

HOUSE BILL No. 1452

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-20.5-7-11; IC 5-22-1-2; IC 6-1.1-6-19; IC 14-8-2-85; IC 14-9-2-5; IC 14-18-12-3; IC 14-22; IC 14-28; IC 25-36.5-1.

Synopsis: Natural resources matters. Allows the department of administration to sell abandoned railroad corridor property to an adjacent landowner under certain conditions. Adds supplies purchased for resale at properties owned or managed by the department of natural resources (department) to the purchases exempt from the public purchasing requirements. Allows the state forester to use a geographic information system for classified land inspections if a landowner chooses to not accompany the state forester on the inspection. Allows the director of the department (director) to declare certain information confidential concerning endangered species. Allows the director to issue an order vacating a public highway within property owned or managed by the department. Allows the natural resources commission (commission) to set the compensation rate for the development of game bird habitats. Removes the exemption for the sale of certain roe bearing
(Continued next page)

Effective: July 1, 2015.

Eberhart

January 20, 2015, read first time and referred to Committee on Natural Resources.



Digest Continued

fish from the requirement to have a roe harvester's or dealer's license. Allows licenses, stamps, and permits of the department that are purchased electronically to be validated through an electronic affirmation. Provides that trout and salmon stamps are electronically generated. Establishes the date by which a fur buyer's report must be submitted to the department. Provides that a law enforcement officer may seize certain animals and items if certain laws are violated. (Current law requires seizure.) Allows certain floodway permits to be renewed for five years. Transfers administrative control of the flood control revolving fund from the commission to the Indiana finance authority. Increases the maximum security required for a timber buyer's license to \$50,000 beginning January 1, 2017. Removes the requirement that a timber buyer designate a principle agent. Makes conforming and stylistic changes.



First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1452

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

1 SECTION 1. IC 4-20.5-7-11, AS AMENDED BY P.L.33-2011,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 11. (a) **Except as provide in subsection (f)**, the
4 department may sell the property through any of the following:
5 (1) Competitive bids.
6 (2) By auction.
7 (3) By request for proposals.
8 (b) The department may enter into negotiations under this section
9 with the respondent who has made the highest offer only if the
10 negotiations are documented. The negotiation documentation must
11 include the following:
12 (1) A log of the date and time of each meeting with a respondent.
13 The log must include the identity of the respondent.
14 (2) A description of the nature of all communications with each
15 respondent.



- 1 (3) Subject to subsection (d), a copy of all written
 2 communications, including electronic communications, with each
 3 respondent.
- 4 (c) Except as provided in subsection (d), the contents of the contract
 5 file concerning a sale under this section are subject to public
 6 inspection.
- 7 (d) Proprietary information included with a response, including
 8 trade secrets, manufacturing processes, and financial information that
 9 was not required to be made available for public inspection by the
 10 terms of the invitation for bids, live auction, or request for proposals,
 11 is not subject to public inspection.
- 12 (e) The negotiation documentation is subject to public inspection
 13 under this section only after the transfer of the property.
- 14 **(f) If the department owns abandoned railroad corridor
 15 property and the abandoned railroad corridor property:**
- 16 **(1) has a value of not more than ten thousand dollars**
 17 **(\$10,000); and**
- 18 **(2) abuts the property of an adjacent property owner;**
 19 **then the department may sell the abandoned railroad corridor**
 20 **property to the adjacent property owner at the value of the**
 21 **appraised property.**
- 22 SECTION 2. IC 5-22-1-2, AS AMENDED BY P.L.11-2011,
 23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2015]: Sec. 2. Except as provided in this article, this article
 25 does not apply to the following:
- 26 (1) The commission for higher education.
- 27 (2) A state educational institution. However, IC 5-22-5-9 and
 28 IC 5-22-15 apply to a state educational institution.
- 29 (3) Military officers and military and armory boards of the state.
- 30 (4) An entity established by the general assembly as a body
 31 corporate and politic. However, IC 5-22-15 applies to a body
 32 corporate and politic.
- 33 (5) A local hospital authority under IC 5-1-4.
- 34 (6) A municipally owned utility under IC 8-1-11.1 or IC 8-1.5.
- 35 (7) Hospitals established and operated under IC 16-22-1 through
 36 IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.
- 37 (8) A library board under IC 36-12-3-16(b).
- 38 (9) A local housing authority under IC 36-7-18.
- 39 (10) Tax exempt Indiana nonprofit corporations leasing and
 40 operating a city market owned by a political subdivision.
- 41 (11) A person paying for a purchase or lease with funds other than
 42 public funds.



