

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 HOUSE BILL NO. 2836

6 By: Martin (Scott)

7 COMMITTEE SUBSTITUTE

8 An Act relating to waters and water rights; amending  
9 82 O.S. 2011, Section 1610, which relates to the  
10 Oklahoma Floodplain Management Act; providing for new  
11 or revised regulations at the local level; providing  
12 effective date for certain regulations; requiring  
13 certain procedures be completed; restricting certain  
14 property development by local body; providing  
15 exceptions for restrictions; including certain  
16 floodplains; providing mechanism for affected  
17 property owners; providing for codification;  
18 providing an effective date; and declaring an  
19 emergency.

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

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

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

27 ~~B. Floodplain~~ New or revised floodplain management regulations  
28 adopted by a local jurisdiction pursuant to the Oklahoma Floodplain

1 Management Act ~~and any amendments to the regulations shall go into~~  
2 ~~effect thirty (30) days after adoption~~ become effective immediately  
3 upon passage unless the regulation ~~or amendment~~ specifies a later  
4 effective date; provided, that ~~no floodplain management regulation~~  
5 ~~or amendment thereto shall be in force unless published in a~~  
6 ~~newspaper of general circulation regularly published nearest the~~  
7 ~~area of jurisdiction within fifteen (15) days after adoption.~~

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

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

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

1 afforded the opportunity to be heard regarding the possible effects  
2 of the regulations;

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

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

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

13 A. Municipal or county governing bodies or floodplain boards  
14 shall not take or require rights-of-way or easements, nor shall they  
15 restrict the occupancy or development of private land for public  
16 trails, greenways, open space, conservation easements, parks,  
17 recreational purposes or similar uses not primarily and directly  
18 related to flood hazard management, or for the purpose of floodplain  
19 management, flood hazard reduction or stormwater quality management  
20 outside of Areas of Special Flood Hazard as delineated on Flood  
21 Insurance Rate Maps issued by the National Flood Insurance Program  
22 or the Federal Emergency Management Agency without advance payment  
23 to the landowner of record of just compensation based on the total  
24

1 fair market value of the land damaged by the action, subject to the  
2 following exceptions:

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

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

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

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

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1 B. For the purpose of this section, Areas of Special Flood  
2 Hazard shall be construed to include locally adopted regulatory  
3 floodplains that are delineated pursuant to commonly accepted civil  
4 engineering standards for the purpose of more accurately depicting  
5 the true one-hundred-year-storm flood risk to a community or county.

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

13 SECTION 3. This act shall become effective July 1, 2012.

14 SECTION 4. It being immediately necessary for the preservation  
15 of the public peace, health and safety, an emergency is hereby  
16 declared to exist, by reason whereof this act shall take effect and  
17 be in full force from and after its passage and approval.

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