

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 Sections 3.102 and 3.103 as follows:

6 (415 ILCS 5/3.102 new)

7 Sec. 3.102. 100-year flood. "100-year flood" means a flood  
8 that has a 1% or greater chance of recurring in any given year  
9 or a flood of a magnitude equaled or exceeded once in 100 years  
10 on the average over a significantly longer period.

11 (415 ILCS 5/3.103 new)

12 Sec. 3.103. 100-year floodplain. "100-year floodplain"  
13 means the lowland and relatively flat areas adjoining inland  
14 and coastal waters, including flood-prone areas of offshore  
15 islands, that are inundated by a 100-year flood. For the  
16 purposes of this Act, including for the purposes of granting  
17 permit and license applications filed or pending prior to the  
18 effective date of this amendatory Act of the 96th General  
19 Assembly, an area shall be deemed by operation of law not to be  
20 within the 100-year floodplain if the area lies within an area  
21 protected by a federal levee and is located in a flood  
22 prevention district established in accordance with the Flood

1 Prevention District Act; provided, however, that an area that  
2 lies within a flood prevention district established in  
3 accordance with the Flood Prevention District Act shall be  
4 deemed by operation of law to be within the 100-year floodplain  
5 if, according to the currently adopted federal flood insurance  
6 rate map, the area is subject to inundation by a 100-year flood  
7 from bodies of water other than the Mississippi River.

8 Section 15. The Rivers, Lakes, and Streams Act is amended  
9 by adding Sections 18h, 18i, and 18j and by changing Sections  
10 18f and 18g as follows:

11 (615 ILCS 5/18f) (from Ch. 19, par. 65f)

12 Sec. 18f.

13 (a) The Department of Natural Resources shall define  
14 100-year floodplains ~~flood plains~~ within the State of Illinois  
15 on a township by township basis and may issue permits for any  
16 construction within such 100-year floodplains ~~flood plains~~ on  
17 or after the effective date of this amendatory Act of 1971. The  
18 Department shall publish and distribute suitable reports,  
19 together with mapping and hydrologic exhibits pertaining to  
20 100-year floodplains ~~flood plains~~ defined and established  
21 under this Act. In defining applicable 100-year floodplains  
22 ~~flood plains~~, the Department shall cooperate with, and shall  
23 consider planning and zoning requirements of, regional  
24 planning agencies created by statute, counties, municipalities

1 and other units of government. A period of thirty days shall be  
2 allowed for any agency to submit written comments to the  
3 Department regarding any proposed 100-year floodplain ~~flood~~  
4 ~~plain~~ area. If such agency fails to return comments to the  
5 Department within the specified time period the Department may  
6 proceed with the publication and institution of the 100-year  
7 floodplain ~~flood-plain~~ permit procedure. The Department is  
8 charged with the planning, development, and evaluation of the  
9 most economic combination of retention storage, channel  
10 improvement, and floodplain ~~flood-plain~~ preservation in  
11 defining and establishing 100-year floodplain ~~flood-plain~~  
12 areas. All construction undertaken on a defined 100-year  
13 floodplain ~~flood-plain~~ subsequent to the effective date of this  
14 amendatory Act, without benefit of a permit from the Department  
15 of Natural Resources, shall be unlawful and the Department, may  
16 in its discretion, proceed to obtain injunctive relief for  
17 abatement or removal of such unlawful construction. The  
18 Department, in its discretion, may make such investigations and  
19 conduct such hearings as may be necessary to the performance of  
20 its duties under this amendatory Act of 1971. Activity of the  
21 Department under this Section shall be limited to townships  
22 related to projects of the Department authorized by the General  
23 Assembly. The report of the Department shall be considered a  
24 final administrative decision and subject to judicial review in  
25 accordance with the provision of the Administrative Review Law.

26 (b) For the purposes of this Section, including for the

1 purposes of granting permit and license applications filed or  
2 pending prior to the effective date of this amendatory Act of  
3 the 96th General Assembly, "100-year floodplain" means the  
4 lowland and relatively flat areas adjoining inland and coastal  
5 waters, including flood-prone areas of offshore islands, that  
6 are inundated by a flood that has a 1% or greater chance of  
7 recurring in any given year or a flood of a magnitude equalled  
8 or exceeded once in 100 years on the average over a  
9 significantly long period. For the purposes of this Section, an  
10 area shall be deemed by operation of law not to be within the  
11 100-year floodplain if the area lies within an area protected  
12 by a federal levee and is located in a flood prevention  
13 district established in accordance with the Flood Prevention  
14 District Act; provided, however, that an area that lies within  
15 a flood prevention district established in accordance with the  
16 Flood Prevention District Act shall be deemed by operation of  
17 law to be within the 100-year floodplain if, according to the  
18 currently adopted federal flood insurance rate map, the area is  
19 subject to inundation by a 100-year flood from bodies of water  
20 other than the Mississippi River.

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

22 (615 ILCS 5/18g) (from Ch. 19, par. 65g)

23 Sec. 18g. (a) The Department of Natural Resources shall  
24 define the 100-year floodway within metropolitan counties  
25 located in the area served by the Northeastern Illinois

1 Planning Commission, except for the part of that area which is  
2 within any city with a population exceeding 1,500,000. In  
3 defining the 100-year floodway, the Department may rely on  
4 published data and maps which have been prepared by the  
5 Department itself, by the Illinois State Water Survey of the  
6 University of Illinois, by federal, State or local governmental  
7 agencies, or by any other private or public source which it  
8 determines to be reliable and appropriate.