- 1 (12) A person that has entered into an agreement with a
 2 governmental body under IC 5-23.
- 3 (13) A municipality for the operation of municipal facilities used
 4 for the collection, treatment, purification, and disposal in a
 5 sanitary manner of liquid and solid waste, sewage, night soil, and
 6 industrial waste.
- 7 (14) The department of financial institutions established by
 8 IC 28-11-1-1.
- 9 (15) The insurance commissioner in retaining an examiner for
 10 purposes of IC 27-1-3.1-9.
- 11 **(16) The department of natural resources for the procurement**
 12 **of supplies purchased for resale at properties owned or**
 13 **managed by the department of natural resources.**
- 14 SECTION 3. IC 6-1.1-6-19, AS AMENDED BY P.L.151-2012,
 15 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2015]: Sec. 19. At least once every seven (7) years the state
 17 forester, or the state forester's deputy, shall inspect each parcel of land
 18 which is classified as native forest land, a forest plantation, or
 19 wildlands. On each inspection trip the state forester, or the state
 20 forester's deputy, shall, if possible, have the owner go over the parcel
 21 with the state forester and shall point out to the owner any needed
 22 improvement. **If the landowner chooses not to accompany the state**
 23 **forester in person, the state forester may use a geographic**
 24 **information system (GIS) or other remote sensing technology to**
 25 **conduct the inspection.** In addition, the state forester shall give the
 26 owner a written report of the inspection and the state forester's
 27 recommendations. A permanent record of each inspection shall be
 28 maintained in the office of the state forester.
- 29 SECTION 4. IC 14-8-2-85 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 85. **(a) "Endangered**
 31 **species", for purposes of IC 14-9-2-5, has the meaning set forth in**
 32 **IC 14-9-2-5(a).**
- 33 **(b) "Endangered species", for purposes of IC 14-22-34, has the**
 34 **meaning set forth in IC 14-22-34-1.**
- 35 SECTION 5. IC 14-9-2-5 IS ADDED TO THE INDIANA CODE
 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 37 1, 2015]: Sec. 5. **(a) As used in this section, "endangered species"**
 38 **means the following:**
- 39 **(1) An endangered species as defined by IC 14-22-34-1.**
 40 **(2) A native plant species classified by the division of nature**
 41 **preserves as endangered or threatened.**
- 42 **(b) The director may declare the following information that the**



1 department has collected or received as confidential, for purposes
2 of IC 5-14-3-4:

3 (1) Information that provides the specific or general location
4 of an endangered species.

5 (2) Information that, if disclosed, could have a detrimental
6 effect on an endangered species.

7 SECTION 6. IC 14-18-12-3 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) Whenever the
9 director determines that the proper operation or administration of:

10 (1) a state park;

11 (2) a state forest;

12 (3) a state game preserve; or

13 (4) a scenic or historic place; or

14 (5) any other property owed or managed by the department;
15 necessitates the abandonment of all or part of a public highway, except
16 a state highway, that is located on or within the boundaries of the
17 property, the director may issue an order vacating all or part of the
18 public highway.

19 (b) The director shall have a copy of the order posted in five (5)
20 conspicuous places in the township where the public highway is
21 located fifteen (15) days before the order takes effect.

22 (c) If any privately owned land would become inaccessible by a
23 public highway due to the order and vacation, as much of the highway
24 that provides the only public access to and outlet from the land is not
25 vacated as long as the condition exists.

26 SECTION 7. IC 14-22-8-7 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) The department
28 shall contract for the development of game bird habitats in Indiana.
29 Each contract must:

30 (1) be for at least three (3) years; and

31 (2) provide a plan for the development of habitat for at least one

32 (1) species of game bird.

33 (b) The department may seek the cooperation of federal agencies
34 such as the Agricultural Stabilization and Conservation Service or the
35 Natural Resources Conservation Service in the development of habitat
36 plans and compensation for habitat plans. Monetary compensation may
37 not exceed ~~one hundred dollars (\$100)~~ **the rate** per acre per year **as**
38 **determined by the commission** and each contract may provide that
39 the site be open for regulated public game bird hunting.

40 (c) The department may purchase land in Indiana from willing
41 sellers for the development of game bird habitats.

42 SECTION 8. IC 14-22-9-7 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) This section does
2 not apply to the sale of fish produced in private ponds for sale or for
3 breeding and stocking purposes, **or for roe bearing species listed in**
4 **IC 14-22-13-2.5(a)**, if the owner obtains a permit from the director
5 under the rules adopted by the department and conditions provided in
6 the permit.

7 (b) A person may not sell, barter, or exchange, offer to sell, barter,
8 or exchange, or purchase or offer to purchase fish protected by law,
9 whether taken in Indiana, the boundary waters of the state, or some
10 other state and brought into Indiana, except as otherwise provided in
11 this article. Restaurants, hotels, boardinghouses, or eating houses may
12 prepare and serve during the open season to:

13 (1) a guest, patron, or boarder; and

14 (2) the family of the guest, patron, or boarder;

15 fish legally taken in open season in Indiana by the guest, patron, or
16 boarder.

17 (c) Except **for roe bearing species listed in IC 14-22-13-2.5(a) or**
18 as specifically prohibited by law, a person may sell a species of
19 hatchery reared fish or fish legally taken outside Indiana under a valid
20 commercial fishing license or regulation, dead or alive, dressed or
21 undressed, or partly dressed under the rules that the department and the
22 state department of health prescribe if the fish are tagged or labeled in
23 a manner that specifically identifies the following:

24 (1) The name and address of the seller.

25 (2) The hatchery.

26 (3) The commercial fishing license or regulation.

27 (d) A person may not import and sell a live species of fish that has
28 not been approved by the director without a permit from the director for
29 this activity.

30 SECTION 9. IC 14-22-11-3, AS AMENDED BY P.L.225-2005,
31 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2015]: Sec. 3. (a) An applicant for a hunting, trapping, or
33 fishing license must provide the applicant's Social Security number in
34 order to obtain the license. Social Security numbers acquired under this
35 subsection shall be kept confidential and used only to carry out the
36 purposes of the Title IV-D program.

