

Senate Engrossed House Bill

**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fiftieth Legislature  
Second Regular Session  
2012

CHAPTER 228

## **HOUSE BILL 2658**

AN ACT

AMENDING SECTION 48-3610, ARIZONA REVISED STATUTES; RELATING TO COUNTY FLOOD CONTROL DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 48-3610, Arizona Revised Statutes, is amended to  
3 read:

4 48-3610. Assumption of powers and duties by cities and towns;  
5 resolution; definitions

6 A. The powers and duties prescribed by section 48-3609 for floodplain  
7 management may be assumed by the governing body of an incorporated city or  
8 town within its area of jurisdiction if the incorporated city or town  
9 declares by resolution that it intends to assume the powers and duties,  
10 including the adoption of floodplain management regulations, pursuant to this  
11 article. An incorporated city or town currently engaged in floodplain  
12 management may continue to exercise the floodplain management powers and  
13 duties pursuant to this article in its area of jurisdiction by passing a  
14 resolution declaring its intent to do so before August 3, 1984.

15 B. If the assumption of powers and duties under this section occurs:

16 1. The city or town shall advise the district and any adjacent  
17 jurisdiction having responsibility for floodplain management in writing and  
18 provide a copy of any development plan of all applications for floodplain use  
19 permits or variances to develop land in a floodplain or floodway within one  
20 mile of the boundary between the city's or town's area of jurisdiction and  
21 the area of jurisdiction of the district. The city or town shall also advise  
22 the district and any adjacent jurisdiction having responsibility for  
23 floodplain management in writing and provide a copy of any development plan  
24 of any major development proposed within a floodplain or floodway which could  
25 affect floodplains, floodways or watercourses outside the city's or town's  
26 area of jurisdiction. Written notice and a copy of the plan of development  
27 shall be sent to any adjacent jurisdiction no later than three working days  
28 after having been received by the city or town.

29 2. The district shall advise the city or town in writing and provide a  
30 copy of any development plan of any application for a floodplain use permit  
31 or variance to develop land in a floodplain or floodway within one mile of  
32 the boundary between the district's area of jurisdiction and that of the city  
33 or town. The district shall also advise the city or town in writing and  
34 provide a copy of any development plan of any major development proposed  
35 within a floodplain or floodway which could affect floodplains, floodways or  
36 watercourses within the city's or town's area of jurisdiction. Written  
37 notice and a copy of the plan of development shall be sent to any adjacent  
38 jurisdiction no later than three working days after having been received by  
39 the district.

40 C. ON PASSAGE OF A RESOLUTION BY THE CITY OR TOWN ASSUMING THE POWERS  
41 AND DUTIES OF FLOODPLAIN MANAGEMENT AND REGULATION, THE FOLLOWING APPLY:

42 1. THE CITY OR TOWN IS NOT LIABLE FOR ANY ASPECT OF A PROJECT THAT WAS  
43 APPROVED, PERMITTED, INITIATED OR FULLY OR PARTIALLY CONSTRUCTED WHILE UNDER  
44 THE FLOODPLAIN AUTHORITY OF A DISTRICT OR COUNTY, INCLUDING ANY OBLIGATION TO  
45 COMPLETE, OPERATE, MAINTAIN OR REPAIR THE PROJECT.

1           2. FOR ANY PROJECT FOR WHICH A PERMIT WAS ISSUED BY A DISTRICT OR  
2 COUNTY WHILE IT HELD FLOODPLAIN MANAGEMENT AND THAT IS SUBSEQUENTLY UNDER  
3 MORE STRINGENT FLOODPLAIN REGULATION UNDER THE AUTHORITY OF A CITY OR TOWN,  
4 THE PROJECT IS DEEMED A VALID NONCONFORMING USE THAT IS SUBJECT TO THE MORE  
5 STRINGENT CITY OR TOWN REGULATION FOR SUBSEQUENT SUBSTANTIAL IMPROVEMENTS OR  
6 SUBSTANTIAL REPAIRS.

