



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4988

Introduced 1/21/2010, by Rep. Thomas Holbrook

SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.103 new	
615 ILCS 5/18f	from Ch. 19, par. 65f
615 ILCS 5/18g	from Ch. 19, par. 65g
615 ILCS 5/18h new	
510 ILCS 77/10.3 new	

Amends the Environmental Protection Act; the Rivers, Lakes, and Streams Act; and the Livestock Management Act. Defines "100-year floodplain" as the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, that are inundated by a flood that has a 1% or greater chance of recurring in any given year or a flood of a magnitude equalled or exceeded once in 100 years on the average over a significantly long period. Provides that areas that lie within an area protected by a levee or levees located in a flood prevention district established by the Flood Prevention District Act are deemed by operation of law not to be within the 100-year floodplain for the purposes of these Acts. Provides that to the extent that Executive Order 2006-5 is inconsistent with the provisions of this amendatory Act, the provisions of this amendatory Act shall govern. Effective immediately.

LRB096 17987 JDS 33358 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning floodplains.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 adding Section 3.103 as follows:

6 (415 ILCS 5/3.103 new)

7 Sec. 3.103. 100-year floodplain. "100-year floodplain"
8 means the lowland and relatively flat areas adjoining inland
9 and coastal waters, including flood-prone areas of offshore
10 islands, that are inundated by a flood that has a 1% or greater
11 chance of recurring in any given year or a flood of a magnitude
12 equalled or exceeded once in 100 years on the average over a
13 significantly long period. For the purposes of this Act,
14 including for the purposes of granting permit and license
15 applications filed or pending prior to the effective date of
16 this amendatory Act of the 96th General Assembly, an area shall
17 be deemed by operation of law not to be within the 100-year
18 floodplain if the area lies within an area protected by a levee
19 or levees located in a flood prevention district established by
20 the Flood Prevention District Act. To the extent that Executive
21 Order 2006-5 is inconsistent with the provisions of this
22 amendatory Act of the 96th General Assembly, the provisions of
23 this amendatory Act shall govern.

1 Section 10. The Rivers, Lakes, and Streams Act is amended
2 by adding Section 18h and by changing Sections 18f and 18g as
3 follows:

4 (615 ILCS 5/18f) (from Ch. 19, par. 65f)

5 Sec. 18f.

6 (a) The Department of Natural Resources shall define
7 100-year flood plains within the State of Illinois on a
8 township by township basis and may issue permits for any
9 construction within such 100-year flood plains on or after the
10 effective date of this amendatory Act of 1971. The Department
11 shall publish and distribute suitable reports, together with
12 mapping and hydrologic exhibits pertaining to 100-year flood
13 plains defined and established under this Act. In defining
14 applicable 100-year flood plains, the Department shall
15 cooperate with, and shall consider planning and zoning
16 requirements of, regional planning agencies created by
17 statute, counties, municipalities and other units of
18 government. A period of thirty days shall be allowed for any
19 agency to submit written comments to the Department regarding
20 any proposed 100-year flood plain area. If such agency fails to
21 return comments to the Department within the specified time
22 period the Department may proceed with the publication and
23 institution of the 100-year flood plain permit procedure. The
24 Department is charged with the planning, development, and

1 evaluation of the most economic combination of retention
2 storage, channel improvement, and flood plain preservation in
3 defining and establishing 100-year flood plain areas. All
4 construction undertaken on a defined 100-year flood plain
5 subsequent to the effective date of this amendatory Act,
6 without benefit of a permit from the Department of Natural
7 Resources, shall be unlawful and the Department, may in its
8 discretion, proceed to obtain injunctive relief for abatement
9 or removal of such unlawful construction. The Department, in
10 its discretion, may make such investigations and conduct such
11 hearings as may be necessary to the performance of its duties
12 under this amendatory Act of 1971. Activity of the Department
13 under this Section shall be limited to townships related to
14 projects of the Department authorized by the General Assembly.
15 The report of the Department shall be considered a final
16 administrative decision and subject to judicial review in
17 accordance with the provision of the Administrative Review Law.

18 (b) For the purposes of this Section, including for the
19 purposes of granting permit and license applications filed or
20 pending prior to the effective date of this amendatory Act of
21 the 96th General Assembly, "100-year flood plain" means the
22 lowland and relatively flat areas adjoining inland and coastal
23 waters, including flood-prone areas of offshore islands, that
24 are inundated by a flood that has a 1% or greater chance of
25 recurring in any given year or a flood of a magnitude equalled
26 or exceeded once in 100 years on the average over a

1 significantly long period. For the purposes of this Section, an
2 area shall be deemed by operation of law not to be within the
3 100-year floodplain if the area lies within an area protected
4 by a levee or levees located in a flood prevention district
5 established by the Flood Prevention District Act.

6 (Source: P.A. 89-445, eff. 2-7-96.)

7 (615 ILCS 5/18g) (from Ch. 19, par. 65g)

8 Sec. 18g. (a) The Department of Natural Resources shall
9 define the 100-year floodway within metropolitan counties
10 located in the area served by the Northeastern Illinois
11 Planning Commission, except for the part of that area which is
12 within any city with a population exceeding 1,500,000. In
13 defining the 100-year floodway, the Department may rely on
14 published data and maps which have been prepared by the
15 Department itself, by the Illinois State Water Survey of the
16 University of Illinois, by federal, State or local governmental
17 agencies, or by any other private or public source which it
18 determines to be reliable and appropriate.

