



1997 ASSEMBLY BILL 58

February 3, 1997 - Introduced by Representatives OWENS, OLSEN, ALBERS, MUSSER, M. LEHMAN, HAHN, AINSWORTH, SERATTI, GRONEMUS, DOBYNS, ZUKOWSKI, GROTHMAN and SKINDRUD. Referred to Committee on Land Use.

1 **AN ACT to repeal** 87.30 (1d) (a) 3.; **to amend** 87.30 (1d) (b); and **to create** 59.692
2 (1) (ag), 59.692 (1) (ar) and 59.692 (1t) of the statutes; **relating to:** limitations
3 on improvements of nonconforming buildings in shorelands and on
4 improvements of certain nonconforming buildings in floodplains.

Analysis by the Legislative Reference Bureau

Under rules promulgated by the department of natural resources (DNR) pursuant to its authority to regulate the adoption of local floodplain and shoreland zoning ordinances, DNR has imposed some state requirements that are stricter than those under the national flood insurance program administered by the federal emergency management agency. These requirements apply to nonconforming buildings that are located in floodplains and that are damaged or destroyed by flooding and to nonconforming buildings that are located in shorelands. A nonconforming building is a building that is not in conformity with the provisions of the floodplain or shoreland zoning ordinance for the area of the floodplain or shoreland that the building occupies.

Under current law, for nonconforming buildings that are damaged or destroyed by fire or a natural disaster other than flooding and that are located in floodplains, the only limitations that a local floodplain zoning ordinance may impose on the cost of an improvement are those that are minimally required by the national flood insurance program. This bill expands the scope of current law so that the only limitations that a shoreland or a floodplain zoning ordinance may impose on the cost of improving a damaged or destroyed nonconforming building, regardless of the

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cause of the damage or destruction, are those that are minimally required by the federal program.

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:

1 **SECTION 1.** 59.692 (1) (ag) of the statutes is created to read:

2 59.692 (1) (ag) "Nonconforming building" has the meaning specified by rule by
3 the department for purposes of floodplain zoning under s. 87.30 and includes a
4 building with a nonconforming use.

5 **SECTION 2.** 59.692 (1) (ar) of the statutes is created to read:

6 59.692 (1) (ar) "Nonconforming use" has the meaning specified by rule by the
7 department for purposes of floodplain zoning under s. 87.30.

8 **SECTION 3.** 59.692 (1t) of the statutes is created to read:

9 59.692 (1t) (a) An ordinance enacted under this section shall permit the repair,
10 reconstruction or improvement of any nonconforming building, except as provided
11 in par. (b).

12 (b) An ordinance enacted under this section may not permit the repair,
13 reconstruction or improvement of a nonconforming building if the nonconforming
14 building, after repair, reconstruction or improvement, will fail to conform to the
15 requirements specified in s. 87.30 (1d) (c).

16 **SECTION 4.** 87.30 (1d) (a) 3. of the statutes is repealed.

17 **SECTION 5.** 87.30 (1d) (b) of the statutes is amended to read:

18 87.30 (1d) (b) ~~For nonconforming buildings that are damaged or destroyed by~~
19 ~~a nonflood disaster~~ a A floodplain zoning ordinance shall permit the repair,

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1 reconstruction or improvement of any such nonconforming building, ~~in order to~~
2 ~~restore it after the nonflood disaster~~ except as provided in par. (c).

3 **SECTION 6. Initial applicability.**

4 (1) The treatment of section 59.692 (1) (ag) and (ar) and (1t) of the statutes first
5 applies to provisions under a county shoreland zoning ordinance on the effective date
6 of this subsection regardless of when the county shoreland zoning ordinance was
7 enacted.

8 (2) The treatment of section 59.692 (1) (ag) and (ar) and (1t) of the statutes first
9 applies to repairs, reconstruction and improvements that begin on the effective date
10 of this subsection.

11 (3) The treatment of section 87.30 (1d) (a) 3. and (b) of the statutes first applies
12 to provisions under a floodplain zoning ordinance on the effective date of this
13 subsection regardless of when the floodplain zoning ordinance was enacted.

14 (4) The treatment of section 87.30 (1d) (a) 3. and (b) of the statutes first applies
15 to repairs, reconstruction and improvements that begin on the effective date of this
16 subsection.

17 (END)