

# HOUSE BILL No. 1463

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 14-27-7-6; IC 14-28-1-8.

**Synopsis:** Flood control measures. Provides that immediate action may be taken for the maintenance, alteration, repair, reconstruction, change in construction or location, or removal of a dike, floodwall, levee, or appurtenance to provide emergency protection to: (1) human life; or (2) property; if, in the opinion of the department of natural resources (DNR), there is not sufficient time for the maintenance, alteration, repair, reconstruction, change in construction or location, or removal to be effected through the issuance and enforcement of a notice of violation. (Under current law, danger to property alone is not sufficient cause for immediate action.) Provides that if, in the opinion of the DNR, immediate action is necessary, the DNR may: (1) undertake the action by itself or through a contractor engaged by the DNR; or (2) authorize the owner of the property on which the dike, floodwall, levee, or appurtenance is located to undertake the action. Provides that, before the natural resources commission or its agents may enter private property to investigate for flood control purposes, the owner or occupant of the property must be contacted and informed of the reason for the entry and the intended time and place of the entry by: (1) direct, in person verbal communication; (2) a telephone call; (3) certified mail with return receipt requested; or (4) first class mail or electronic mail followed by a response from the owner or occupant of the property; except when there is a need to enter the property immediately because of an emergency.

**Effective:** July 1, 2021.

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## Lindauer, Lehe, Prescott, Payne

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January 14, 2021, read first time and referred to Committee on Natural Resources.

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First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

## HOUSE BILL No. 1463

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

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

1 SECTION 1. IC 14-27-7-6 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 6. (a) If at any time the  
3 condition of a levee, a dike, a floodwall, or an appurtenance becomes  
4 so dangerous to the safety of **human life and or** property that, in the  
5 opinion of the department, there is not sufficient time for the issuance  
6 and enforcement of a notice of violation for the maintenance,  
7 alteration, repair, reconstruction, change in construction or location, or  
8 removal of the dike, floodwall, levee, or appurtenance in the manner  
9 provided in this chapter, the department may immediately take the  
10 measures that are essential to provide emergency protection to:

- 11 (1) **human** life;
- 12 (2) **property; or**
- 13 (3) **both human life** and property.
- 14 (b) **The measures that the department may take under**
- 15 **subsection (a) include:**
  - 16 (1) **undertaking the maintenance, alteration, repair,**
  - 17 **reconstruction, change in construction or location, or removal**



1 of the dike, floodwall, levee, or appurtenance:

2 (A) by itself; or

3 (B) through a contractor engaged by the department; or

4 (2) authorizing the owner of the property on which the dike,  
5 floodwall, levee, or appurtenance is located to undertake the  
6 maintenance, alteration, repair, reconstruction, change in  
7 construction or location, or removal of the dike, floodwall,  
8 levee, or appurtenance.

9 ~~(b)~~ (c) The department may recover the cost of the emergency  
10 measures taken by the department under subsection (b)(1) from the  
11 owner by appropriate legal action.

12 SECTION 2. IC 14-28-1-8 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 8. (a) The commission  
14 and the commission's agents, engineers, surveyors, and other  
15 employees may enter upon any land or water in Indiana for the purpose  
16 of making an investigation, an examination, or a survey provided by  
17 this chapter.

18 (b) Except as provided in subsection (c), before an entry upon  
19 the property under subsection (a), communication with the owner  
20 or occupant of the parcel of property concerning the reason for the  
21 entry and the intended time and place of the entry must occur in  
22 one (1) of the following forms:

23 (1) Direct verbal communication to the owner or occupant in  
24 person at least twenty-four (24) hours before the parcel of  
25 property is entered.

26 (2) A telephone call to the owner or occupant at least  
27 twenty-four (24) hours before the parcel of property is  
28 entered.

29 (3) Certified mail with return receipt requested that is sent to  
30 and received by the owner or occupant at least forty-eight (48)  
31 hours before the parcel of property is entered.

32 (4) Notification by:

33 (A) first class mail that is delivered to the owner or  
34 occupant at least twenty-four (24) hours before the parcel  
35 of property is entered; or

36 (B) electronic mail that is sent to the owner or occupant at  
37 least twenty-four (24) hours before the parcel of property  
38 is entered;

39 followed, before the entry upon the property, by a response  
40 from the owner or occupant by direct verbal communication  
41 in person, a telephone call, or an electronic mail response in  
42 which the owner or occupant acknowledges awareness of the



1           **impending entry upon the property.**  
2           **(c) Communication with the owner or occupant under**  
3           **subsection (b) before property is entered is not required if there is**  
4           **a need to enter the property under subsection (a) immediately**  
5           **because of an emergency such as the possible failure of a dike,**  
6           **floodwall, or levee due to flooding.**

