



February 12, 2019

HOUSE BILL No. 1165

DIGEST OF HB 1165 (Updated February 7, 2019 11:19 am - DI 77)

Citations Affected: IC 15-11; IC 15-12; IC 36-1.

Synopsis: Farmland preservation. Requires the Indiana state department of agriculture (department) to establish a program to assist individuals in creating agricultural conservation easements for agricultural land. Requires the department to assist individuals and local governments in obtaining agricultural conservation easements through federal programs. Creates the agricultural conservation easement fund to purchase permanent agricultural conservation easements. Provides that an agricultural conservation easement that meets the conservation easement requirements shall be assessed and taxed on a basis that reflects the easement. Provides that the state or a unit of local government may not acquire an interest in any real property through eminent domain if the real property is subject to an agricultural conservation easement, unless permission has been granted by the director of the department. Specifies that an agricultural conservation easement does not affect the ability of a public utility or a municipally owned utility to acquire property or property rights to be used in connection with the provision of utility services to the public. Prohibits a county, municipality, or township from adopting an ordinance that prohibits a person from beekeeping, raising chickens, or composting on property that the person owns, rents, or leases.

Effective: July 1, 2019.

Bauer, Lehe, Goodin, Clere, Deal

January 8, 2019, read first time and referred to Committee on Agriculture and Rural Development.
February 11, 2019, amended, reported — Do Pass.

HB 1165—LS 6882/DI 77



February 12, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1165

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 15-11-15 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]:

4 **Chapter 15. Agriculture Conservation Easements**

5 **Sec. 1. As used in this chapter, "agricultural conservation**
6 **easement" means a written conveyance, subject to permitted uses**
7 **necessary for agriculture use, in which the owner:**

8 (1) **relinquishes to the public in perpetuity the owner's**
9 **development rights; and**

10 (2) **makes a restrictive covenant running with the real**
11 **property not to undertake development.**

12 **Sec. 2. As used in this chapter, "agricultural use" has the**
13 **meaning set forth in IC 36-7-4-616(b) and includes the production**
14 **of livestock or livestock products, commercial aquaculture, equine**
15 **or equine products, real property designated as a conservation**
16 **reserve plan, pastureland, poultry or poultry products,**
17 **horticultural or nursery stock, fruit, vegetables, forage, grains,**

HB 1165—LS 6882/DI 77



1 timber, trees, bees and apiary products, other agricultural crops,
 2 general farming operation purposes, or agricultural real property
 3 that lays fallow.

4 Sec. 3. As used in this chapter, "fund" refers to the agricultural
 5 conservation easement fund created by section 8 of this chapter.

6 Sec. 4. As used in this chapter, "unit of local government"
 7 means a:

- 8 (1) county;
- 9 (2) city;
- 10 (3) town; or
- 11 (4) township;

12 located in Indiana.

13 Sec. 5. The department shall establish a program to assist
 14 individuals and units of local government in creating agricultural
 15 conservation easements for agricultural real property consistent
 16 with the purposes of this chapter.

17 Sec. 6. The department shall assist individuals and units of local
 18 government in obtaining agricultural conservation easements
 19 through federal programs, including the Agricultural Conservation
 20 Easement Program administered by the United States Department
 21 of Agriculture's National Resources Conservation Service.

22 Sec. 7. (a) The department may use money in the fund to
 23 purchase permanent agricultural conservation easements if the
 24 following requirements are met:

- 25 (1) The agricultural conservation easement is subject to the
 26 requirements and enforcement under IC 32-23-5.
- 27 (2) The real property must be for agricultural use.
- 28 (3) The real property is not less than five (5) contiguous acres.
- 29 (4) The department may not pay more than fifty percent
 30 (50%) of the fair market value of the agricultural
 31 conservation easement. However, the department may
 32 leverage matching dollars from federal sources, units of local
 33 government, or private sources.
- 34 (5) The holder of the agricultural conservation easement is:
 35 (A) a governmental body that is empowered to hold an
 36 interest in real property under the laws of Indiana or the
 37 United States; or
 38 (B) a charitable corporation, charitable association,
 39 nonprofit corporation, or charitable trust, whose purposes
 40 or powers include assuring the availability of real property
 41 for agricultural or forest use.
- 42 (6) Any other requirements of the department.



1 (b) Before offering to purchase a permanent agricultural
 2 conservation easement, the department may request that the
 3 Indiana land resources council (IC 15-12-5) review the proposed
 4 agricultural conservation easement.

5 Sec. 8. (a) The agricultural conservation easement fund is
 6 created to purchase permanent agricultural conservation
 7 easements that comply with the requirements under section 7 of
 8 this chapter. The fund shall be administered by the department.

9 (b) Expenses of administering the fund shall be paid from
 10 money in the fund.

11 (c) The treasurer of state shall invest the money in the fund not
 12 currently needed to meet the obligations of the fund in the same
 13 manner as other public money may be invested. Interest that
 14 accrues from these investments shall be deposited in the state
 15 general fund.

16 (d) The fund consists of:

- 17 (1) appropriations made by the general assembly;
- 18 (2) gifts, donations, and grants; and
- 19 (3) federal grants and funds.

20 (e) Money in the fund at the end of a state fiscal year does not
 21 revert to the state general fund.

22 (f) The department may not expend money in the fund to
 23 acquire an interest in the real property through eminent domain.

24 Sec. 9. For the purposes of IC 6-1.1, real property that is subject
 25 to an agricultural conservation easement that meets the
 26 requirements under IC 32-23-5 shall be assessed and taxed on a
 27 basis that reflects the easement.

