HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2836 By: Martin (Scott)

COMMITTEE SUBSTITUTE

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

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

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

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

~~B. Floodplain~~ New or revised floodplain management regulations adopted by a local jurisdiction pursuant to the Oklahoma Floodplain Management Act ~~and any amendments to the regulations~~ shall ~~go into effect thirty (30) days after adoption~~ become effective immediately upon passage unless the regulation ~~or amendment~~ specifies a later effective date; provided, that ~~no floodplain management regulation or amendment thereto shall be in force unless published in a newspaper of general circulation regularly published nearest the area of jurisdiction within fifteen (15) days after adoption.~~

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

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

1. The governing body or floodplain board shall give no less than twenty (20) days' notice of a public hearing for any change in floodplain management regulations as directly affect specific properties. The secretary of the Planning Commission shall mail written notice to all affected landowners of record prior to taking

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action to adopt the regulations. The public hearing shall be placed on the meeting agenda pursuant to the Oklahoma Open Meeting Act. All affected property owners and other concerned citizens shall be afforded the opportunity to be heard regarding the possible effects of the regulations;

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

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

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

A. Municipal or county governing bodies or floodplain boards shall not take or require rights-of-way or easements, nor shall they restrict the occupancy or development of private land for public trails, greenways, open space, conservation easements, parks, recreational purposes or similar uses not primarily and directly related to flood hazard management, or for the purpose of floodplain management, flood hazard reduction or stormwater quality management outside of Areas of Special Flood Hazard as delineated on Flood

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Insurance Rate Maps issued by the National Flood Insurance Program or the Federal Emergency Management Agency without advance payment to the landowner of record of just compensation based on the total fair market value of the land damaged by the action, subject to the following exceptions:

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

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

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

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

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

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

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

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

COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE, WILDLIFE AND ENVIRONMENT, dated 03/01/2012 - DO PASS, As Amended.

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