

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 ENROLLED ACT No. 1452

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

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

SECTION 1. IC 4-4-10.9-1.2, AS AMENDED BY P.L.233-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.2. "Affected statutes" means all statutes that grant a power to or impose a duty on the authority, including but not limited to IC 4-4-11, IC 4-4-11.4, IC 4-4-11.6, IC 4-4-21, IC 4-13.5, IC 5-1-16, IC 5-1-16.5, IC 5-1-17.5, IC 8-9.5, IC 8-14.5, IC 8-15, IC 8-15.5, IC 8-16, IC 13-18-13, IC 13-18-21, IC 13-19-5, ~~and IC 14-14,~~ **and IC 14-28-5.**

SECTION 2. IC 4-20.5-7-11, AS AMENDED BY P.L.33-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) **Except as provided in subsection (f),** the department may sell the property through any of the following:

- (1) Competitive bids.
- (2) By auction.
- (3) By request for proposals.

(b) The department may enter into negotiations under this section with the respondent who has made the highest offer only if the negotiations are documented. The negotiation documentation must

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include the following:

- (1) A log of the date and time of each meeting with a respondent. The log must include the identity of the respondent.
- (2) A description of the nature of all communications with each respondent.
- (3) Subject to subsection (d), a copy of all written communications, including electronic communications, with each respondent.

(c) Except as provided in subsection (d), the contents of the contract file concerning a sale under this section are subject to public inspection.

(d) Proprietary information included with a response, including trade secrets, manufacturing processes, and financial information that was not required to be made available for public inspection by the terms of the invitation for bids, live auction, or request for proposals, is not subject to public inspection.

(e) The negotiation documentation is subject to public inspection under this section only after the transfer of the property.

**(f) If the department owns abandoned railroad corridor property and the abandoned railroad corridor property:**

**(1) has a value of not more than ten thousand dollars (\$10,000); and**

**(2) abuts the property of an adjacent property owner;**

**then the department may sell the abandoned railroad corridor property to the adjacent property owner at the value of the appraised property.**

SECTION 3. IC 5-22-1-2, AS AMENDED BY P.L.11-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. Except as provided in this article, this article does not apply to the following:

- (1) The commission for higher education.
- (2) A state educational institution. However, IC 5-22-5-9 and IC 5-22-15 apply to a state educational institution.
- (3) Military officers and military and armory boards of the state.
- (4) An entity established by the general assembly as a body corporate and politic. However, IC 5-22-15 applies to a body corporate and politic.
- (5) A local hospital authority under IC 5-1-4.
- (6) A municipally owned utility under IC 8-1-11.1 or IC 8-1.5.
- (7) Hospitals established and operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.
- (8) A library board under IC 36-12-3-16(b).



- (9) A local housing authority under IC 36-7-18.
- (10) Tax exempt Indiana nonprofit corporations leasing and operating a city market owned by a political subdivision.
- (11) A person paying for a purchase or lease with funds other than public funds.
- (12) A person that has entered into an agreement with a governmental body under IC 5-23.
- (13) A municipality for the operation of municipal facilities used for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.
- (14) The department of financial institutions established by IC 28-11-1-1.
- (15) The insurance commissioner in retaining an examiner for purposes of IC 27-1-3.1-9.
- (16) The department of natural resources for the procurement of supplies purchased for resale at properties owned or managed by the department of natural resources.**

SECTION 4. IC 6-1.1-6-19, AS AMENDED BY P.L.151-2012, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 19. At least once every seven (7) years the state forester, or the state forester's deputy, shall inspect each parcel of land which is classified as native forest land, a forest plantation, or wildlands. On each inspection trip the state forester, or the state forester's deputy, shall, if possible, have the owner go over the parcel with the state forester and shall point out to the owner any needed improvement. **If the landowner chooses not to accompany the state forester in person, the state forester may use a geographic information system (GIS) or other remote sensing technology to conduct the inspection.** In addition, the state forester shall give the owner a written report of the inspection and the state forester's recommendations. A permanent record of each inspection shall be maintained in the office of the state forester.

SECTION 5. IC 14-8-2-16.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 16.4. "Authority", for purposes of IC 14-28-5, has the meaning set forth in IC 14-28-5-0.5.**

SECTION 6. IC 14-8-2-85 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 85. **(a) "Endangered species", for purposes of IC 14-9-2-5, has the meaning set forth in IC 14-9-2-5(a).**

**(b) "Endangered species", for purposes of IC 14-22-34, has the**



meaning set forth in IC 14-22-34-1.

