

HOUSE BILL No. 1064

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7.

Synopsis: Associational standing for judicial review. Provides that an association or representative organization that meets certain requirements has standing to: (1) bring a declaratory judgment action as to an ordinance adopted under the planning and development law; and (2) obtain judicial review of a zoning decision.

Effective: July 1, 2022.

Engleman, McNamara, Pressel

January 4, 2022, read first time and referred to Committee on Judiciary.



Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1064

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 36-7-2.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]:
4 **Chapter 2.5. Associational Standing**
5 **Sec. 1. An association or representative organization may bring**
6 **a declaratory judgment action under IC 34-14-1 with regard to an**
7 **ordinance adopted under this article if:**
8 (1) **at least one (1) member of the association or**
9 **representative organization is or may be impacted by the**
10 **ordinance; and**
11 (2) **the association or representative organization establishes**
12 **the following:**
13 (A) **Enforcement of the ordinance is within the association**
14 **or representative organization's general scope of interest**
15 **and activity.**
16 (B) **The relief requested is the type appropriate for an**
17 **association or representative organization to receive on**



1 **behalf of its members.**

2 **(C) The asserted claim or the requested relief does not**
 3 **require the participation of each of the individual members**
 4 **of the association or representative organization.**

5 **Sec. 2. The authority of an association or representative**
 6 **organization to bring a declaratory judgment action as provided**
 7 **in this chapter, is in addition to the standing of an association or**
 8 **organization to obtain judicial review of a zoning decision under**
 9 **IC 36-7-4-1603.**

10 SECTION 2. IC 36-7-4-1603, AS AMENDED BY P.L.71-2020,
 11 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2022]: Sec. 1603. (a) The following have standing to obtain
 13 judicial review of a zoning decision:

14 (1) A person to whom the zoning decision is specifically directed.

15 (2) A person aggrieved by the zoning decision who participated
 16 in the board hearing that led to the decision, either:

17 (A) by appearing at the hearing in person, by agent, or by
 18 attorney and presenting relevant evidence; or

19 (B) by filing with the board a written statement setting forth
 20 any facts or opinions relating to the decision.

21 (3) A person that is a public use airport owner or operator has
 22 standing to obtain judicial review of a zoning decision that may
 23 have a negative impact on the safety of civilian or military flight
 24 operations to or from the airport.

25 (4) A person otherwise aggrieved or adversely affected by the
 26 zoning decision.

27 (b) A person has standing under subsection (a)(4) only if:

28 (1) the zoning decision has prejudiced or is likely to prejudice the
 29 interests of the person;

30 (2) the person was eligible for an initial notice of a hearing under
 31 this chapter, was not notified of the hearing in substantial
 32 compliance with this chapter, and did not have actual notice of the
 33 hearing before the last date in the hearing that the person could
 34 object or otherwise intervene to contest the zoning decision;

35 (3) the person's asserted interests are among those that the board
 36 was required to consider when it made the challenged zoning
 37 decision; and

38 (4) a judgment in favor of the person would substantially
 39 eliminate or redress the prejudice to the person caused or likely
 40 to be caused by the zoning decision.

41 **(c) An association or representative organization has standing**
 42 **to obtain judicial review of a zoning decision if:**



- 1 **(1) at least one (1) member of the association or**
- 2 **representative organization meets the requirements for**
- 3 **standing under subsection (a); and**
- 4 **(2) the association or representative organization establishes**
- 5 **the following:**
- 6 **(A) Enforcement of the zoning decision is within the**
- 7 **association or representative organization's general scope**
- 8 **of interest and activity.**
- 9 **(B) The relief requested is the type appropriate for an**
- 10 **association or representative organization to receive on**
- 11 **behalf of its members.**
- 12 **(C) The asserted claim or the requested relief does not**
- 13 **require the participation of each of the individual members**
- 14 **of the association or representative organization.**

