

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 335

By: Branan of the Senate
and
Jackson of the House

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8 [floodplain management - fees - requirement -
9 certain appeals - effective date - emergency]
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11 Note: Emergency failed

12 AMENDMENT NO. 1. Page 1, line 10, strike the enacting clause

13 Passed the House of Representatives the 20th day of April, 2011.
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16 _____
Presiding Officer of the House of
Representatives

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18 Passed the Senate the ____ day of _____, 2011.
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Presiding Officer of the Senate
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1 ENGROSSED SENATE
2 BILL NO. 335

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

11 SECTION 1. AMENDATORY 82 O.S. 2001, Section 1603, as
12 last amended by Section 2, Chapter 95, O.S.L. 2004 (82 O.S. Supp.
13 2010, Section 1603), is amended to read as follows:

14 Section 1603. As used in the Oklahoma Floodplain Management
15 Act:

16 1. "Area of jurisdiction" means:

17 a. all of the lands within an incorporated town or city,
18 for a municipality,

19 b. ~~all of the~~ floodplains in unincorporated areas of the
20 county, for a county, or

21 c. all property owned or operated by the state, for the
22 state;

23 2. "Board" means the Oklahoma Water Resources Board;
24

1 3. "Dwelling unit" means a place of residence and may be a
2 single or multiple-dwelling building;

3 4. "Flood" or "flooding" means general and temporary conditions
4 of partial or complete inundation of normally dry land areas from
5 the overflow of lakes, streams, rivers or any other inland waters;

6 5. "Floodplain" means the land adjacent to a body of water
7 which has been or may be covered by flooding, including, but not
8 limited to, the one-hundred-year flood;

9 6. "Floodplain administrator" means a person accredited by the
10 Board and designated by a floodplain board, to administer and
11 implement laws and regulations relating to the management of
12 floodplains;

13 7. "Floodplain board" means an administrative and planning
14 board, for floodplain management, of a county, a municipality or the
15 state or the planning commission of a municipality or a county if so
16 designated by the governing body of the municipality or county;

17 8. "Floodplain regulations" mean the codes, ordinances and
18 other regulations relating to the use of land and construction
19 within the channel and floodplain areas including, but not limited
20 to, permits, zoning ordinances, platting regulations, building
21 codes, housing codes, setback requirements and open area
22 regulations;

23 9. "Floodway" means the channel of a stream, watercourse or
24 body of water and those portions of floodplains which are reasonably

1 required to carry and discharge the floodwater or floodflow of any
2 river or stream;

3 10. "One-hundred-year flood" means a flood which has a one
4 percent (1%) chance of occurring each year, based upon the criteria
5 established by the Oklahoma Water Resources Board; and

6 11. "Program" means the overall national flood insurance
7 program authorized by the National Flood Insurance Act of 1968 (42
8 U.S.C. 4001-4128) as amended.

9 SECTION 2. AMENDATORY 82 O.S. 2001, Section 1604, as
10 last amended by Section 3, Chapter 95, O.S.L. 2004 (82 O.S. Supp.
11 2010, Section 1604), is amended to read as follows:

12 Section 1604. A. To allow participation in the program, the
13 Oklahoma Water Resources Board, boards of county commissioners and
14 municipal governing bodies are authorized to establish floodplain
15 boards for their respective area of jurisdiction which may adopt,
16 administer and enforce floodplain management rules and regulations,
17 for the purpose of:

18 1. The delineation of floodplains and floodways;

19 2. The preservation of the capacity of the floodplain to carry
20 and discharge regional floods;

21 3. The minimization of flood hazards;

22 4. The establishment and charging of fair and reasonable fees
23 in an equitable manner, not to exceed Five Hundred Dollars

24 (\$500.00), for services provided by the Board, county commissioners

1 and municipalities in the administration of their responsibilities
2 pursuant to the Oklahoma Floodplain Management Act. Fees shall be
3 limited to development on lands within a Federal Emergency
4 Management Agency mapped one-hundred year flood;

5 5. The regulation of the use of land in the floodplain;

6 6. The protection of the natural and beneficial functions of
7 the floodplain, reducing damage to property from floods, reducing
8 injury and loss of life from floods, and allowing communities to be
9 eligible for flood insurance; and

10 7. The hiring and employment of an accredited floodplain
11 administrator.

12 B. The rules and regulations shall be based on adequate
13 technical data and competent engineering advice and shall be
14 consistent with local and regional comprehensive planning.

15 C. ~~The rules and~~ floodplain regulations shall be approved by
16 the Oklahoma Water Resources Board, the county or the municipality,
17 as the case may be, by appropriate order, resolution or ordinance.