28 Sec. 10. The department may adopt rules under IC 4-22-2 to
 29 administer this chapter.

30 Sec. 11. Notwithstanding IC 32-24 or any other law, the state or
 31 a unit of local government may not acquire an interest in any real
 32 property through eminent domain if the real property is subject to
 33 an agricultural conservation easement, unless permission has been
 34 granted by the director.

35 Sec. 12. Nothing in this chapter or in an agricultural
 36 conservation easement created under this chapter affects the
 37 ability of a public utility (as defined in IC 8-1-2-1(a)) or a
 38 municipally owned utility (as defined in IC 8-1-2-1(h)) to acquire
 39 property or property rights to be used in connection with the
 40 provision of utility services to the public.

41 SECTION 2. IC 15-12-5-6, AS ADDED BY P.L.2-2008, SECTION
 42 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,



1 2019]: Sec. 6. The council may do the following:

- 2 (1) Provide technical assistance and information about land use
3 strategies.
- 4 (2) Facilitate collaboration among commonly affected state,
5 county, and local government units.
- 6 (3) Compile and maintain a land planning information library,
7 both hard copy and electronic, that includes current data on land
8 resources in Indiana.
- 9 (4) Establish or coordinate educational programs for
10 governmental units, nongovernmental entities, and the public with
11 special consideration for local planning commission members and
12 county commissioners.
- 13 (5) Provide counties and local communities conducting land use
14 planning with access to technical and legal assistance through a
15 referral service.
- 16 (6) Provide information to local authorities on model ordinances
17 for programs and techniques on land use.
- 18 (7) Obtain grants and assist counties and local communities in
19 locating additional funding sources for planning projects.
- 20 (8) Make recommendations to the general assembly and other
21 governmental bodies concerning land resources.
- 22 (9) When requested, advise the general assembly on proposals
23 relating to land resources.
- 24 **(10) When requested, advise the Indiana state department of**
25 **agriculture on proposals relating to agricultural conservation**
26 **easements.**

27 SECTION 3. IC 36-1-27 IS ADDED TO THE INDIANA CODE AS
28 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
29 1, 2019]:

30 **Chapter 27. Ordinances that Affect Agriculture**

31 **Sec. 1. (a) Nothing in this section affects an element of**
32 **beekeeping (as defined in IC 14-8-2-82) that is subject to IC 14-24.**

33 **(b) Except as provided in subsection (c), a unit may not adopt an**
34 **ordinance that prohibits a person from beekeeping on property**
35 **that the person owns, rents, or leases.**

36 **(c) A unit may adopt an ordinance that regulates beekeeping:**

- 37 **(1) concerning the number of active hives a person may**
38 **operate and the location of bee hives on the property; and**
39 **(2) that conforms to standards established by the Apiary**
40 **Inspectors of America.**

41 **Sec. 2. (a) Except as provided in subsection (b), a unit may not**
42 **adopt an ordinance that prohibits a person from raising chickens**



1 on property that the person owns, rents, or leases.
2 (b) A unit may adopt an ordinance that regulates chickens
3 concerning the number of chickens a person may own and the
4 location of chicken coops on the property.
5 Sec. 3. (a) This section does not apply to a composting facility
6 subject to IC 13-20-10.
7 (b) Except as provided in subsection (c), a unit may not adopt an
8 ordinance that prohibits a person from composting vegetative
9 matter and other types of organic material that are generated by
10 the person's activities on property that the person owns, rents, or
11 leases.
12 (c) A unit may adopt an ordinance that regulates composting
13 vegetative matter and other types of organic material that are
14 generated by the person's activities concerning the maximum
15 composting area a person may operate and the location of the
16 composting on the property.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1165, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 29 and 30, begin a new paragraph and insert:

"Sec. 11. Notwithstanding IC 32-24 or any other law, the state or a unit of local government may not acquire an interest in any real property through eminent domain if the real property is subject to an agricultural conservation easement, unless permission has been granted by the director.

Sec. 12. Nothing in this chapter or in an agricultural conservation easement created under this chapter affects the ability of a public utility (as defined in IC 8-1-2-1(a)) or a municipally owned utility (as defined in IC 8-1-2-1(h)) to acquire property or property rights to be used in connection with the provision of utility services to the public."

Page 4, after line 15, begin a new paragraph and insert:

"SECTION 3. IC 36-1-27 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 27. Ordinances that Affect Agriculture

Sec. 1. (a) Nothing in this section affects an element of beekeeping (as defined in IC 14-8-2-82) that is subject to IC 14-24.

(b) Except as provided in subsection (c), a unit may not adopt an ordinance that prohibits a person from beekeeping on property that the person owns, rents, or leases.

(c) A unit may adopt an ordinance that regulates beekeeping:

- (1) concerning the number of active hives a person may operate and the location of bee hives on the property; and**
- (2) that conforms to standards established by the Apiary Inspectors of America.**

Sec. 2. (a) Except as provided in subsection (b), a unit may not adopt an ordinance that prohibits a person from raising chickens on property that the person owns, rents, or leases.

(b) A unit may adopt an ordinance that regulates chickens concerning the number of chickens a person may own and the location of chicken coops on the property.

Sec. 3. (a) This section does not apply to a composting facility subject to IC 13-20-10.

(b) Except as provided in subsection (c), a unit may not adopt an ordinance that prohibits a person from composting vegetative



matter and other types of organic material that are generated by the person's activities on property that the person owns, rents, or leases.

(c) A unit may adopt an ordinance that regulates composting vegetative matter and other types of organic material that are generated by the person's activities concerning the maximum composting area a person may operate and the location of the composting on the property."

and when so amended that said bill do pass.

(Reference is to HB 1165 as introduced.)

LEHE

Committee Vote: yeas 12, nays 0.