37 (b) The director and agents appointed by the director as authorized
38 representatives of the department shall issue hunting, trapping, and
39 fishing licenses.

40 (c) The clerk of the circuit court in each county may issue hunting,
41 trapping, and fishing licenses.

42 (d) Each hunting, trapping, or fishing license must be in a form



1 prescribed by the director. The director may furnish the clerks and
2 agents with all necessary equipment needed to issue a license.

3 (e) All licenses, stamps, or permits purchased electronically are
4 valid only with the original signature **or electronic affirmation** of the
5 licensee on the form **or device** prescribed by the director. The
6 licensee's signature **or electronic affirmation** serves as an affidavit
7 that the license, stamp, or permit information is true and accurate.

8 (f) A person who violates the confidentiality requirement of
9 subsection (a) commits a Class A infraction.

10 SECTION 10. IC 14-22-11-8, AS AMENDED BY P.L.18-2009,
11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2015]: Sec. 8. (a) This section does not apply to the following:

13 (1) A person who is:

14 (A) a resident of Indiana; and

15 (B) an individual born before April 1, 1943.

16 (2) A person who is less than eighteen (18) years of age.

17 (3) A person who is legally blind.

18 (4) A person who is a resident patient of a state mental institution.

19 (5) A person who is:

20 (A) a resident of a health facility (as defined in

21 IC 16-18-2-167) licensed in Indiana; and

22 (B) taking part in a supervised activity of the health facility.

23 (6) A person who:

24 (A) is a resident of Indiana; and

25 (B) has a developmental disability (as defined by
26 IC 12-7-2-61).

27 (7) A person whose only participation in fishing is to assist an
28 individual described in subdivision (3), (4), (5), or (6).

29 (8) A resident of Indiana who fishes during a free sport fishing
30 day designated under IC 14-22-18.

31 (b) Every person must have a fishing license in the person's
32 possession when fishing in:

33 (1) waters containing state owned fish;

34 (2) waters of the state; or

35 (3) boundary waters of the state.

36 (c) Every person must have a valid **electronically generated**
37 trout-salmon stamp in the person's possession to legally fish for or take
38 trout or salmon in:

39 (1) waters containing state owned fish;

40 (2) waters of the state; or

41 (3) boundary waters of the state.

42 SECTION 11. IC 14-22-12-1, AS AMENDED BY P.L.289-2013,



1 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2015]: Sec. 1. (a) The department may issue the following
3 licenses individually or in combination and, except as provided in
4 section 1.5 of this chapter and subject to subsection (b), shall charge
5 the following minimum license fees to hunt, trap, or fish in Indiana:

6 (1) A resident yearly license to fish, eight dollars and seventy-five
7 cents (\$8.75).

8 (2) A resident yearly license to hunt, eight dollars and
9 seventy-five cents (\$8.75).

10 (3) A resident yearly license to hunt and fish, thirteen dollars and
11 seventy-five cents (\$13.75).

12 (4) A resident yearly license to trap, eight dollars and seventy-five
13 cents (\$8.75).

14 (5) A nonresident yearly license to fish, twenty-four dollars and
15 seventy-five cents (\$24.75).

16 (6) A nonresident yearly license to hunt, sixty dollars and
17 seventy-five cents (\$60.75).

18 (7) A nonresident yearly license to trap, one hundred seventeen
19 dollars and seventy-five cents (\$117.75).

20 (8) A resident or nonresident license to fish, including for trout
21 and salmon, for one (1) day only, four dollars and seventy-five
22 cents (\$4.75).

23 (9) A nonresident license to fish, excluding for trout and salmon,
24 for seven (7) days only, twelve dollars and seventy-five cents
25 (\$12.75).

26 (10) A nonresident license to hunt for five (5) consecutive days
27 only, twenty-five dollars and seventy-five cents (\$25.75).

28 (11) A resident or nonresident yearly **electronically generated**
29 stamp to fish for trout and salmon, six dollars and seventy-five
30 cents (\$6.75).

31 (12) A resident yearly license to take a deer with a shotgun,
32 muzzle loading gun, rifle, or handgun, thirteen dollars and
33 seventy-five cents (\$13.75).

34 (13) A resident yearly license to take a deer with a muzzle loading
35 gun, thirteen dollars and seventy-five cents (\$13.75).

36 (14) A resident yearly license to take a deer with a bow and
37 arrow, thirteen dollars and seventy-five cents (\$13.75).

38 (15) A nonresident yearly license to take a deer with a shotgun,
39 muzzle loading gun, rifle, or handgun, one hundred twenty dollars
40 and seventy-five cents (\$120.75).

