

FIRST REGULAR SESSION

HOUSE BILL NO. 620

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MERIDETH.

Read 1st time March 6, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1592L.011

AN ACT

To repeal sections 49.600, 49.605, 49.610, 49.615, and 644.018, RSMo, and to enact in lieu thereof nine new sections relating to flood plain management, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 49.600, 49.605, 49.610, 49.615, and 644.018, RSMo, are repealed
2 and nine new sections enacted in lieu thereof, to be known as sections 49.600, 49.602, 49.603,
3 49.605, 49.610, 49.615, 49.620, 49.623, and 49.625, to read as follows:

49.600. 1. The county commission[, in all counties which have not adopted county
2 planning and zoning,] **or the governing body of any county or city** may, as provided by law,
3 adopt or rescind by order or ordinance regulations to require compliance **with sections 49.600**
4 **to 49.625 and** with Federal Emergency Management Agency standards[, necessary to comply
5 with the national flood insurance program[, in any flood hazard area designated by the Federal
6 Emergency Management Agency; provided, however, that no ordinance or order enacted
7 pursuant to this section in any county **that has not adopted county planning and zoning** shall
8 be effective unless the county commission or governing body of the county submits to the voters
9 of a county **pursuant to subsection 2 of this section**, at a county or state general, primary or
10 special election, a proposal to authorize the county commission or governing body of the county
11 to adopt such an order or ordinance.

12 2. The ballot of **such** submission shall contain but need not be limited to the following
13 language:

14 Shall the county of enact an order or ordinance for such regulations as
15 required for compliance with **state and** Federal Emergency Management standards[, necessary

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

16 to comply with the national flood insurance program[,] in any flood hazard area designated by
17 the Federal Emergency Management Agency?

18 Yes No

19

20 If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed
21 to the question, place an "X" in the box opposite "No".

22

23 If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor
24 of the proposal, then the ordinance or order and any amendments thereto shall be in effect. If a
25 majority of the votes cast by the qualified voters voting are opposed to the proposal, then the
26 governing body of the county shall have no power to adopt such an order or ordinance. The
27 people of a county [covered by] **subject to an ordinance enacted pursuant to** sections 49.600
28 to [49.615] **49.625** may **request a ballot measure to** rescind the order or ordinance regulations
29 by presenting an initiative petition to the county commission of the county, with a minimum of
30 five percent of the registered voters' signatures that voted in the last gubernatorial election. After
31 receiving the qualifying initiative petition the county commission shall place on the ballot at the
32 next general election the following:

33 Shall national flood insurance programs be adopted in County?

34 Yes No

35

36 If a majority of those voting vote for adopting the national flood insurance program, the program
37 shall be continued; if a majority of those voting vote against adopting the national flood
38 insurance program, the program shall be discontinued within thirty days after certification of the
39 election results.

40 3. The provisions of [this section] **sections 49.600 to 49.625** shall not apply to [the
41 incorporated portions of the counties, or to] the raising of livestock, crops, orchards or forestry,
42 nor to seasonal or temporary impoundments used for rice farming or flood irrigation. As used
43 in this section, the term "rice farming or flood irrigation" means small berms of no more than
44 eighteen inches high that are placed around a field to hold water for use for growing rice or for
45 flood irrigation. Nor shall [this section] **sections 49.600 to 49.625** apply to the erection,
46 maintenance, repair, alteration or extension of farm buildings or farm structures used for such
47 purposes in an area not within the area shown on the flood hazard area map. Nor shall this
48 section apply to underground mining where entrance is through an existing shaft or shafts or
49 through a shaft or shafts in an area not within the area shown on the flood hazard area map.

50 4. Levee districts organized pursuant to chapter 245, RSMo, and drainage districts
51 organized pursuant to chapters 242 and 243, RSMo, are subject to flood plain management

52 regulations adopted by a county or city pursuant to [this chapter] sections 49.600 to 49.625.

53 5. Nothing contained in sections 49.600 to [49.615] 49.625 shall affect the existence or
54 validity of an ordinance which a county or city has adopted prior to March 4, 1991.

**49.602. 1. Anyone seeking to build any enclosed building, levee, or other earthen
2 berm within a one hundred year flood plain in any county or city that has not adopted
3 planning and zoning but has adopted an order or ordinance pursuant to sections 49.600
4 to 49.625 shall obtain a permit from the state emergency management agency before
5 building such structure. Upon receiving the application, the state emergency management
6 agency shall immediately notify the departments of natural resources and agriculture, and
7 allow fifteen days for such departments to comment on the application. The state
8 emergency management agency shall not issue the permit unless the structure meets all
9 applicable state and federal requirements.**

10 **2. Anyone seeking to build any enclosed building, levee, or other earthen berm
11 within a one hundred year flood plain in any county or city that has adopted planning and
12 zoning and has adopted an order or ordinance pursuant to sections 49.600 to 49.625 shall
13 obtain a permit from such county or city before building such structure. Upon receiving
14 the application, the county or city shall immediately notify the departments of natural
15 resources and agriculture and the state emergency management agency, and allow fifteen
16 days for such departments to comment on the application. The county or city shall not
17 issue the permit unless the structure meets all applicable state and federal requirements.**

18 **3. The provisions of this section shall not apply to land in counties of the third
19 classification used for agricultural purposes.**