9 (b) The Department may issue permits for construction that  
10 is an appropriate use of the designated 100-year floodway in  
11 such metropolitan counties. If a unit of local government has  
12 adopted an ordinance that establishes minimum standards for  
13 appropriate use of the floodway that are at least as  
14 restrictive as those established by the Department and this  
15 Section, and the unit of local government has adequate staff to  
16 enforce the ordinance, the Department may delegate to such unit  
17 of local government the authority to issue permits for  
18 construction that is an appropriate use of the floodway within  
19 its jurisdiction.

20 (c) No person may engage in any new construction within the  
21 100-year floodway as designated by the Department in such  
22 metropolitan counties, unless such construction relates to an  
23 appropriate use of the floodway. No unit of local government,  
24 including home rule units, in such metropolitan counties may  
25 issue any building permit or other apparent authorization for  
26 any prohibited new construction within the 100-year floodway.

1 (d) For the purpose of this Section, including for the  
2 purposes of granting permit and license applications filed or  
3 pending prior to the effective date of this amendatory Act of  
4 the 96th General Assembly:

5 (1) "100-year floodway" means the channel and that  
6 portion of the 100-year floodplain adjacent to a stream or  
7 watercourse which is needed to store and convey the  
8 100-year frequency flood discharge without a significant  
9 increase in stage.

10 (1.5) "100-year floodplain" means the lowland and  
11 relatively flat areas adjoining inland and coastal waters,  
12 including flood-prone areas of offshore islands, that are  
13 inundated by a flood that has a 1% or greater chance of  
14 recurring in any given year or a flood of a magnitude  
15 equalled or exceeded once in 100 years on the average over  
16 a significantly long period.

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

22 (3) "Appropriate use of the floodway" means use for (i)  
23 flood control structures, dikes, dams and other public  
24 works or private improvements relating to the control of  
25 drainage, flooding or erosion; (ii) structures or  
26 facilities relating to the use of, or requiring access to,

1 the water or shoreline, including pumping and treatment  
2 facilities, and facilities and improvements related to  
3 recreational boats, commercial shipping and other  
4 functionally dependent uses; and (iii) any other purposes  
5 which the Department determines, by rule, to be appropriate  
6 to the 100-year floodway, and the periodic inundation of  
7 which will not pose a danger to the general health and  
8 welfare of the user, or require the expenditure of public  
9 funds or the provision of public resources or disaster  
10 relief services. Appropriate use of the floodway does not  
11 include construction of a new building unless such building  
12 is a garage, storage shed or other structure accessory to  
13 an existing building and such building does not increase  
14 flood stages.

15 (4) "Person" includes natural persons, corporations,  
16 associations, governmental entities, and all other legal  
17 entities.

18 (e) All construction undertaken on a designated 100-year  
19 floodway in such metropolitan counties, without benefit of a  
20 permit from the Department of Natural Resources, shall be  
21 unlawful and the Department or any affected unit of local  
22 government may, in its discretion, proceed to obtain injunctive  
23 relief for abatement or removal of such unlawful construction.  
24 The Department, in its discretion, may make such investigations  
25 and conduct such hearings and adopt such rules as may be  
26 necessary to the performance of its duties under this Section.

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

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

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

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

8 (615 ILCS 5/18h new)

9 Sec. 18h. Conflicts with Executive Order 2006-5. To the  
10 extent that Executive Order 2006-5 is inconsistent with the  
11 provisions of this amendatory Act of the 96th General Assembly,  
12 the provisions of this amendatory Act shall govern.

13 (615 ILCS 5/18i new)

14 Sec. 18i. Maintenance of eligibility to participate in the  
15 National Flood Insurance Program. Nothing in this amendatory  
16 Act of the 96th General Assembly shall be construed to diminish  
17 or conflict with the authority and the obligation of local  
18 governments to adopt and enforce local ordinances and  
19 regulations necessary to maintain eligibility to participate  
20 fully in the National Flood Insurance Program and for property  
21 owners to purchase federal flood insurance. If a local  
22 government located in an area that (i) is protected by a  
23 federal levee and (ii) located in a flood prevention district  
24 established in accordance with the Flood Prevention District



1 Act chooses to participate in the National Flood Insurance  
2 Program, it must adopt and maintain ordinances and floodplain  
3 management regulations that meet the requirements of 44 C.F.R.  
4 60.3, 60.4, and 60.5, and it must submit copies of those  
5 documents to the Federal Emergency Management Agency as  
6 required by federal law.

7 (615 ILCS 5/18j new)

8 Sec. 18j. ESDA critical facility evacuation plans. Any  
9 critical facility that gives shelter to a person who would be  
10 unable to evacuate without assistance during a flooding event,  
11 and that is located in an area deemed by operation of law not  
12 to be within the 100-year floodplain because the area in which  
13 the critical facility is located lies within an area protected  
14 by a federal levee and is located in a flood prevention  
15 district established in accordance with the Flood Prevention  
16 District Act shall develop an evacuation plan and certify to  
17 the Emergency Services and Disaster Agency (ESDA), as defined  
18 by Section 4 of the Illinois Emergency Management Act, on a  
19 form provided by the ESDA, that it has developed an evacuation  
20 plan which the critical facility has or will implement prior to  
21 or concurrent with occupancy of the facility to evacuate  
22 persons who need assistance evacuating the facility and the  
23 flooded area.

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.