41 (16) A nonresident yearly license to take a deer with a muzzle
42 loading gun, one hundred twenty dollars and seventy-five cents



- 1 (\$120.75).
2 (17) A nonresident yearly license to take a deer with a bow and
3 arrow, one hundred twenty dollars and seventy-five cents
4 (\$120.75).
5 (18) A resident license to take an extra deer by a means, in a
6 location, and under conditions established by rule adopted by the
7 department under IC 4-22-2, five dollars (\$5).
8 (19) A nonresident license to take an extra deer by a means, in a
9 location, and under conditions established by rule adopted by the
10 department under IC 4-22-2, ten dollars (\$10).
11 (20) A resident yearly license to take a turkey, fourteen dollars
12 and seventy-five cents (\$14.75).
13 (21) A nonresident yearly license to take a turkey, one hundred
14 fourteen dollars and seventy-five cents (\$114.75).
15 (22) A resident license to take an extra turkey by a means, in a
16 location, and under conditions established by rule adopted by the
17 department under IC 4-22-2, fourteen dollars and seventy-five
18 cents (\$14.75).
19 (23) A nonresident license to take an extra turkey by a means, in
20 a location, and under conditions established by rule adopted by
21 the department under IC 4-22-2, one hundred fourteen dollars and
22 seventy-five cents (\$114.75).
23 (24) A resident youth yearly consolidated license to hunt, trap,
24 and fish, six dollars (\$6). This license is subject to the following:
25 (A) An applicant must be less than eighteen (18) years of age.
26 (B) The license is in lieu of the resident yearly license to hunt,
27 trap, and fish and all other yearly licenses, stamps, or permits
28 to hunt, trap, and fish for a specific species or by a specific
29 means.
30 (25) A nonresident youth yearly license to hunt, seventeen dollars
31 (\$17). The applicant must be less than eighteen (18) years of age.
32 (26) A nonresident youth yearly license to trap, seventeen dollars
33 (\$17). The applicant must be less than eighteen (18) years of age.
34 (27) A nonresident youth yearly license to take a turkey,
35 twenty-five dollars (\$25). The applicant must be less than
36 eighteen (18) years of age.
37 (28) A nonresident youth license to take an extra turkey by a
38 means, in a location, and under conditions established by rule
39 adopted by the department under IC 4-22-2, twenty-five dollars
40 (\$25). The applicant must be less than eighteen (18) years of age.
41 (29) A nonresident youth yearly license to take a deer with a
42 shotgun, muzzle loading gun, or rifle, twenty-four dollars (\$24).



- 1 The applicant must be less than eighteen (18) years of age.
- 2 (30) A nonresident youth yearly license to take a deer with a
- 3 muzzle loading gun, twenty-four dollars (\$24). The applicant
- 4 must be less than eighteen (18) years of age.
- 5 (31) A nonresident youth yearly license to take a deer with a bow
- 6 and arrow, twenty-four dollars (\$24). The applicant must be less
- 7 than eighteen (18) years of age.
- 8 (32) A nonresident youth license to take an extra deer by a means,
- 9 in a location, and under conditions established by rule adopted by
- 10 the department under IC 4-22-2, twenty-four dollars (\$24). The
- 11 applicant must be less than eighteen (18) years of age.
- 12 (33) A resident senior yearly license to fish, three dollars (\$3).
- 13 This license is subject to the following:
- 14 (A) An applicant must be at least sixty-four (64) years of age
- 15 and born after March 31, 1943.
- 16 (B) The license is in lieu of the resident yearly license to fish
- 17 and all other yearly licenses, stamps, or permits to fish for a
- 18 specific species or by a specific means.
- 19 (34) A resident senior "fish for life" license, seventeen dollars
- 20 (\$17). This license is subject to the following:
- 21 (A) An applicant must be at least sixty-four (64) years of age
- 22 and must have been born after March 31, 1943.
- 23 (B) The license applies each year for the remainder of the
- 24 license holder's life.
- 25 (C) The license is in lieu of the resident senior yearly license
- 26 to fish and all other yearly licenses, stamps, or permits to fish
- 27 for a specific species or by a specific means.
- 28 (35) A voluntary resident senior yearly license to fish, three
- 29 dollars (\$3). This license is subject to the following:
- 30 (A) An applicant must have been born before April 1, 1943.
- 31 (B) The license is instead of the resident yearly license to fish
- 32 and all other yearly licenses, stamps, and permits to fish for a
- 33 specific species or by a specific means.
- 34 (b) The commission may set license fees to hunt, trap, or fish above
- 35 the minimum fees established under subsection (a).
- 36 (c) In addition to the license fees set under this section, the
- 37 department shall establish a procedure to collect voluntary donations
- 38 for processing wild game when a hunting license is sold. The minimum
- 39 suggested donation must be one dollar (\$1). The money collected under
- 40 this section shall be deposited in the Indiana sportsmen's benevolence
- 41 account (IC 14-9-5-4).
- 42 SECTION 12. IC 14-22-16-4 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. A person desiring to
2 possess in Indiana at one (1) time more than:

- 3 (1) five hundred (500) live minnows; or
4 (2) five hundred (500) live crayfish;

5 not intended for the purpose of engaging in the business of ~~taking,~~
6 ~~catching,~~ selling or bartering live minnows or crayfish for bait must
7 procure a permit to possess the minnows or crayfish.

8 SECTION 13. IC 14-22-19-6, AS AMENDED BY P.L.289-2013,
9 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2015]: Sec. 6. Every licensed fur buyer shall make a report in
11 writing to the department of all purchases of furbearing mammals made
12 during the preceding open season. ~~by the date established by The~~
13 **report must be submitted to the department not later than June 30**
14 **following the open season.**

15 SECTION 14. IC 14-22-39-6 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) Conservation
17 officers and other police officers ~~shall~~ **may** seize:

- 18 (1) wild animals;
19 (2) remains of wild animals; or
20 (3) hides or furs of furbearing animals;

21 taken or attempted to be taken in violation of this article or IC 14-2
22 (before its repeal). Upon conviction, the items seized are forfeited to
23 the state, and the director shall dispose of the items according to the
24 discretion of the director.

