the provisions of the local
12 jurisdiction's National or Oklahoma Pollution Discharge Elimination
13 System permit;

14 3. Development ordinances, resolutions or regulations enacted
15 by local jurisdictions participating in or actively seeking
16 participation in any incentive program designed to secure insurance
17 rate discounts for residents, including the Federal Emergency
18 Management Agency's Community Rating System, that are being enacted
19 in order to maintain or increase the ranking or standing of the
20 local jurisdiction in such a program;

21 4. Requirements for stormwater detention, storm sewers,
22 channels, or similar infrastructure necessary to provide for proper
23 drainage of stormwater pursuant to the local jurisdiction's adopted
24 laws, ordinances, resolutions, or other regulations;

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Passed the Senate the 25th day of April, 2012.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2012.

Presiding Officer of the House
of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 2836

By: Martin (Scott) of the House

3 and

4 David of the Senate

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7 (waters and water rights - amending 82 O.S., Section
8 1610 - Oklahoma Floodplain Management Act -
9 codification - effective date -
10 emergency)

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14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 5. AMENDATORY 82 O.S. 2011, Section 1610, is
16 amended to read as follows:

17 Section 1610. ~~A.~~ Floodplain management rules enacted pursuant
18 to the Oklahoma Floodplain Management Act shall only be promulgated
19 by the Oklahoma Water Resources Board in accordance with the
20 Administrative Procedures Act.

21 ~~B. Floodplain~~ New or revised floodplain management regulations
22 adopted by a local jurisdiction pursuant to the Oklahoma Floodplain
23 Management Act ~~and any amendments to the regulations shall go into~~
24 ~~effect thirty (30) days after adoption~~ become effective immediately

1 upon passage unless the regulation ~~or amendment~~ specifies a later
2 effective date; provided, that ~~no floodplain management regulation~~
3 ~~or amendment thereto shall be in force unless published in a~~
4 ~~newspaper of general circulation regularly published nearest the~~
5 ~~area of jurisdiction within fifteen (15) days after adoption.~~

6 ~~C. At least thirty (30) days prior to the date of adoption of a~~
7 ~~regulation or amendment thereto, written notice shall be furnished~~
8 ~~to the Oklahoma Water Resources Board, accompanied by a copy of each~~
9 ~~proposed regulation or amendment.~~

10 ~~D. A certified copy of any regulation or amendment thereto~~
11 ~~adopted by a floodplain board pursuant to the Oklahoma Floodplain~~
12 ~~Management Act shall be filed with the Oklahoma Water Resources~~
13 ~~Board within fifteen (15) days after adoption the following~~
14 ~~requirements have been met:~~

15 1. The governing body or floodplain board shall give no less
16 than twenty (20) days' notice of a public hearing for any change in
17 floodplain management regulations as directly affect specific
18 properties. The secretary of the Planning Commission shall mail
19 written notice to all affected landowners of record prior to taking
20 action to adopt the regulations. The public hearing shall be placed
21 on the meeting agenda pursuant to the Oklahoma Open Meeting Act.
22 All affected property owners and other concerned citizens shall be
23 afforded the opportunity to be heard regarding the possible effects
24 of the regulations;

1 2. The jurisdiction shall publish the approved regulations in a
2 newspaper of general circulation within or nearest to the county in
3 which the jurisdiction is located within thirty (30) days of
4 adoption, provided that publication may be by title or summary of
5 the ordinance, resolution or act; and

6 3. The jurisdiction shall send the approved regulations to the
7 Oklahoma Water Resources Board within thirty (30) days of adoption.

8 SECTION 6. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Title 1620.2 of Section 82, unless there
10 is created a duplication in numbering, reads as follows:

11 A. Municipal or county governing bodies or floodplain boards
12 shall not take or require rights-of-way or easements, nor shall they
13 restrict the occupancy or development of private land for public
14 trails, greenways, open space, conservation easements, parks,
15 recreational purposes or similar uses not primarily and directly
16 related to flood hazard management, or for the purpose of floodplain
17 management, flood hazard reduction or stormwater quality management
18 outside of Areas of Special Flood Hazard as delineated on Flood
19 Insurance Rate Maps issued by the National Flood Insurance Program
20 or the Federal Emergency Management Agency without advance payment
21 to the landowner of record of just compensation based on the total
22 fair market value of the land damaged by the action, subject to the
23 following exceptions:

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1 1. Land to be used for public roadways, utility lines or
2 appurtenances, drainage structures, or other public infrastructure
3 construction required to support the development of land within the
4 community;

5 2. Development restrictions enacted by communities or counties
6 subject to federal mandates regarding stormwater quality, commonly
7 known as municipal separate storm sewer system or "MS4" regulations,
8 provided that the regulations are identified as a "best management
9 practice" in the community's stormwater management plan, or are
10 required under the provisions of the community's National Pollution
11 Discharge Elimination System permit;

12 3. Development regulations enacted by communities or counties
13 participating in or actively seeking participation in any incentive
14 program designed to secure insurance rate discounts for residents,
15 including the Federal Emergency Management Agency's Community Rating
16 System, that are being enacted in order to maintain or increase the
17 ranking or standing of the community or county in such a program.

18 4. Requirements for stormwater detention, storm sewers,
19 channels, or similar infrastructure necessary to provide for proper
20 drainage of stormwater pursuant to the community or county's adopted
21 subdivision regulations.

22 B. For the purpose of this section, Areas of Special Flood
23 Hazard shall be construed to include locally adopted regulatory
24 floodplains that are delineated pursuant to commonly accepted civil

1 engineering standards for the purpose of more accurately depicting
2 the true one-hundred-year-storm flood risk to a community or county.

3 C. No development restriction enacted pursuant to one or more
4 of the exceptions contained within this section shall be valid
5 unless a mechanism has been provided for affected property owners to
6 request a variance from the enforcement of the regulation. The
7 local governing body shall be responsible for setting out a
8 mechanism, including designation of a body to hear such applications
9 and determination of a reasonable application fee.

10 SECTION 7. This act shall become effective July 1, 2012.

11 SECTION 8. It being immediately necessary for the preservation
12 of the public peace, health and safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

15 Passed the House of Representatives the 12th day of March, 2012.

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18 _____
19 Presiding Officer of the House of
Representatives

20 Passed the Senate the ____ day of _____, 2012.

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23 _____
Presiding Officer of the Senate

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