SECTION 7. IC 14-9-2-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5. (a) As used in this section, "endangered species" means the following:**

**(1) An endangered species as defined by IC 14-22-34-1.**

**(2) A native plant species classified by the division of nature preserves as endangered or threatened.**

**(b) Information that provides the specific or general location of an endangered species or information that, if disclosed, could have a detrimental effect on an endangered species may be kept confidential for purposes of IC 5-14-3-4 at the discretion of the director.**

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

**(1) a state park;**

**(2) a state forest;**

**(3) a state game preserve; or**

**(4) a scenic or historic place; or**

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

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

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

SECTION 9. IC 14-19-1-1, AS AMENDED BY P.L.225-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 1. The department shall do the following:**

**(1) Have the custody of and maintain the parks, preserves, forests, reservoirs, and memorials owned by the state.**

**(2) Adopt the necessary rules under IC 4-22-2 to secure enforcement of this title, which must include provisions for the use of motorized carts during the hours specified in IC 9-21-7-2(a)(1) at state parks and recreation areas by an individual who is the holder of a driver's license and who:**



(A) is at least sixty-five (65) years of age; or

(B) has a **mobility** disability as defined by the federal ~~Social Security Administration~~ guidelines (42 U.S.C. 416);

**Americans with Disabilities Act (42 U.S.C. 12101 et seq).**

**Rules adopted under this subdivision must comply with the provisions for mobility devices as described in 28 CFR 35.137.**

(3) Prepare, print, post, or distribute printed matter relating to the state parks and preserves.

(4) Subject to the approval of the governor, purchase land for parks or preserves and scenic and historic places. For the purpose of acquiring land for parks or preserves and scenic and historic places, the commission may exercise the power of eminent domain in the manner provided in IC 14-17-3.

(5) Accept in the name of the state by gift or devise the fee or other estate in land or scenic or historic places.

(6) Employ, with the approval of the authorities having control of a state penal institution, the convicts committed to a penal institution for the purpose of producing or planting trees, clearing, improving, repairing, draining, or developing land purchased or acquired by the state for parks or preserves or as scenic or historic places.

(7) Have the custody of all abstracts of title, papers, contracts, or related memoranda except original deeds to the state, for land purchased or received for parks or preserves or for scenic or historic purposes under this section.

(8) Cooperate with:

(A) the department of environmental management;

(B) other state agencies; and

(C) local units of government;

to protect the water and land of Indiana from pollution.

(9) Have general charge of the navigable water of Indiana.

SECTION 10. IC 14-22-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) The department shall contract for the development of game bird habitats in Indiana. Each contract must:

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

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

(1) species of game bird.

(b) The department may seek the cooperation of federal agencies such as the Agricultural Stabilization and Conservation Service or the Natural Resources Conservation Service in the development of habitat plans and compensation for habitat plans. Monetary compensation may



not exceed ~~one hundred dollars (\$100)~~ **the rate** per acre per year **as determined by the commission** and each contract may provide that the site be open for regulated public game bird hunting.

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

SECTION 11. IC 14-22-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) This section does not apply to the sale of fish produced in private ponds for sale or for breeding and stocking purposes, **or for roe bearing species listed in IC 14-22-13-2.5(a)**, if the owner obtains a permit from the director under the rules adopted by the department and conditions provided in the permit.

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

- (1) a guest, patron, or boarder; and
- (2) the family of the guest, patron, or boarder;

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

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

- (1) The name and address of the seller.
- (2) The hatchery.
- (3) The commercial fishing license or regulation.

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

SECTION 12. IC 14-22-11-3, AS AMENDED BY P.L.225-2005, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) An applicant for a hunting, trapping, or fishing license must provide the applicant's Social Security number in order to obtain the license. Social Security numbers acquired under this subsection shall be kept confidential and used only to carry out the purposes of the Title IV-D program.



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

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

(d) Each hunting, trapping, or fishing license must be in a form prescribed by the director. The director may furnish the clerks and agents with all necessary equipment needed to issue a license.

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

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

SECTION 13. IC 14-22-11-8, AS AMENDED BY P.L.18-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) This section does not apply to the following:

(1) A person who is:

(A) a resident of Indiana; and

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

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

(3) A person who is legally blind.

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

(5) A person who is:

(A) a resident of a health facility (as defined in IC 16-18-2-167) licensed in Indiana; and

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

(6) A person who:

(A) is a resident of Indiana; and

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

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

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

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

(1) waters containing state owned fish;

(2) waters of the state; or

(3) boundary waters of the state.