25 (b) Notwithstanding IC 35-47-3, conservation officers and other
26 police officers ~~shall~~ **may** seize all equipment, devices, or machinery
27 used by a person to:

- 28 (1) take or attempt to take a wild animal; or
29 (2) store or transport carcasses, hides, or furs of furbearing
30 animals;

31 in violation of this article or IC 14-2 (before its repeal). Upon
32 conviction, the equipment, devices, or machinery seized are forfeited
33 to the state and the director shall dispose of the items according to the
34 discretion of the director.

35 SECTION 15. IC 14-28-1-22, AS AMENDED BY P.L.219-2014,
36 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2015]: Sec. 22. (a) As used in subsection (b)(1) with respect
38 to a stream, "total length" means the length of the stream, expressed in
39 miles, from the confluence of the stream with the receiving stream to
40 the upstream or headward extremity of the stream, as indicated by the
41 solid or dashed, blue or purple line depicting the stream on the most
42 current edition of the seven and one-half (7 1/2) minute topographic



1 quadrangle map published by the United States Geological Survey,
2 measured along the meanders of the stream as depicted on the map.

3 (b) This section does not apply to the following:

4 (1) A reconstruction or maintenance project (as defined in
5 IC 36-9-27) on a stream or an open regulated drain if the total
6 length of the stream or open drain is not more than ten (10) miles.

7 (2) A construction or reconstruction project on a state or county
8 highway bridge in a rural area that crosses a stream having an
9 upstream drainage area of not more than fifty (50) square miles
10 and the relocation of utility lines associated with the construction
11 or reconstruction project if confined to an area not more than one
12 hundred (100) feet from the limits of the highway construction
13 right-of-way.

14 (3) The performance of an activity described in subsection (c)(1)
15 or (c)(2) by a surface coal mining operation that is operated under
16 a permit issued under IC 14-34.

17 (4) Any other activity that is determined by the commission,
18 according to rules adopted under IC 4-22-2, to pose not more than
19 a minimal threat to floodway areas.

20 (5) An activity in a boundary river floodway to which section 26.5
21 of this chapter applies.

22 (6) The removal of a logjam or mass of wood debris that has
23 accumulated in a river or stream, subject to the following
24 conditions:

25 (A) Work must not be within a salmonid stream designated
26 under 327 IAC 2-1.5-5 without the prior written approval of
27 the department's division of fish and wildlife.

28 (B) Work must not be within a natural, scenic, or recreational
29 river or stream designated under 312 IAC 7-2.

30 (C) Except as otherwise provided in Indiana law, free logs or
31 affixed logs that are crossways in the channel must be cut,
32 relocated, and removed from the floodplain. Logs may be
33 maintained in the floodplain if properly anchored or otherwise
34 secured so as to resist flotation or dislodging by the flow of
35 water and placement in an area that is not a wetland. Logs
36 must be removed and secured with a minimum of damage to
37 vegetation.

38 (D) Isolated or single logs that are embedded, lodged, or
39 rooted in the channel, and that do not span the channel or
40 cause flow problems, must not be removed unless the logs are
41 either of the following:

42 (i) Associated with or in close proximity to larger



- 1 obstructions.
- 2 (ii) Posing a hazard to navigation.
- 3 (E) A leaning or severely damaged tree that is in immediate
- 4 danger of falling into the waterway may be cut and removed if
- 5 the tree is associated with or in close proximity to an
- 6 obstruction. The root system and stump of the tree must be left
- 7 in place.
- 8 (F) To the extent practicable, the construction of access roads
- 9 must be minimized, and should not result in the elevation of
- 10 the floodplain.
- 11 (G) To the extent practicable, work should be performed
- 12 exclusively from one (1) side of a waterway. Crossing the bed
- 13 of a waterway is prohibited.
- 14 (H) To prevent the flow of sediment laden water back into the
- 15 waterway, appropriate sediment control measures must be
- 16 installed.
- 17 (I) Within fifteen (15) days, all bare and disturbed areas must
- 18 be revegetated with a mixture of grasses and legumes. Tall
- 19 fescue must not be used under this subdivision, except that low
- 20 endophyte tall fescue may be used in the bottom of the
- 21 waterway and on side slopes.
- 22 (c) A person who desires to:
- 23 (1) erect, make, use, or maintain a structure, an obstruction, a
- 24 deposit, or an excavation; or
- 25 (2) suffer or permit a structure, an obstruction, a deposit, or an
- 26 excavation to be erected, made, used, or maintained;
- 27 in or on a floodway must file with the director a verified written
- 28 application for a permit accompanied by a nonrefundable fee of two
- 29 hundred dollars (\$200).
- 30 (d) The application for a permit must set forth the material facts
- 31 together with plans and specifications for the structure, obstruction,
- 32 deposit, or excavation.
- 33 (e) An applicant must receive a permit from the director for the
- 34 work before beginning construction. The director shall issue a permit
- 35 only if in the opinion of the director the applicant has clearly proven
- 36 that the structure, obstruction, deposit, or excavation will not do any of
- 37 the following:
- 38 (1) Adversely affect the efficiency of or unduly restrict the
- 39 capacity of the floodway.
- 40 (2) Constitute an unreasonable hazard to the safety of life or
- 41 property.
- 42 (3) Result in unreasonably detrimental effects upon fish, wildlife,



1 or botanical resources.

