

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 335

By: Branan

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5
6 AS INTRODUCED

7 An Act relating to floodplain management; amending 82
8 O.S. 2001, Section 1603, as last amended by Section
9 2, Chapter 95, O.S.L. 2004 (82 O.S. Supp. 2010,
10 Section 1603), which relates to the Oklahoma
11 Floodplain Management Act; modifying definition;
12 amending 82 O.S. 2001, Section 1604, as last amended
13 by Section 3, Chapter 95, O.S.L. 2004 (82 O.S. Supp.
14 2010, Section 1604), which relates to floodplain
15 board rules and regulations; requiring fees to be
16 established in fair and equitable manner; limiting
17 fees to development in certain areas; requiring
18 approval of certain regulations by Oklahoma Water
19 Resources Board; amending 82 O.S. 2001, Section 1610,
20 as amended by Section 10, Chapter 46, O.S.L. 2002 (82
21 O.S. Supp. 2010, Section 1610), which relates to
22 promulgation of rules; modifying certain notice
23 requirements; requiring approval of certain
24 regulations by Oklahoma Water Resources Board;
amending 82 O.S. 2001, Section 1614, as amended by
Section 14, Chapter 46, O.S.L. 2002 (82 O.S. Supp.
2010, Section 1614), which relates to consideration
for certain businesses; adding requirement to
consider oil and gas industry; 82 O.S. 2001, Section
1616, as amended by Section 16, Chapter 46, O.S.L.
2002 (82 O.S. Supp. 2010, Section 1616), which relates
to appeals; providing for certain appeals to the
Oklahoma Water Resources Board; providing an
effective date; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 82 O.S. 2001, Section 1603, as
2 last amended by Section 2, Chapter 95, O.S.L. 2004 (82 O.S. Supp.
3 2010, Section 1603), is amended to read as follows:

4 Section 1603. As used in the Oklahoma Floodplain Management
5 Act:

6 1. "Area of jurisdiction" means:

7 a. all of the lands within an incorporated town or city,
8 for a municipality,

9 b. ~~all of the~~ floodplains in unincorporated areas of the
10 county, for a county, or

11 c. all property owned or operated by the state, for the
12 state;

13 2. "Board" means the Oklahoma Water Resources Board;

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

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

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

22 6. "Floodplain administrator" means a person accredited by the
23 Board and designated by a floodplain board, to administer and
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1 implement laws and regulations relating to the management of
2 floodplains;

3 7. "Floodplain board" means an administrative and planning
4 board, for floodplain management, of a county, a municipality or the
5 state or the planning commission of a municipality or a county if so
6 designated by the governing body of the municipality or county;

7 8. "Floodplain regulations" mean the codes, ordinances and
8 other regulations relating to the use of land and construction
9 within the channel and floodplain areas including, but not limited
10 to, permits, zoning ordinances, platting regulations, building
11 codes, housing codes, setback requirements and open area
12 regulations;

13 9. "Floodway" means the channel of a stream, watercourse or
14 body of water and those portions of floodplains which are reasonably
15 required to carry and discharge the floodwater or floodflow of any
16 river or stream;

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

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

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

4 Section 1604. A. To allow participation in the program, the
5 Oklahoma Water Resources Board, boards of county commissioners and
6 municipal governing bodies are authorized to establish floodplain
7 boards for their respective area of jurisdiction which may adopt,
8 administer and enforce floodplain management rules and regulations,
9 for the purpose of:

- 10 1. The delineation of floodplains and floodways;
- 11 2. The preservation of the capacity of the floodplain to carry
12 and discharge regional floods;
- 13 3. The minimization of flood hazards;
- 14 4. The establishment and charging of fair and reasonable fees
15 in an equitable manner, not to exceed Five Hundred Dollars
16 (\$500.00), for services provided by the Board, county commissioners
17 and municipalities in the administration of their responsibilities
18 pursuant to the Oklahoma Floodplain Management Act. Fees shall be
19 limited to development on lands within a Federal Emergency
20 Management Agency mapped one-hundred year flood;
- 21 5. The regulation of the use of land in the floodplain;
- 22 6. The protection of the natural and beneficial functions of
23 the floodplain, reducing damage to property from floods, reducing
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1 injury and loss of life from floods, and allowing communities to be
2 eligible for flood insurance; and

3 7. The hiring and employment of an accredited floodplain
4 administrator.

5 B. The rules and regulations shall be based on adequate
6 technical data and competent engineering advice and shall be
7 consistent with local and regional comprehensive planning.

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

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

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

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

22 B. Floodplain regulations enacted pursuant to the Oklahoma
23 Floodplain Management Act shall only be adopted by the county or
24 municipal floodplain boards after a public hearing at which parties

1 ~~in~~ and citizens with an interest and other citizens have an
2 opportunity to be heard. At least thirty (30) days prior to the
3 hearing, a the proposed regulation and any associated requirement,
4 and the notice of the time and place of hearing shall be published
5 on the Oklahoma Water Resources Board website. A notice of the time
6 and place of the hearing shall be published in a newspaper of
7 general circulation regularly published nearest the area of
8 jurisdiction.

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

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

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

23 Section 1614. The Oklahoma Water Resources Board, county and
24 municipal floodplain boards in promulgating rules pursuant to

1 Section 1606 of this title and floodplain boards in preparing
2 floodplain management regulations shall give due consideration to
3 the needs of an industry, including agriculture and the oil and gas
4 industry, whose business requires that it be located within a
5 floodplain.

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

9 Section 1616. A. Appeals of any decision of the Oklahoma Water
10 Resources Board shall be in accordance with the Administrative
11 Procedures Act.

12 B. Appeals of the decision of a county or municipal floodplain
13 board shall be taken to the board of adjustment for the area of
14 jurisdiction involved in the appeal or to the governing body of the
15 county or municipality where no board of adjustment exists, or to
16 the Oklahoma Water Resources Board. Appeals may be taken by any
17 person aggrieved or by a public officer, department, board or bureau
18 affected by any decision of the floodplain board in administering
19 the floodplain board's regulations. The appeal shall be taken
20 within a period of not more than ten (10) days, by filing written
21 notice with the appellant body and the floodplain board, stating the
22 grounds thereof. An appeal shall stay all proceedings in
23 furtherance of the action appealed from unless the floodplain board
24 from which the appeal is taken shall certify to the appellant of

1 body that by reason of facts stated in the certificate a stay would,
2 in its opinion, cause imminent peril to life or property. The
3 appellant body shall have the following powers and duties:

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

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

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

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

17 SECTION 7. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

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