(c) Every person must have a valid **electronically generated**

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trout-salmon stamp in the person's possession to legally fish for or take trout or salmon in:

- (1) waters containing state owned fish;
- (2) waters of the state; or
- (3) boundary waters of the state.

SECTION 14. IC 14-22-12-1, AS AMENDED BY P.L.289-2013, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) The department may issue the following licenses individually or in combination and, except as provided in section 1.5 of this chapter and subject to subsection (b), shall charge the following minimum license fees to hunt, trap, or fish in Indiana:

- (1) A resident yearly license to fish, eight dollars and seventy-five cents (\$8.75).
- (2) A resident yearly license to hunt, eight dollars and seventy-five cents (\$8.75).
- (3) A resident yearly license to hunt and fish, thirteen dollars and seventy-five cents (\$13.75).
- (4) A resident yearly license to trap, eight dollars and seventy-five cents (\$8.75).
- (5) A nonresident yearly license to fish, twenty-four dollars and seventy-five cents (\$24.75).
- (6) A nonresident yearly license to hunt, sixty dollars and seventy-five cents (\$60.75).
- (7) A nonresident yearly license to trap, one hundred seventeen dollars and seventy-five cents (\$117.75).
- (8) A resident or nonresident license to fish, including for trout and salmon, for one (1) day only, four dollars and seventy-five cents (\$4.75).
- (9) A nonresident license to fish, excluding for trout and salmon, for seven (7) days only, twelve dollars and seventy-five cents (\$12.75).
- (10) A nonresident license to hunt for five (5) consecutive days only, twenty-five dollars and seventy-five cents (\$25.75).
- (11) A resident or nonresident yearly **electronically generated** stamp to fish for trout and salmon, six dollars and seventy-five cents (\$6.75).
- (12) A resident yearly license to take a deer with a shotgun, muzzle loading gun, rifle, or handgun, thirteen dollars and seventy-five cents (\$13.75).
- (13) A resident yearly license to take a deer with a muzzle loading gun, thirteen dollars and seventy-five cents (\$13.75).
- (14) A resident yearly license to take a deer with a bow and





arrow, thirteen dollars and seventy-five cents (\$13.75).

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

(16) A nonresident yearly license to take a deer with a muzzle loading gun, one hundred twenty dollars and seventy-five cents (\$120.75).

(17) A nonresident yearly license to take a deer with a bow and arrow, one hundred twenty dollars and seventy-five cents (\$120.75).

(18) A resident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, five dollars (\$5).

(19) A nonresident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, ten dollars (\$10).

(20) A resident yearly license to take a turkey, fourteen dollars and seventy-five cents (\$14.75).

(21) A nonresident yearly license to take a turkey, one hundred fourteen dollars and seventy-five cents (\$114.75).

(22) A resident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, fourteen dollars and seventy-five cents (\$14.75).

(23) A nonresident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, one hundred fourteen dollars and seventy-five cents (\$114.75).

(24) A resident youth yearly consolidated license to hunt, trap, and fish, six dollars (\$6). This license is subject to the following:

(A) An applicant must be less than eighteen (18) years of age.

(B) The license is in lieu of the resident yearly license to hunt, trap, and fish and all other yearly licenses, stamps, or permits to hunt, trap, and fish for a specific species or by a specific means.

(25) A nonresident youth yearly license to hunt, seventeen dollars (\$17). The applicant must be less than eighteen (18) years of age.

(26) A nonresident youth yearly license to trap, seventeen dollars (\$17). The applicant must be less than eighteen (18) years of age.

(27) A nonresident youth yearly license to take a turkey, twenty-five dollars (\$25). The applicant must be less than eighteen (18) years of age.



(28) A nonresident youth license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, twenty-five dollars (\$25). The applicant must be less than eighteen (18) years of age.

(29) A nonresident youth yearly license to take a deer with a shotgun, muzzle loading gun, or rifle, twenty-four dollars (\$24). The applicant must be less than eighteen (18) years of age.

(30) A nonresident youth yearly license to take a deer with a muzzle loading gun, twenty-four dollars (\$24). The applicant must be less than eighteen (18) years of age.

(31) A nonresident youth yearly license to take a deer with a bow and arrow, twenty-four dollars (\$24). The applicant must be less than eighteen (18) years of age.

(32) A nonresident youth license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, twenty-four dollars (\$24). The applicant must be less than eighteen (18) years of age.