2 (f) In deciding whether to issue a permit under this section, the
3 director shall consider the cumulative effects of the structure,
4 obstruction, deposit, or excavation. The director may incorporate in and
5 make a part of an order of authorization conditions and restrictions that
6 the director considers necessary for the purposes of this chapter.

7 (g) A permit issued under this section:

8 (1) is valid for two (2) years after the issuance of the permit; and

9 (2) to:

10 (A) the Indiana department of transportation or a county
11 highway department if there is any federal funding for the
12 project; or

13 (B) an electric utility for the construction of a power
14 generating facility;

15 is valid for five (5) years from the date of issuance.

16 A permit that is active and was issued under subdivision (1) before July
17 1, 2014, is valid for two (2) years beginning July 2014, and a permit
18 that is active and was issued under subdivision (2) before July 1, 2014,
19 is valid for five (5) years beginning July 2014.

20 (h) A permit issued under: ~~this section~~

21 **(1) subsection (g)(1) may be renewed one (1) time for a period**
22 **not to exceed two (2) additional years; and**

23 **(2) subsection (g)(2) may be renewed one (1) time for a period**
24 **not to exceed five (5) additional years.**

25 (i) The director shall send a copy of each permit issued under this
26 section to each river basin commission organized under:

27 (1) IC 14-29-7 or IC 13-2-27 (before its repeal); or

28 (2) IC 14-30-1 or IC 36-7-6 (before its repeal);

29 that is affected.

30 (j) The permit holder shall post and maintain a permit issued under
31 this section at the authorized site.

32 (k) For the purposes of this chapter, the lowest floor of a building,
33 including a residence or abode, that is to be constructed or
34 reconstructed in the one hundred (100) year floodplain of an area
35 protected by a levee that is:

36 (1) inspected; and

37 (2) found to be in good or excellent condition;

38 by the United States Army Corps of Engineers shall not be lower than
39 the one hundred (100) year frequency flood elevation plus one (1) foot.

40 SECTION 16. IC 14-28-5-6, AS AMENDED BY P.L.53-2008,
41 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2015]: Sec. 6. The administrative control of the fund and the



1 responsibility for the administration of this chapter are vested in the
 2 ~~commission~~ **Indiana finance authority**. The ~~commission~~ **Indiana**
 3 **finance authority** may do the following:

4 (1) Adopt rules under IC 4-22-2 that are considered necessary by
 5 the ~~commission~~ **Indiana finance authority** for the proper
 6 administration of the fund and this chapter.

7 (2) Subject to the approval of the budget committee, employ the
 8 personnel that are necessary for the efficient administration of this
 9 chapter.

10 SECTION 17. IC 14-28-5-7, AS AMENDED BY P.L.53-2008,
 11 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2015]: Sec. 7. (a) The ~~commission~~ **Indiana finance authority**
 13 may make an approved loan from the fund to a local unit. The money
 14 loaned is to be used by the local unit for the purpose of instituting,
 15 accomplishing, and administering an approved flood control program.

16 (b) The total amount outstanding under loans made under:

17 (1) this chapter; and

18 (2) IC 13-2-23 (before its repeal);

19 to one (1) local unit may not exceed three hundred thousand dollars
 20 (\$300,000).

21 SECTION 18. IC 14-28-5-8, AS AMENDED BY P.L.53-2008,
 22 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2015]: Sec. 8. A local unit may institute, accomplish, and
 24 administer a flood control program if the following conditions are met:

25 (1) The program is authorized and approved by ordinance or
 26 resolution enacted by the governing board of the local unit.

27 (2) The flood control program has been approved by the **Indiana**
 28 **finance authority and the** commission.

29 SECTION 19. IC 14-28-5-9, AS AMENDED BY P.L.53-2008,
 30 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2015]: Sec. 9. The ~~commission~~ **Indiana finance authority**
 32 shall authorize the making of a loan to a local unit under this chapter
 33 only when the following conditions exist:

34 (1) An application for the loan has been submitted by the local
 35 unit in a verified petition to the ~~commission~~ **Indiana finance**
 36 **authority** in the manner and form that the ~~commission~~ **Indiana**
 37 **finance authority** directs. The application must state the
 38 following:

39 (A) The need for the flood control program and the need for
 40 money for instituting, accomplishing, and administering the
 41 program.

42 (B) A detailed description of the program.



