

SECOND REGULAR SESSION

# SENATE BILL NO. 511

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EHLMANN.

Pre-filed December 1, 1997, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S2377.011

## AN ACT

To repeal section 49.600, RSMo 1994, and to enact in lieu thereof five new sections relating to flood plains, with penalty provisions.

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

Section A. Section 49.600, RSMo 1994, is repealed and five new sections enacted in lieu thereof to be known as sections 49.600, 49.620, 49.623, 49.626 and 49.629, to read as follows:

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

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

Shall the county of ..... enact an order or ordinance for such regulations as required for compliance with Federal Emergency Management standards, necessary to comply with the [national flood insurance program] **National Flood Insurance Program**, in any flood hazard area designated by the Federal Emergency Management Agency?

G Yes

G No

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

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

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

Shall [national flood insurance programs] **National Flood Insurance Programs** be adopted in ..... County?

G Yes

G No

If a majority of those voting vote for adopting the [national flood insurance program] **National Flood Insurance Program**, the program shall be continued; if a majority of those voting vote against adopting the [national flood insurance program] **National Flood Insurance Program**, the program shall be discontinued within thirty days after certification of the election results.

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

4. Levee districts organized pursuant to chapter 245, RSMo, and drainage districts organized pursuant to chapters 242 and 243, RSMo, **located within a county or incorporated jurisdiction** are subject to flood plain management [regulations] adopted by [a] **the county or jurisdiction** pursuant to this chapter.

5. Nothing contained in sections 49.600 to 49.615 shall affect the existence or validity of an ordinance which a county has adopted prior to March 4, 1991. **Anyone seeking to build any structure within a designated special flood hazard area, including a levee or other earthen berm, in any county or incorporated jurisdiction which has not adopted planning and zoning but has adopted the National Flood Insurance Program standards for areas within the special flood hazard area, before erecting said structure, shall obtain a permit from the division of flood plain management established in section**

**49.620. Upon receiving the application, the division shall immediately send notice to the department of natural resources and the department of agriculture who shall have fifteen days to comment upon whether or not the permit shall be issued. Before issuing said permit, the division shall determine that the proposed structure adheres to all state and federal requirements. Anyone seeking to build any structure within an area designated as a special flood hazard area including a levee or other earthen berm in any county or incorporated jurisdiction which has adopted planning and zoning and has also adopted the National Flood Insurance Program standards pertaining to these areas shall obtain a permit from the specific jurisdiction.**

**49.620. 1. There is hereby created in the state emergency management agency a "Division of Flood Plain Management", hereinafter called the division, whose purposes will be to implement flood plain management policies for the state of Missouri as directed by the provisions of this act.**

**2. The state of Missouri will flood-proof all existing state owned or leased walled and roofed structures located within a designated special flood hazard area subject to appropriations for such purpose.**

**3. The state of Missouri will spend no state monies on projects in designated special flood hazard areas that do not meet the standards of the National Flood Insurance Program, pursuant to 42 U.S.C. Sections 4001 to 4129. The term structures as used in this section shall not be construed to apply to either levees or earthen embankments for the purpose of transportation projects. The state shall, subject to appropriation, insure that all state structures that lie in the one hundred year designated special flood hazard areas are insured to the minimum National Flood Insurance Program standards and have an emergency response evacuation plan.**

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

**2. Filing untrue information with intent of fraud and misrepresentation in regard to applications for buy-out funds is a class C felony, and charges for such violations may be filed in the county where they occur by either the prosecuting attorney of that county or by the attorney general's office.**

**3. All incidents of suspected fraud or abuse regarding flood insurance claims or other federal and state assistance related to flooding incidents known by the division**

shall be referred to the attorney general's office for appropriate action.

4. For each mitigation project funded with a combination of community development block grants and section 404 funds involving property acquisitions, the division shall maintain a permanent file reflecting as a minimum the following:

- (1) Summary of funds expended by activity;
- (2) The specific purchase price for each property, the address or description of such property and the identity of the former owner;
- (3) The appraised valuation of each property;
- (4) A history of prior claims under the National Flood Insurance Program for each property acquired.

49.626. 1. All appraisers shall determine and notify in their appraisals the status of the property relative to a special flood hazard area. Real estate brokers and salesmen shall, with regards to all structures, disclose any information they may have relative to the status of the structure with regard to the special flood hazard area.

2. All construction of natural gas and other pipeline levee crossings commenced after the effective date of this act shall be done by either of the following:

- (1) Directional boring so that the depth of the pipeline is such that it does not affect the structural integrity of the levee; or
- (2) By direct cut where the levee is rebuilt to its original strength using appropriate materials of construction and such that the river side area of said levee is rip-rapped in order to reinforce the levee at the point of the pipeline crossing.

3. All intrastate natural gas and all other intrastate pipeline companies shall provide a list of emergency contact personnel to state and local emergency response agencies. All insurance policies issued by insurance companies doing business in the state of Missouri shall clearly state whether they insure against damage caused directly or indirectly by floods.

49.629. The division shall work with the United States Army Corps of Engineers in establishing elevations for all levees in the state of Missouri establishing a twenty, one hundred, and five hundred year level of protection and shall make such maps and information available to the public. Any levee district or the private owners of any levee system may enter into an agreement with the division that, after the next flood event damages their levee, they shall not rebuild any of their agricultural levees beyond the twenty year level of protection. Any levee district or levee system which has signed such an agreement with the division shall receive reimbursement of the twenty percent cost-share pursuant to Public Law 84-99 from the "Levee Tax Fund", which is hereby established in the state treasury, or from general revenues of the state. Any levee district or levee system which has not signed such an agreement shall not receive state funds to be applied towards the twenty percent local cost-share pursuant to Public Law

**84-99. Any levee system with a level of protection above the five hundred year level shall be designated as an industrial levee. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the levee tax fund at the end of any biennium shall not be transferred to the credit of the general revenue fund. The levee tax fund shall be funded from general revenue, and may be supplemented by money from the soil and water sales and use tax fund established pursuant to Article IV, section 47(a) of the Missouri Constitution by appropriation by the general assembly. The levee tax fund shall be used by the division to provide moneys necessary to fund the twenty percent cost-share reimbursements as provided in this section.**

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