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LRB-5034/1 EHS:skw

2019 ASSEMBLY BILL 721

January 8, 2020 - Introduced by Representatives Pronschinske, Oldenburg, Dittrich, Horlacher, Knodl, Tranel, Tusler, VanderMeer and Skowronski, cosponsored by Senators Marklein, Craig, Kapenga, Olsen, Nass, Stroebel and Testin. Referred to Committee on Housing and Real Estate.

- AN ACT to create 87.30 (1d) (d) of the statutes; relating to: the regulation of
- 2 nonconforming buildings in a floodplain.

Analysis by the Legislative Reference Bureau

Under this bill, if modifications made to a nonconforming building bring the building into conformity with federal standards under federal laws relating to floodplain land use, the Department of Natural Resources may not prohibit further modifications based on cost.

Current law prohibits any person from placing or maintaining any structure, building, fill, or development within any floodplain in violation of a floodplain zoning ordinance adopted by a county, city, or village or by a Department of Natural Resources order or determination. Current law prohibits a county, city, or village under a floodplain zoning ordinance from permitting the repair, reconstruction, or improvement of a nonconforming building if the nonconforming building, after repair, reconstruction or improvement, will fail to meet any minimum requirement applicable to a nonconforming building under the federal statutes and regulations governing the National Flood Insurance Program (NFIP). Under DNR rule, a nonconforming building is an existing lawful building that is not in conformity with the dimensional or structural requirements of a floodplain zoning ordinance for the area of the floodplain that it occupies.

Current DNR rule prohibits the modification or addition to a nonconforming building that over the life of the building would exceed 50 percent of its present equalized assessed value unless the entire building is permanently changed to a conforming building with a conforming use in compliance with DNR rules. Under

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this bill, if, as a result of the repair, reconstruction, or improvement of a nonconforming building, the entire building is permanently changed to be a conforming building in compliance with the applicable requirements under the federal statutes and regulations governing NFIP, DNR may not prohibit further repair, reconstruction, or improvement of that building based on cost.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Section 1. 87.30 (1d) (d) of the statutes is created to read:

87.30 (1d) (d) If, as a result of the repair, reconstruction, or improvement of a nonconforming building, the entire building is permanently changed to be a conforming building in compliance with the applicable requirements under 42 USC 4001 to 4129 or the regulations promulgated under those provisions, the department may not prohibit further repair, reconstruction, or improvement of that building based on cost.

8 (END)