(33) A resident senior yearly license to fish, three dollars (\$3). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and born after March 31, 1943.

(B) The license is in lieu of the resident yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

(34) A resident senior "fish for life" license, seventeen dollars (\$17). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and must have been born after March 31, 1943.

(B) The license applies each year for the remainder of the license holder's life.

(C) The license is in lieu of the resident senior yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

(35) A voluntary resident senior yearly license to fish, three dollars (\$3). This license is subject to the following:

(A) An applicant must have been born before April 1, 1943.

(B) The license is instead of the resident yearly license to fish and all other yearly licenses, stamps, and permits to fish for a specific species or by a specific means.

(b) The commission may set license fees to hunt, trap, or fish above the minimum fees established under subsection (a).

(c) In addition to the license fees set under this section, the



department shall establish a procedure to collect voluntary donations for processing wild game when a hunting license is sold. The minimum suggested donation must be one dollar (\$1). The money collected under this section shall be deposited in the Indiana sportsmen's benevolence account (IC 14-9-5-4).

SECTION 15. IC 14-22-12-5, AS AMENDED BY P.L.66-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) The department may issue a duplicate license to replace a lost license issued to an individual under sections 1 and 4 of this chapter.

(b) A duplicate license under subsection (a) ~~must meet the following conditions:~~

(1) ~~Be signed by the applicant.~~

(2) ~~Be accompanied by a fee established by the commission.~~

**is valid only with the signature or electronic affirmation of the licensee on the form or device prescribed by the director.**

**(c) The department may require a licensee to pay a fee established by the commission for a duplicate license.**

SECTION 16. IC 14-22-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. A person desiring to possess in Indiana at one (1) time more than:

(1) five hundred (500) live minnows; or

(2) five hundred (500) live crayfish;

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

SECTION 17. IC 14-22-19-6, AS AMENDED BY P.L.289-2013, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. Every licensed fur buyer shall make a report in writing to the department of all purchases of furbearing mammals made during the preceding open season. ~~by the date established by~~ **The report must be submitted to the department not later than June 30 following the open season.**

SECTION 18. IC 14-22-39-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. (a) Conservation officers and other police officers ~~shall~~ **may** seize:

(1) wild animals;

(2) remains of wild animals; or

(3) hides or furs of furbearing animals;

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



discretion of the director.

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

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

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

SECTION 19. IC 14-28-1-22, AS AMENDED BY P.L.219-2014, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 22. (a) As used in subsection (b)(1) with respect to a stream, "total length" means the length of the stream, expressed in miles, from the confluence of the stream with the receiving stream to the upstream or headward extremity of the stream, as indicated by the solid or dashed, blue or purple line depicting the stream on the most current edition of the seven and one-half (7 1/2) minute topographic quadrangle map published by the United States Geological Survey, measured along the meanders of the stream as depicted on the map.

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

- (1) A reconstruction or maintenance project (as defined in IC 36-9-27) on a stream or an open regulated drain if the total length of the stream or open drain is not more than ten (10) miles.
- (2) A construction or reconstruction project on a state or county highway bridge in a rural area that crosses a stream having an upstream drainage area of not more than fifty (50) square miles and the relocation of utility lines associated with the construction or reconstruction project if confined to an area not more than one hundred (100) feet from the limits of the highway construction right-of-way.
- (3) The performance of an activity described in subsection (c)(1) or (c)(2) by a surface coal mining operation that is operated under a permit issued under IC 14-34.
- (4) Any other activity that is determined by the commission, according to rules adopted under IC 4-22-2, to pose not more than a minimal threat to floodway areas.
- (5) An activity in a boundary river floodway to which section 26.5 of this chapter applies.
- (6) The removal of a logjam or mass of wood debris that has accumulated in a river or stream, subject to the following



conditions:

