

HOUSE BILL NO. 570

INTRODUCED BY C. FISCUS

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ADDITIONAL NOTIFICATION FOR ESTABLISHMENT OF PAST AND FUTURE FLOOD PLAINS AND FLOODWAYS; AMENDING SECTIONS 76-5-201 AND 76-5-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 76-5-201, MCA, is amended to read:

**"76-5-201. Program for delineation of flood plains and floodways.** (1) The department shall initiate a comprehensive program for the delineation of designated flood plains and designated floodways for each watercourse and drainway in the state. It shall make a study relating to the acquiring of flood data and may enter into arrangements with the United States geological survey, the United States army corps of engineers, or any other state or federal agency for the acquisition of data.

(2) Before the department establishes by order a designated flood plain or a designated floodway, the department shall consult with the affected political subdivisions. Consultation must include but is not limited to the following:

(a) specifically requesting that the political subdivisions submit pertinent data concerning flood hazards, including flooding experiences, plans to avoid potential hazards, estimates of economic impacts of flooding on the community, both historical and prospective, and other data that is considered appropriate;

(b) notifying local officials, including members of the county commission, city council, and planning board, of the progress of surveys, studies, and investigations and of proposed findings, along with information concerning data and methods employed in reaching conclusions; and

(c) ~~encouraging local dissemination of~~ disseminating information concerning surveys, studies, and investigations so that interested persons will have an opportunity to bring relevant data to the attention of the department.

(3) Nothing in this part precludes a political subdivision from designating by ordinance or resolution, without prior state designation, flood plains and floodways as designated by the United States federal emergency management agency and as necessary for compliance with the national flood insurance program if the

1 department determines the designation is in compliance with parts 1 through 4 of this chapter."  
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3 **Section 2.** Section 76-5-202, MCA, is amended to read:

4 **"76-5-202. Designation of flood plains and floodways.** (1) When sufficient data has been acquired  
5 by the department, the department shall establish, by order after a public hearing, the designated flood plain  
6 within which a political subdivision may establish land use regulation.

7 (2) When sufficient data has been acquired, the department shall establish, by order after a public  
8 hearing, the designated floodway within which a political subdivision may establish land use regulation.

9 (3) These designations must be based upon reasonable hydrological certainty. Designations made  
10 according to a flood hazard boundary map prepared by the federal emergency management agency have a  
11 rebuttable presumption of reasonable hydrological certainty.

12 (4) The department shall record all designated flood plains or designated floodways in the office of the  
13 county clerk and recorder of each county in which those flood plains or floodways are found.

14 (5) The department shall notify by mail each titleholder of land adjacent to a watercourse or drainway  
15 affected by an order establishing or altering a flood plain or floodway since 2000."

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17 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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