



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/4/2004, by James F. Clayborne Jr.

SYNOPSIS AS INTRODUCED:

615 ILCS 5/23

from Ch. 19, par. 70

Amends the Rivers, Lakes, and Stream Act. Provides that, if a unit of local government has adopted an ordinance that establishes minimum standards for appropriate use of a floodway in its jurisdiction that are at least as restrictive as those established by the Department of Natural Resources and the provision and the unit of local government has adequate staff to enforce the ordinance, the Department may delegate to the unit of local government the authority to issue permits for construction in the floodway.

LRB093 20641 DRH 46484 b

1 AN ACT concerning waterways.

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

4 Section 5. The Rivers, Lakes, and Streams Act is amended by
5 changing Section 23 as follows:

6 (615 ILCS 5/23) (from Ch. 19, par. 70)

7 Sec. 23. It shall be the duty of the Department of Natural
8 Resources to maintain stream gauge stations, and to make
9 careful investigations of the streams of the State with
10 reference to the carrying capacity of all such streams in times
11 of flood and under normal conditions; to prevent the carrying
12 capacity of streams to be limited and impaired by fills,
13 deposits, obstructions, encroachments therein, deposit of
14 debris or material of any kind, including trees, tree limbs,
15 logs, shrubbery, or related growths and trimmings therefrom in
16 or upon the bank of any waters and water courses or in such
17 proximity to such waters and water courses or any tributary
18 thereto where the same shall be liable to be washed into or
19 deposited along such waters and water courses, either by normal
20 or flood flows, as a result of storms or otherwise, which may
21 in any manner impede or obstruct the natural flow of such
22 waters and water courses, or bridges over same, to an extent
23 where the same cannot safely dispose of the flood waters which
24 may naturally, lawfully, and properly be discharged therein; to
25 require such changes in bridges across any navigable waters or
26 streams, or bodies of water made navigable, necessary to meet
27 the demands of navigation and commerce thereon; and to
28 establish by regulations water levels below which water cannot
29 be drawn down behind dams from any stream or river within the
30 State of Illinois, in order to retain enough water in such
31 streams to preserve the fish and other aquatic life in the
32 stream, and to safeguard the health of the community. If the

1 capacity of any stream is limited and impaired by reason of any
2 of the Acts or construction in this Act provided, so as to
3 constitute a menace to property along the course of said stream
4 or safety of the people of the State, or results in damage,
5 overflow, or an interruption to navigation, or if water is
6 being drawn down, or is about to be drawn down in contravention
7 of the water level regulations established by the Department,
8 the Department of Natural Resources shall take such action as
9 may be required, by injunction or otherwise, to prevent such
10 encroachments or the erection of such structures, or compel the
11 removal or modification of same, or to prevent water being
12 drawn down below the levels established by the Department. It
13 shall be unlawful for any person, persons, corporations,
14 counties, cities, municipalities, or other agency to make any
15 fill, deposit, or encroachment in, deposit or placement of
16 felled or trimmed woody plant upon or along the bank, or erect
17 any bridges over a stream that has a drainage area of one
18 square mile or more in urban areas or 10 square miles or more
19 in rural areas, until plans, profiles and specifications and
20 other data which may be required, have been first filed with
21 the Department of Natural Resources of this State, and a
22 written permit received therefor.

23 If a unit of local government has adopted an ordinance that
24 establishes minimum standards for appropriate use of a floodway
25 in its jurisdiction that are at least as restrictive as those
26 established by the Department and this Section and the unit of
27 local government has adequate staff to enforce the ordinance,
28 the Department may delegate to the unit of local government the
29 authority to issue permits for construction in the floodway.

30 The Department of Natural Resources is authorized, in case
31 of existing dams, to require that the dams be maintained in a
32 proper state of repair, and at a height for proper control of
33 water levels in the disposal of flood waters and at normal
34 stages, and for such purposes to require changes and
35 modifications therein, and to compel the installation of
36 fishways in dams wherever deemed necessary; provided, however,

1 that the enactment by any governmental unit of any new rule,
2 regulation, ordinance, law, or other requirements passed after
3 the construction of an existing dam, shall not be construed to
4 give the Department of Natural Resources the power or authority
5 to require changes in the design, structure, or construction,
6 of any existing dam in conformance with all applicable
7 standards existing at the time of its construction and which is
8 in good repair.

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