

1 **SENATE FLOOR VERSION**

2 March 29, 2012

3 As Amended

4 ENGROSSED HOUSE

5 BILL NO. 2836

6 By: Martin (Scott) of the House

7 and

8 David and Fields of the
9 Senate

10 [waters and water rights - amending 82 O.S., Section
11 1610 - Oklahoma Floodplain Management Act -
12 codification - effective date -
13 emergency]

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

15 SECTION 1. 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
upon passage unless the regulation ~~or amendment~~ specifies a later

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

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

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

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

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

11 SECTION 4. 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 COMMITTEE REPORT BY: COMMITTEE ON ENERGY, dated 3-29-12 - DO PASS,
16 As Amended and Coauthored.

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