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AB-747 Planning and land use: Sacramento-San Joaquin Valley. (2015-2016)

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Assembly Bill No. 747

CHAPTER 152

An act to amend Section 65962 of the Government Code, relating to land use.

[Approved by Governor August 10, 2015. Filed with Secretary of State August 10, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 747, Eggman. Planning and land use: Sacramento-San Joaquin Valley.

Existing law prohibits a city or county within the Sacramento-San Joaquin Valley from approving a discretionary permit or other discretionary entitlement, or a ministerial permit that would result in the construction of a new residence, for a project that is located within a flood hazard zone, unless the city or county finds, based on substantial evidence in the record, that certain criteria are met.

This bill would prohibit a city or county within the Sacramento-San Joaquin Valley from approving a discretionary permit or entitlement that would result in the construction of a new building or construction that would result in an increase in allowed occupancy for an existing building for a project that is located within a flood hazard zone, unless the city or county finds that the construction meets the criteria referenced above.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Sacramento-San Joaquin Valley.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65962 of the Government Code is amended to read:

65962. (a) Notwithstanding any other law, after the amendments required by Sections 65302.9 and 65860.1 have become effective, each city and county within the Sacramento-San Joaquin Valley shall not approve a discretionary permit or other discretionary entitlement that would result in the construction of a new building or construction that would result in an increase in allowed occupancy for an existing building, or a ministerial permit that would result in the construction of a new residence, for a project that is located within a flood hazard zone unless the city or county finds, based on substantial evidence in the record, one of the following:

- (1) The facilities of the State Plan of Flood Control or other flood management facilities protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(2) The city or county has imposed conditions on the permit or discretionary entitlement that will protect the project to the urban level of flood protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.

(3) The local flood management agency has made adequate progress on the construction of a flood protection system which will result in flood protection equal to or greater than the urban level of flood protection in urban or urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas for property located within a flood hazard zone, intended to be protected by the system. For urban and urbanizing areas protected by project levees, the urban level of flood protection shall be achieved by 2025.

(4) The property in an undetermined risk area has met the urban level of flood protection based on substantial evidence in the record.

(b) The effective date of amendments referred to in this section shall be the date upon which the statutes of limitation specified in subdivision (c) of Section 65009 have run or, if the amendments and any associated environmental documents are challenged in court, the validity of the amendments and any associated environmental documents has been upheld in a final decision.

(c) This section does not change or diminish existing requirements of local flood plain management laws, ordinances, resolutions, or regulations necessary to local agency participation in the national flood insurance program.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique land use planning considerations relative to flood hazard zones in the Sacramento-San Joaquin Valley.