18 D. The floodplain regulations developed by the county shall be
19 reviewed and approved by the Executive Director of the Oklahoma
20 Water Resources Board, or a designee, prior to approval by the
21 county to ensure the requirements are fair and equitable.

22 SECTION 3. AMENDATORY 82 O.S. 2001, Section 1610, as
23 amended by Section 10, Chapter 46, O.S.L. 2002 (82 O.S. Supp. 2010,
24 Section 1610), is amended to read as follows:

1 Section 1610. A. Floodplain rules enacted pursuant to the
2 Oklahoma Floodplain Management Act shall only be promulgated by the
3 Oklahoma Water Resources Board in accordance with the Administrative
4 Procedures Act.

5 B. Floodplain regulations enacted pursuant to the Oklahoma
6 Floodplain Management Act shall only be adopted by the county or
7 municipal floodplain boards after a public hearing at which parties
8 ~~in~~ and citizens with an interest and other citizens have an
9 opportunity to be heard. At least thirty (30) days prior to the
10 hearing, ~~a~~ the proposed regulation and any associated requirement,
11 and the notice of the time and place of hearing shall be published
12 on the Oklahoma Water Resources Board website. A notice of the time
13 and place of the hearing shall be published in a newspaper of
14 general circulation regularly published nearest the area of
15 jurisdiction.

16 C. At least thirty (30) days prior to the date of any hearing
17 required by subsection B of this section, written notice shall be
18 furnished the Board, accompanied by a copy of each proposed rule or
19 regulation and any associated requirement to be acted upon. A copy
20 of any regulation adopted by a floodplain board pursuant to the
21 Oklahoma Floodplain Management Act shall be filed with the Board
22 within fifteen (15) days of its adoption.

23 D. The floodplain regulations developed by the county shall be
24 reviewed and approved by the Executive Director of the Oklahoma

1 Water Resources Board, or a designee, prior to approval by the
2 county to ensure the requirements are fair and equitable.

3 SECTION 4. AMENDATORY 82 O.S. 2001, Section 1614, as
4 amended by Section 14, Chapter 46, O.S.L. 2002 (82 O.S. Supp. 2010,
5 Section 1614), is amended to read as follows:

6 Section 1614. The Oklahoma Water Resources Board, county and
7 municipal floodplain boards in promulgating rules pursuant to
8 Section 1606 of this title and floodplain boards in preparing
9 floodplain management regulations shall give due consideration to
10 the needs of an industry, including agriculture and the oil and gas
11 industry, whose business requires that it be located within a
12 floodplain.

13 SECTION 5. AMENDATORY 82 O.S. 2001, Section 1616, as
14 amended by Section 16, Chapter 46, O.S.L. 2002 (82 O.S. Supp. 2010,
15 Section 1616), is amended to read as follows:

16 Section 1616. A. Appeals of any decision of the Oklahoma Water
17 Resources Board shall be in accordance with the Administrative
18 Procedures Act.

19 B. Appeals of the decision of a county or municipal floodplain
20 board shall be taken to the board of adjustment for the area of
21 jurisdiction involved in the appeal or to the governing body of the
22 county or municipality where no board of adjustment exists, or to
23 the Oklahoma Water Resources Board. Appeals may be taken by any
24 person aggrieved or by a public officer, department, board or bureau

1 affected by any decision of the floodplain board in administering
2 the floodplain board's regulations. The appeal shall be taken
3 within a period of not more than ten (10) days, by filing written
4 notice with the appellant body and the floodplain board, stating the
5 grounds thereof. An appeal shall stay all proceedings in
6 furtherance of the action appealed from unless the floodplain board
7 from which the appeal is taken shall certify to the appellant of
8 body that by reason of facts stated in the certificate a stay would,
9 in its opinion, cause imminent peril to life or property. The
10 appellant body shall have the following powers and duties:

11 1. To hear and decide appeals where it is alleged that there is
12 error of law in any order, requirement, decision or determination
13 made by the floodplain board in the enforcement of the floodplain
14 board's regulations.

15 2. In exercising its powers, the appellant body may reverse or
16 affirm wholly or partly, or may modify the order, requirement,
17 decision or determination as ought to be made, and to that end shall
18 have all the powers of the floodplain board from which the appeal is
19 taken.

20 3. In acting upon any appeal, the appellant body shall apply
21 the principles, standards and objectives set forth and contained in
22 all applicable regulations and plans adopted.

23 SECTION 6. This act shall become effective July 1, 2011.

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