- (A) Work must not be within a salmonid stream designated under 327 IAC 2-1.5-5 without the prior written approval of the department's division of fish and wildlife.
  - (B) Work must not be within a natural, scenic, or recreational river or stream designated under 312 IAC 7-2.
  - (C) Except as otherwise provided in Indiana law, free logs or affixed logs that are crossways in the channel must be cut, relocated, and removed from the floodplain. Logs may be maintained in the floodplain if properly anchored or otherwise secured so as to resist flotation or dislodging by the flow of water and placement in an area that is not a wetland. Logs must be removed and secured with a minimum of damage to vegetation.
  - (D) Isolated or single logs that are embedded, lodged, or rooted in the channel, and that do not span the channel or cause flow problems, must not be removed unless the logs are either of the following:
    - (i) Associated with or in close proximity to larger obstructions.
    - (ii) Posing a hazard to navigation.
  - (E) A leaning or severely damaged tree that is in immediate danger of falling into the waterway may be cut and removed if the tree is associated with or in close proximity to an obstruction. The root system and stump of the tree must be left in place.
  - (F) To the extent practicable, the construction of access roads must be minimized, and should not result in the elevation of the floodplain.
  - (G) To the extent practicable, work should be performed exclusively from one (1) side of a waterway. Crossing the bed of a waterway is prohibited.
  - (H) To prevent the flow of sediment laden water back into the waterway, appropriate sediment control measures must be installed.
  - (I) Within fifteen (15) days, all bare and disturbed areas must be revegetated with a mixture of grasses and legumes. Tall fescue must not be used under this subdivision, except that low endophyte tall fescue may be used in the bottom of the waterway and on side slopes.
- (c) A person who desires to:
- (1) erect, make, use, or maintain a structure, an obstruction, a



deposit, or an excavation; or

(2) suffer or permit a structure, an obstruction, a deposit, or an excavation to be erected, made, used, or maintained;

in or on a floodway must file with the director a verified written application for a permit accompanied by a nonrefundable fee of two hundred dollars (\$200).

(d) The application for a permit must set forth the material facts together with plans and specifications for the structure, obstruction, deposit, or excavation.

(e) An applicant must receive a permit from the director for the work before beginning construction. The director shall issue a permit only if in the opinion of the director the applicant has clearly proven that the structure, obstruction, deposit, or excavation will not do any of the following:

(1) Adversely affect the efficiency of or unduly restrict the capacity of the floodway.

(2) Constitute an unreasonable hazard to the safety of life or property.

(3) Result in unreasonably detrimental effects upon fish, wildlife, or botanical resources.

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

(g) A permit issued under this section:

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

(2) to:

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

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

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

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

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

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

**(2) subsection (g)(2) may be renewed one (1) time for a period**



**not to exceed five (5) additional years.**

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

- (1) IC 14-29-7 or IC 13-2-27 (before its repeal); or
- (2) IC 14-30-1 or IC 36-7-6 (before its repeal);

that is affected.

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

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

- (1) inspected; and
- (2) found to be in good or excellent condition;

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

SECTION 20. IC 14-28-5-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 0.5. "Authority" refers to the Indiana finance authority established by IC 4-4-11-4.**

SECTION 21. IC 14-28-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) The flood control revolving fund is created. **The authority shall hold the fund in the name of the authority. The authority shall administer the fund in the manner provided by IC 4-4-11 and this chapter.**

(b) Loans may be made from the fund to local units in accordance with this chapter and the rules adopted under this chapter.

~~(b)~~ (c) Money in the fund does not revert to the state general fund. The fund is a revolving fund to be used exclusively for the purposes of this chapter.

SECTION 22. IC 14-28-5-6, AS AMENDED BY P.L.53-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. ~~The administrative control of the fund and the responsibility for the administration of this chapter are vested in the commission. Except as otherwise provided with respect to the administration of the fund, the commission shall administer this chapter.~~ The commission may do the following:

- (1) Adopt rules under IC 4-22-2 that are considered necessary by the commission for the proper administration of ~~the fund and~~ this chapter.
- (2) Subject to the approval of the budget committee, employ the personnel that are necessary for the efficient administration of this



chapter.

SECTION 23. IC 14-28-5-7, AS AMENDED BY P.L.53-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) The ~~commission~~ **authority** may make an approved loan from the fund to a local unit. The money loaned is to be used by the local unit for the purpose of instituting, accomplishing, and administering an approved flood control program.

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

- (1) this chapter; and
- (2) IC 13-2-23 (before its repeal);

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

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

- (1) The program is authorized and approved by ordinance or resolution enacted by the governing board of the local unit.
- (2) The flood control program has been approved by the **authority and the commission**.

SECTION 25. IC 14-28-5-9, AS AMENDED BY P.L.53-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. The ~~commission~~ **authority** shall authorize the making of a loan to a local unit under this chapter only when the following conditions exist:

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

- (A) The need for the flood control program and the need for money for instituting, accomplishing, and administering the program.
- (B) A detailed description of the program.
- (C) An engineering estimate of the cost of the proposed program acceptable to the **authority and the commission**.
- (D) The amount of money considered to be needed.
- (E) Other information that is requested by the **authority and the commission**.