- 1 (C) An engineering estimate of the cost of the proposed
- 2 program acceptable to the commission.
- 3 (D) The amount of money considered to be needed.
- 4 (E) Other information that is requested by the **Indiana finance**
- 5 **authority and the** commission.
- 6 (2) There is a need, as determined by the commission, for the
- 7 proposed flood control program for the purpose of protecting the
- 8 health, safety, and general welfare of the inhabitants of the local
- 9 unit.
- 10 (3) The proposed flood control program has been approved by the
- 11 commission, if before granting the approval, the commission
- 12 determines the following:
- 13 (A) That the program:
- 14 (i) is based upon sound engineering principles;
- 15 (ii) is in the interest of flood control; and
- 16 (iii) will accomplish the objectives of flood control.
- 17 (B) That for flood control programs involving the
- 18 reconstruction or repair of existing flood control works that:
- 19 (i) in the judgment of the commission, constitutes an
- 20 unreasonable obstruction or impediment to the proper
- 21 discharge of flood flows; or
- 22 (ii) by virtue of their nature, location, or design, are subject
- 23 to frequent damage or destruction;
- 24 approval is limited to the work that is necessary to afford
- 25 emergency protection against actual or threatened damage to
- 26 life and property.
- 27 (4) The local unit agrees and furnishes assurance, satisfactory to
- 28 the commission, that the local unit will operate and maintain the
- 29 flood control program, after completion, in a satisfactory manner.
- 30 SECTION 20. IC 14-28-5-10, AS AMENDED BY P.L.53-2008,
- 31 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 32 JULY 1, 2015]: Sec. 10. (a) The local unit may:
- 33 (1) do work; and
- 34 (2) provide labor, equipment, and materials from any source at the
- 35 local unit's disposal;
- 36 for the flood control program.
- 37 (b) The **Indiana finance authority, with the assistance of the**
- 38 commission, may do the following:
- 39 (1) Evaluate the participation of the local unit in the
- 40 accomplishment of the project.
- 41 (2) Compute the participation as a part or all of the share of cost
- 42 that the local unit is required to pay toward the total cost of the



1 project for which the loan from the fund is obtained.
2 (c) Participation authorized under this section must be under the
3 direction of the governing board.
4 (d) If cash amounts are included in the local unit's share of total
5 cost, the amounts shall be provided in the usual and accepted manner
6 for the financing of the affairs of the local unit.
7 (e) Costs of engineering and legal services to the borrower may be
8 regarded as a part of the total cost of the project.
9 SECTION 21. IC 14-28-5-11, AS AMENDED BY P.L.53-2008,
10 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2015]: Sec. 11. (a) The **Indiana finance authority, with the**
12 **assistance of the** commission, shall determine and ascribe to each
13 applicant for a loan a priority rating. The rating must be based
14 primarily on the need of the local unit for the proposed flood control
15 program as the need is related to the needs of other applicants for loans.
16 Except as provided in subsection (b):
17 (1) the local units having the highest priority rating shall be given
18 first consideration in making loans under this chapter; and
19 (2) loans shall be made in descending order as shown by the
20 priority ratings.
21 (b) If an emergency demands immediate relief from actual or
22 threatened flood damage, the application made by a local unit for a loan
23 may be considered regardless of a previous priority rating ascribed to
24 the applicant.
25 SECTION 22. IC 14-28-5-14, AS AMENDED BY P.L.53-2008,
26 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2015]: Sec. 14. If a local unit fails to make a payment to the
28 fund or any other payment required by this chapter or under IC 13-2-23
29 (before its repeal) or is in any way indebted to the fund for an amount
30 incurred or accrued, the state may recover the amount through any of
31 the following:
32 (1) The state may, through the attorney general and on behalf of
33 the ~~commission~~, **Indiana finance authority**, file a suit in the
34 circuit or a superior court with jurisdiction in the county in which
35 the local unit is located to recover the amount that the local unit
36 owes the fund.
37 (2) The auditor of state may, after a sixty (60) day written notice
38 to the local unit, withhold the payment and distribution of state
39 money that the defaulting local unit is entitled to receive under
40 Indiana law.
41 (3) For a special taxing district, upon certification by the auditor
42 of state after a sixty (60) day written notice to the special taxing



1 district, the auditor of each county containing land within the
 2 special taxing district shall withhold collected tax money for the
 3 special taxing district and remit the withheld tax money to the
 4 auditor of state. The auditor of state shall make a payment to the
 5 fund in the name of the special taxing district. Upon elimination
 6 of the delinquency payment, the auditor of state shall certify the
 7 fact to the auditors of the counties involved and any additional
 8 withheld tax money shall be released to the special taxing district.

9 SECTION 23. IC 14-28-5-15 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. There is
 11 appropriated annually to the ~~commission~~ **Indiana finance authority**
 12 from the state general fund from money not otherwise appropriated an
 13 amount sufficient to administer this chapter, subject to the approval of
 14 the budget committee.

15 SECTION 24. IC 25-36.5-1-3 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) Every person
 17 registered as a timber buyer shall file with the department an effective
 18 surety bond issued by a corporate surety authorized to engage in the
 19 business of executing surety bonds in Indiana.

20 (b) Instead of the bond required by subsection (a), the department
 21 may accept security in cash or a certificate of deposit under terms
 22 established by rule.

23 (c) The security required under subsection (a) or (b) shall be made
 24 payable upon demand to the director, subject to this chapter, for the use
 25 and benefit of the people of Indiana and for the use and benefit of any
 26 timber grower from whom the applicant purchased and who is not paid
 27 by the applicant or for the use and benefit of any timber grower whose
 28 timber has been cut by the applicant or registrant or ~~his~~ **the applicant's**
 29 **or registrant's** agents, and who has not been paid ~~therefor~~ **for the**
 30 **timber.**

31 (d) The security required under subsection (a) or (b) shall be in the
 32 principal amount of two thousand dollars (\$2,000) for an applicant who
 33 paid timber growers five thousand dollars (\$5,000) or less for timber
 34 during the immediate preceding year, and an additional one hundred
 35 dollars (\$100) for each additional one thousand dollars (\$1,000) or
 36 fraction thereof paid to timber growers for timber purchased during the
 37 preceding year. ~~but shall~~ **However:**

38 **(1) before January 1, 2017, the security required may not be**
 39 **more than twenty thousand dollars (\$20,000); ~~in the case of~~ and**
 40 **(2) after December 31, 2016, the security required may not be**
 41 **more than fifty thousand dollars (\$50,000).**

42 **If an applicant has not previously engaged in business as a timber**



1 buyer, the amount of ~~such the~~ bond shall be based on the estimated
 2 dollar amount to be paid by ~~such the~~ timber buyer to timber growers
 3 for timber purchased during the next succeeding year, as set forth in the
 4 application.