20 **4. Agricultural land shall not be used in the calculation for cost/benefit analysis for
21 levee development to protect commercial and residential properties.**

**49.603. No new commercial, residential, or industrial structures, including
2 protective levees, shall be constructed in a floodway, as determined by Federal Emergency
3 Management Agency flood delineation maps, without the approval of the state emergency
4 management agency. This section shall not apply to structures intended to be flooded,
5 water recreation and transportation structures such as marinas and navigational
6 infrastructure, small recreational structures, bridges and bridge approaches, and other
7 structures required for water-related recreational and commercial activities.**

**49.605. No permit required by the provisions of order or ordinance regulations adopted
2 pursuant to the provisions of sections 49.600 to [49.615] 49.625 shall be denied an applicant if
3 the proposed construction, use or other development will not raise the flood elevation of the one
4 hundred year flood level more than one-tenth of one foot; provided, however, that any permit
5 [may] shall require that the lowest floor of an insurable structure shall be elevated one foot**

6 above the one hundred year flood level and that all structures shall be adequately anchored to
7 prevent flotation, collapse or lateral movement of the structure.

49.610. **1.** Any order or ordinance regulations adopted pursuant to sections 49.600 to
2 [49.615] **49.625** shall provide that the county commission **or governing body of the county or**
3 **city** may grant individual variances beyond the limitations prescribed by the order or ordinance
4 regulations upon presentation of adequate proof that compliance with the provisions of the order
5 or ordinance regulations will result in an exceptional hardship to applicant or any arbitrary and
6 unreasonable closing or prevention of any lawful construction, use or other development in the
7 area, **city**, or county and which will not result in additional threats to public safety and will not
8 be inconsistent with the objectives of sound flood plain management.

9 **2. Such variance shall not be granted without an approval permit issued by the**
10 **state emergency management agency. The county commission or governing body of the**
11 **county or city shall submit each requested variance to the agency for review and the agency**
12 **shall issue a decision on the variance within ninety days after receipt of the requested**
13 **variance.**

49.615. All final decisions, orders, actions or determinations of the county commission
2 **or governing body of the county or city and subsequent actions by the state emergency**
3 **management agency** made under or involving the provisions of order or ordinance regulations
4 adopted pursuant to the provisions of sections 49.600 to [49.615] **49.625** shall be subject to
5 judicial review to the same extent and in the same manner prescribed by chapter 536, RSMo.

49.620. The general assembly may appropriate moneys for projects in designated
2 **special flood hazard areas that meet the standards of the National Flood Insurance**
3 **Program pursuant to 42 U.S.C. Sections 4001, et seq. The term "structures" as used in this**
4 **section shall not be construed to apply to earthen embankments for the purpose of**
5 **transportation projects or strictly for the protection of agricultural land. The general**
6 **assembly may make appropriations to repair public levees which have been damaged or**
7 **are in need of repair, and may make appropriations to raise levees from their existing**
8 **protective elevation if approved by the state emergency management agency.**

49.623. 1. To be eligible for Federal Emergency Management Agency 404 Hazard
2 **Mitigation Grant Program funds or the department of economic development block grant**
3 **funds, a community that contains a special flood hazard area within its boundaries must**
4 **be a member of the National Flood Insurance Program. All applications and other related**
5 **material, including any information regarding the amount of money paid or the condition**
6 **of the property purchased, shall be public records and the recipient of such moneys shall**
7 **sign a waiver of any privacy rights with regard to such records as a condition of receiving**
8 **moneys under the program.**

9 **2. For each mitigation project funded with a combination of community**
10 **development block grants and Federal Emergency Management Agency Section 404 funds**
11 **involving property acquisitions, the department shall maintain a permanent file reflecting**
12 **as a minimum the following:**

13 **(1) A summary of moneys expended by activity;**

14 **(2) The specific purchase price for each property, the address or description of such**
15 **property, and the identity of the former owner of such property;**

16 **(3) The appraised valuation of each property; and**

17 **(4) A history of prior claims under the National Flood Insurance Program for each**
18 **property acquired.**

49.625. 1. A person commits the crime of misrepresentation of a material fact when
2 **such person knowingly misrepresents a material fact or conceals a material fact on an**
3 **application for buy-out funds pursuant to section 49.623.**

4 **2. All incidents of suspected fraud or abuse regarding flood insurance claims or**
5 **other federal or state assistance related to flooding incidents known by the department**
6 **shall be referred to the attorney general's office for appropriate action and such violations**
7 **may be filed in the county where the violations occur by either the prosecuting attorney of**
8 **such county or by the attorney general's office.**

9 **3. Misrepresentation of a material fact is a class C felony.**

 [644.018. In any contested case or judicial proceeding filed after January 1,
2 1998, involving surface water in any flood-prone area, if any defendant has obtained
3 and fully complied with a permit from a political subdivision which has enacted
4 orders or ordinances as required by the Federal Emergency Management Agency as
5 a prerequisite to participation in the National Flood Insurance Program, and which
6 political subdivision has jurisdiction, pursuant to the zoning laws of this state or the
7 laws and regulations of the Federal Emergency Management Agency, over the area
8 in dispute, then the proper permitting and compliance with all conditions of such
9 permitting of such project shall be conclusive proof that the project is a reasonable
10 use and meets any reasonable-use test imposed by law or by a court.]