(2) There is a need, as determined by the commission, for the proposed flood control program for the purpose of protecting the health, safety, and general welfare of the inhabitants of the local unit.





(3) The proposed flood control program has been approved by the commission, if before granting the approval, the commission determines the following:

(A) That the program:

- (i) is based upon sound engineering principles;
- (ii) is in the interest of flood control; and
- (iii) will accomplish the objectives of flood control.

(B) That for flood control programs involving the reconstruction or repair of existing flood control works that:

- (i) in the judgment of the commission, constitutes an unreasonable obstruction or impediment to the proper discharge of flood flows; or
- (ii) by virtue of their nature, location, or design, are subject to frequent damage or destruction;

approval is limited to the work that is necessary to afford emergency protection against actual or threatened damage to life and property.

(4) The local unit agrees and furnishes assurance, satisfactory to the commission, that the local unit will operate and maintain the flood control program, after completion, in a satisfactory manner.

SECTION 26. IC 14-28-5-14, AS AMENDED BY P.L.53-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. If a local unit fails to make a payment to the fund or any other payment required by this chapter or under IC 13-2-23 (before its repeal) or is in any way indebted to the fund for an amount incurred or accrued, the state may recover the amount through any of the following:

(1) The state may, through the attorney general and on behalf of the ~~commission~~, **authority**, file a suit in the circuit or a superior court with jurisdiction in the county in which the local unit is located to recover the amount that the local unit owes the fund.

(2) The auditor of state may, after a sixty (60) day written notice to the local unit, withhold the payment and distribution of state money that the defaulting local unit is entitled to receive under Indiana law.

(3) For a special taxing district, upon certification by the auditor of state after a sixty (60) day written notice to the special taxing district, the auditor of each county containing land within the special taxing district shall withhold collected tax money for the special taxing district and remit the withheld tax money to the auditor of state. The auditor of state shall make a payment to the fund in the name of the special taxing district. Upon elimination



of the delinquency payment, the auditor of state shall certify the fact to the auditors of the counties involved and any additional withheld tax money shall be released to the special taxing district.

SECTION 27. IC 25-36.5-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) Every person registered as a timber buyer shall file with the department an effective surety bond issued by a corporate surety authorized to engage in the business of executing surety bonds in Indiana.

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

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

(d) The security required under subsection (a) or (b) shall be in the principal amount of ~~two thousand dollars (\$2,000)~~ **five thousand dollars (\$5,000)** for an applicant who paid timber growers ~~five thousand dollars (\$5,000)~~ **ten thousand dollars (\$10,000)** or less for timber during the immediate preceding year, and an additional one hundred dollars (\$100) for each additional one thousand dollars (\$1,000) or fraction thereof paid to timber growers for timber purchased during the preceding year. ~~but shall~~ **However:**

**(1) before January 1, 2017, the security required may not be more than twenty thousand dollars (\$20,000); in the case of and**

**(2) after December 31, 2016, the security required may not be more than fifty thousand dollars (\$50,000).**

If an applicant **has** not previously engaged in business as a timber buyer, the amount of ~~such the~~ bond shall be based on the estimated dollar amount to be paid by ~~such the~~ timber buyer to timber growers for timber purchased during the next succeeding year, as set forth in the application.

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

(f) Security shall be in ~~such a~~ form **and** contain ~~such the~~ terms and conditions as may be approved from time to time by the director, be



conditioned to secure an honest cutting and accounting for timber purchased by the registrant, secure payment to the timber growers, and insure the timber growers against all fraudulent acts of the registrant in the purchase and cutting of the timber of this state.

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

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

SECTION 28. IC 25-36.5-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. (a) An individual who acts as the agent of a timber buyer must have an agent's license and carry the agent's card that verifies the license.

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

- (1) to qualified individuals;
- (2) at the written application of the timber buyer who the agent is to represent; and
- (3) under that timber buyer's registration certificate.

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

(d) An application fee of ten dollars (\$10) for each agent shall be



charged for the license and agent's card. ~~However, each timber buyer shall designate a qualified individual to be licensed as its principal agent at no additional charge.~~

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

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

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

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

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

(j) A person who acts as an agent without a license commits a Class B misdemeanor.

**SECTION 29. [EFFECTIVE JULY 1, 2015] (a) Any rules adopted by the natural resources commission under IC 14-28-5 and that were in effect on June 30, 2015, remain in effect until rules are adopted under IC 14-28-5 by the Indiana finance authority.**

**(b) This SECTION expires July 1, 2020.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**HEA 1452 — Concur**