5 (e) The security required under subsection (a) or (b) shall not be
 6 ~~cancelled canceled~~ or altered during the period for which the
 7 certificate to the applicant was issued except upon at least sixty (60)
 8 days notice in writing to the department.

9 (f) Security shall be in ~~such a~~ form ~~and~~ contain ~~such the~~ terms and
 10 conditions as may be approved from time to time by the director, be
 11 conditioned to secure an honest cutting and accounting for timber
 12 purchased by the registrant, secure payment to the timber growers, and
 13 insure the timber growers against all fraudulent acts of the registrant in
 14 the purchase and cutting of the timber of this state.

15 (g) If a timber buyer fails to pay when due any amount due a timber
 16 grower for timber purchased, or fails to pay legally determined
 17 damages for timber wrongfully cut by a timber buyer or ~~his the timber~~
 18 ~~buyer's~~ agent, or commits any violation of this chapter, an adjudicative
 19 proceeding on the bond for forfeiture may be commenced, and notice
 20 of the proceeding shall be provided, under IC 4-21.5-3-6. A surety or
 21 person in possession of the security provided under subsection (a) or
 22 (b) is entitled to notification of the proceeding. If a final agency action
 23 is entered by the department under this subsection against the timber
 24 buyer, the surety or other person in possession of the security shall
 25 deliver the amount of the security identified in the order. A proceeding
 26 for forfeiture of a timber buyer's bond under IC 4-21.5 is the exclusive
 27 remedy under law for the forfeiture of the bond.

28 (h) An owner of property seeking a preliminary injunction or
 29 restraining order against a person, corporation, or other entity to
 30 prevent or stop the wrongful cutting of timber on the owner's property
 31 is relieved of the requirement to post a bond or other security with the
 32 court as a prerequisite to the issuance of the preliminary injunction or
 33 restraining order. However, this subsection does not apply to a property
 34 owner who seeks a preliminary injunction or restraining order to
 35 prevent or stop alleged wrongful cutting by a timber cutter or timber
 36 buyer with whom the property owner had contracted for the cutting or
 37 sale of timber.

38 SECTION 25. IC 25-36.5-1-4 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. ~~It shall be~~ **The**
 40 **following acts are** unlawful and a violation of this chapter:

41 (a) ~~For any timber buyer to fail to pay; as agreed; for any timber~~
 42 ~~purchased.~~



1 **(b) (1)** For any timber buyer to cut or cause to be cut or
2 appropriate any timber not purchased.

3 **(c) (2)** For a timber buyer to willfully make any false statement in
4 connection with the application, bond or other information
5 required to be given to the department or a timber grower.

6 **(d) (3)** To fail to honestly account to the timber grower or the
7 department for timber purchased or cut if the buyer is under a
8 duty to do so. ~~and~~

9 **(e) (4)** For a timber buyer to commit any fraudulent act in
10 connection with the purchase or cutting of timber.

11 SECTION 26. IC 25-36.5-1-15 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. (a) An individual
13 who acts as the agent of a timber buyer must have an agent's license
14 and carry the agent's card that verifies the license.

15 (b) An agent's license may be granted only:

16 (1) to qualified individuals;

17 (2) at the written application of the timber buyer who the agent is
18 to represent; and

19 (3) under that timber buyer's registration certificate.

20 (c) The application for an agent's license must contain the agent's
21 full name, address, and other information as required by the department
22 on forms supplied by the department. Each timber buyer is responsible
23 for all of the agent's activities performed while acting under the timber
24 buyer's registration certificate as they pertain to this chapter.

25 (d) An application fee of ten dollars (\$10) for each agent shall be
26 charged for the license and agent's card. ~~However, each timber buyer~~
27 ~~shall designate a qualified individual to be licensed as its principal~~
28 ~~agent at no additional charge.~~

29 (e) An agent's license may be revoked by the department under
30 IC 4-21.5 if the agent does not comply with this section.

31 (f) An agent may have a license to represent only one (1) timber
32 buyer. However, upon surrendering the agent's card and license under
33 one (1) timber buyer, an individual may be licensed as an agent of
34 another timber buyer.

35 (g) A timber buyer may not be licensed as an agent except as the
36 principal agent of that timber buyer.

37 (h) A timber buyer may not effect or attempt to effect a purchase
38 except through an agent.

39 (i) A timber buyer may terminate an agency relationship by
40 notifying in writing the agent and the department. Termination of an
41 agency relationship revokes the agent's license.

42 (j) A person who acts as an agent without a license commits a Class



1 B misdemeanor.
2 SECTION 27. [EFFECTIVE JULY 1, 2015] (a) Any rules adopted
3 by the natural resources commission under IC 14-28-5 and that
4 were in effect on June 30, 2015, shall be treated as rules of the
5 Indiana finance authority beginning July 1, 2015.
6 (b) This SECTION expires July 1, 2020.