7           3. FOR ANY VIOLATION OF THE DISTRICT'S OR COUNTY'S FLOODPLAIN  
8 REGULATION AUTHORITY BEFORE RELINQUISHMENT, THE DISTRICT OR COUNTY CONTINUES  
9 TO BE LIABLE FOR THE ENFORCEMENT AGAINST AND CORRECTION OF THE VIOLATION AND  
10 THE CITY OR TOWN IS NOT LIABLE.

11         ~~E.~~ D. Nothing in this section shall act to delay approval of a  
12 development plan by a city, town, county or district.

13         ~~D.~~ E. If the city or town assuming the floodplain management and  
14 regulation function declares by resolution that it no longer wishes the  
15 powers and duties, then the powers and duties shall be assumed by the  
16 district. ON PASSAGE OF A RESOLUTION BY THE CITY OR TOWN THAT THE CITY OR  
17 TOWN IS RELINQUISHING ITS ASSUMPTION OF FLOODPLAIN MANAGEMENT AND REGULATION,  
18 THE FOLLOWING APPLY:

19           1. THE DISTRICT OR THE COUNTY IS NOT LIABLE FOR ANY ASPECT OF A  
20 PROJECT THAT WAS APPROVED, PERMITTED, INITIATED OR FULLY OR PARTIALLY  
21 CONSTRUCTED WHILE UNDER THE FLOODPLAIN AUTHORITY OF THE CITY OR TOWN,  
22 INCLUDING ANY OBLIGATION TO COMPLETE, OPERATE, MAINTAIN OR REPAIR THE  
23 PROJECT.

24           2. FOR ANY PROJECT FOR WHICH A PERMIT WAS ISSUED BY THE CITY OR TOWN  
25 WHILE IT HELD FLOODPLAIN MANAGEMENT AND THAT IS SUBSEQUENTLY UNDER MORE  
26 STRINGENT FLOODPLAIN REGULATION UNDER DISTRICT AUTHORITY, THE PROJECT IS  
27 DEEMED A VALID NONCONFORMING USE THAT IS SUBJECT TO THE MORE STRINGENT  
28 DISTRICT REGULATION FOR SUBSEQUENT SUBSTANTIAL IMPROVEMENTS OR SUBSTANTIAL  
29 REPAIRS.

30           3. FOR ANY VIOLATION OF THE CITY OR TOWN'S FLOODPLAIN REGULATION  
31 AUTHORITY BEFORE RELINQUISHMENT, THE CITY OR TOWN CONTINUES TO BE LIABLE FOR  
32 THE ENFORCEMENT AGAINST AND CORRECTION OF THE VIOLATION AND THE DISTRICT AND  
33 THE COUNTY ARE NOT LIABLE.

34         ~~E.~~ F. If the assumption of powers and duties BY A CITY OR TOWN occurs  
35 under this section, for purposes of applying this article to the city or  
36 town:

37           1. "Area of jurisdiction" means the lands within the municipal  
38 boundaries of the city or town.

39           2. "Board" means the governing body of a city or town.

APPROVED BY THE GOVERNOR APRIL 10, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2012.

Passed the House February 23, 2012

Passed the Senate April 3, 2012

by the following vote: 47 Ayes,

by the following vote: 19 Ayes,

9 Nays, 3 Not Voting  
*1 vacant*

10 Nays, 1 Not Voting

*[Signature]*

Speaker of the House

*[Signature]*

President of the Senate

*[Signature]*

Chief Clerk of the House

*[Signature]*

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

H.B. 2658

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

April 5, 2012

by the following vote: 49 Ayes,

10 Nays, 1 Not Voting

[Signature]

Speaker of the House

[Signature]

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

5 day of April, 2012,

at 1 o'clock P M.

[Signature]  
Secretary to the Governor

Approved this 10<sup>th</sup> day of

April, 2012

at 4:50 o'clock P. M.

[Signature]  
Governor of Arizona

H.B. 2658

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 11<sup>th</sup> day of April, 2012,

at 8:27 o'clock A M.

[Signature]  
Secretary of State