



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 744 (as enrolled)
 Sponsor: Senator Loren Bennett
 Committee: Human Resources, Labor and Veterans Affairs

Date Completed: 2-15-96

RATIONALE

The Natural Resources and Environmental Protection Act generally prohibits the occupation, filling, or grading of land in a floodplain for residential, commercial, or industrial purposes, unless permitted under Part 31 of the Act, which deals with the protection of Michigan's water resources. (A floodplain generally is an area adjacent to rivers or streams that would be covered with water during a 100-year flood.) Evidently, administrative rules promulgated under the Subdivision Control Act effectively prohibit the construction in a floodplain of a residential structure with a basement, even after the floodplain has been filled. The Federal Emergency Management Agency (FEMA) conducts floodplain mapping and, reportedly, will revise floodplain designations based on filling conducted under State permit. Some people feel that, since the State permits the filling of a floodplain and the FEMA will remap floodplain areas based on floodplain alteration due to filling conducted under a State permit, construction of residential basements should be specifically allowed in these areas if certain safeguards are met.

CONTENT

The bill would amend Part 31 of the Natural Resources and Environmental Protection Act to allow the construction of a building that included a basement in a floodplain that had been properly filled, under permit, above the 100-year flood elevation if one or more of the following applied:

- The lowest floor, including the basement, would be constructed above the 100-year flood elevation.
- A licensed professional engineer, schooled in the science of soil mechanics, certified that the building site had been filled with soil

of a type and in a manner that hydrostatic pressures were not exerted upon the walls or floor of the basement while the watercourse was at or below the 100-year flood elevation, that the placement of the fill would prevent settling of the building or buckling of floors or walls, and that the building was equipped with a positive means of preventing sewer backup from sewer lines and drains that served the building.

- A licensed professional engineer or architect certified that the basement walls and floors were designed to be watertight and to withstand hydrostatic pressure from a water level equal to the 100-year flood elevation and that the building was properly anchored or weighted to prevent flotation and was equipped with a positive means of preventing sewer backup from sewer lines and drains that served the building.

If the community within which a building was located were a participant in the national flood insurance program authorized under the National Flood Insurance Act (Title XIII of the Housing and Urban Development Act), the developer would have to apply for and obtain a letter of map revision, based on fill, from the Federal Emergency Management Agency before the issuance of a local building permit or the construction of the building, if one or both of the following applied:

- The floodplain would be altered through the placement of fill.
- The watercourse was relocated or enclosed.

MCL 324.3108

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would allow developers to construct homes with basements on lots located in former floodplains that were filled under State permit. By requiring that building professionals certify the integrity of the basements in these homes, the bill would provide sufficient safeguards to ensure the safety of the residential structures and the environmental stability of the surrounding area. In addition, by requiring that a developer seek a FEMA map revision if the community within which a building was located participated in the national flood insurance program, the bill would ensure that no Michigan community's participation in that program was compromised.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: G. Cutler

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.