19 (b) The Department may issue permits for construction that
20 is an appropriate use of the designated 100-year floodway in
21 such metropolitan counties. If a unit of local government has
22 adopted an ordinance that establishes minimum standards for
23 appropriate use of the floodway that are at least as
24 restrictive as those established by the Department and this
25 Section, and the unit of local government has adequate staff to

1 enforce the ordinance, the Department may delegate to such unit
2 of local government the authority to issue permits for
3 construction that is an appropriate use of the floodway within
4 its jurisdiction.

5 (c) No person may engage in any new construction within the
6 100-year floodway as designated by the Department in such
7 metropolitan counties, unless such construction relates to an
8 appropriate use of the floodway. No unit of local government,
9 including home rule units, in such metropolitan counties may
10 issue any building permit or other apparent authorization for
11 any prohibited new construction within the 100-year floodway.

12 (d) For the purpose of this Section, including for the
13 purposes of granting permit and license applications filed or
14 pending prior to the effective date of this amendatory Act of
15 the 96th General Assembly",:

16 (1) "100-year floodway" means the channel and that
17 portion of the 100-year floodplain adjacent to a stream or
18 watercourse which is needed to store and convey the
19 100-year frequency flood discharge without a significant
20 increase in stage.

21 (1.5) "100-year floodplain" means the lowland and
22 relatively flat areas adjoining inland and coastal waters,
23 including flood-prone areas of offshore islands, that are
24 inundated by a flood that has a 1% or greater chance of
25 recurring in any given year or a flood of a magnitude
26 equalled or exceeded once in 100 years on the average over

1 a significantly long period.

2 (2) "New construction" means the construction of any
3 new building or structure or the placement of any fill or
4 material, but does not include the repair, remodeling or
5 maintenance of buildings or structures in existence on the
6 effective date of this amendatory Act of 1987.

7 (3) "Appropriate use of the floodway" means use for (i)
8 flood control structures, dikes, dams and other public
9 works or private improvements relating to the control of
10 drainage, flooding or erosion; (ii) structures or
11 facilities relating to the use of, or requiring access to,
12 the water or shoreline, including pumping and treatment
13 facilities, and facilities and improvements related to
14 recreational boats, commercial shipping and other
15 functionally dependent uses; and (iii) any other purposes
16 which the Department determines, by rule, to be appropriate
17 to the 100-year floodway, and the periodic inundation of
18 which will not pose a danger to the general health and
19 welfare of the user, or require the expenditure of public
20 funds or the provision of public resources or disaster
21 relief services. Appropriate use of the floodway does not
22 include construction of a new building unless such building
23 is a garage, storage shed or other structure accessory to
24 an existing building and such building does not increase
25 flood stages.

26 (4) "Person" includes natural persons, corporations,

1 associations, governmental entities, and all other legal
2 entities.

3 (e) All construction undertaken on a designated 100-year
4 floodway in such metropolitan counties, without benefit of a
5 permit from the Department of Natural Resources, shall be
6 unlawful and the Department or any affected unit of local
7 government may, in its discretion, proceed to obtain injunctive
8 relief for abatement or removal of such unlawful construction.
9 The Department, in its discretion, may make such investigations
10 and conduct such hearings and adopt such rules as may be
11 necessary to the performance of its duties under this Section.

12 (f) This Section does not limit any power granted to the
13 Department by any other Act.

14 (g) This Section does not limit the concurrent exercise by
15 any unit of local government of any power consistent herewith.

16 (h) This Section does not apply to any city with a
17 population exceeding 1,500,000.

18 (Source: P.A. 95-728, eff. date - See Sec. 999.)

19 (615 ILCS 5/18h new)

20 Sec. 18h. Conflicts with Executive Order 2006-5. To the
21 extent that Executive Order 2006-5 is inconsistent with the
22 provisions of this amendatory Act of the 96th General Assembly,
23 the provisions of this amendatory Act shall govern.

24 Section 15. The Livestock Management Facilities Act is

1 amended by adding Section 10.3 as follows:

2 (510 ILCS 77/10.3 new)

3 Sec. 10.3. 100-year floodplain. "100-year floodplain"
4 means the lowland and relatively flat areas adjoining inland
5 and coastal waters, including flood-prone areas of offshore
6 islands, that are inundated by a flood that has a 1% or greater
7 chance of recurring in any given year or a flood of a magnitude
8 equalled or exceeded once in 100 years on the average over a
9 significantly long period. For the purposes of this Act,
10 including for the purposes of granting permit and license
11 applications filed or pending prior to the effective date of
12 this amendatory Act of the 96th General Assembly, an area shall
13 be deemed by operation of law not to be within the 100-year
14 floodplain if the area lies within an area protected by a levee
15 or levees located in a flood prevention district established by
16 the Flood Prevention District Act. To the extent that Executive
17 Order 2006-5 is inconsistent with the provisions of this
18 amendatory Act of the 96th General Assembly, the provisions of
19 this amendatory Act shall govern.

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21 Section 99. Effective date. This Act takes effect upon
22 becoming law.