

# HOUSE BILL No. 1289

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-7.

**Synopsis:** Local regulation of natural resource development. Changes the definition of "urban area" for purposes of a land use statute in the area planning law to include any lands or lots used for residential purposes where there are at least 50 residences (instead of eight residences) within any quarter mile square area. Specifies that the statute does not authorize an ordinance or action of a plan commission or a board of zoning appeals prohibited by the remainder of the bill. Provides that the prohibition applies outside of urban areas, including within a flood plain. Restricts the power of a unit (a county, city, town, or township) to regulate the development of natural resources on private property. Defines "development of natural resources" as the extraction of mineral resources, the sale or removal of merchantable timber, or the harvest, sale, or removal of other vegetation. Allows the enforcement of ordinances concerning the use of a road or damage to a road. Provides that if an ordinance or resolution of a unit requires a person to obtain a permit for a road cut or other access to a road located in the unit, the unit shall issue a permit to a person upon receipt of the person's completed application. Prohibits a unit from charging a person who sells or removes merchantable timber from private property a fee or requiring a bond for a road cut or other access to a highway that exceeds a fee or bond that the unit requires for new commercial construction. Allows a unit to charge a reforestation fee. Allows the unit to retain 25% of the fee and requires the remaining 75% to be deposited in the forest restoration fund.

**Effective:** July 1, 2018.

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## Ellington

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January 16, 2018, read first time and referred to Committee on Natural Resources.

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Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

# HOUSE BILL No. 1289

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 36-7-4-1103, AS AMENDED BY P.L.119-2012,  
2 SECTION 195, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2018]: Sec. 1103. (a) This section does not  
4 apply to a plan commission exercising jurisdiction in a county having  
5 a population of more than twenty thousand nine hundred (20,900) but  
6 less than twenty-one thousand (21,000).

7 (b) ~~ADVISORY—AREA.~~ For purposes of this section, urban areas  
8 include all lands and lots within the corporate boundaries of a  
9 municipality, any other lands or lots used for residential purposes  
10 where there are at least ~~eight (8)~~ **fifty (50)** residences within any  
11 quarter mile square area, and other lands or lots that have been or are  
12 planned for residential areas contiguous to the municipality.

13 (c) ~~ADVISORY—AREA.~~ This chapter does not authorize an  
14 ordinance or action of a plan commission ~~that would prevent, outside~~  
15 ~~of urban areas, the complete use and alienation of any mineral~~  
16 ~~resources or forests by the owner or alienee of them. or a board of~~  
17 **zoning appeals outside of urban areas, including areas within a**



1 **flood plain, that is prohibited by IC 36-7-39.**

2 SECTION 2. IC 36-7-39 IS ADDED TO THE INDIANA CODE AS  
3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
4 1, 2018]:

5 **Chapter 39. Regulating the Development of Natural Resources**  
6 **on Private Property**

7 **Sec. 1. As used in this chapter, "development of natural**  
8 **resources" refers to any of the following:**

- 9 (1) **The extraction of mineral resources.**  
10 (2) **The sale or removal of merchantable timber.**  
11 (3) **The harvest, sale, or removal of other vegetation.**

12 **Sec. 2. As used in this chapter, "merchantable timber" has the**  
13 **meaning set forth in IC 14-23-4-2.**

14 **Sec. 3. Except as provided in sections 4 and 6 of this chapter, a**  
15 **unit may not regulate the development of natural resources on**  
16 **private property.**

17 **Sec. 4. (a) Section 3 of this chapter does not prohibit a unit from**  
18 **enforcing an ordinance or resolution concerning:**

- 19 (1) **the use of a road, including vehicle weight limits; or**  
20 (2) **damage to a road;**

21 **located in the unit.**

22 (b) **If an ordinance or resolution of a unit requires a person to**  
23 **obtain a permit for a road cut or other access to a road located in**  
24 **the unit, the unit shall issue a permit to a person upon receipt of the**  
25 **person's completed application.**

26 **Sec. 5. A unit may not charge a person who sells or removes**  
27 **merchantable timber from private property a fee or require a bond**  
28 **for a road cut or other access to a highway that exceeds a fee or**  
29 **bond that the unit charges or requires for new commercial**  
30 **construction.**

31 **Sec. 6. A unit may charge a reforestation fee to a person who**  
32 **sells or removes merchantable timber from private property**  
33 **located within the unit. The fiscal officer of a unit charging a fee**  
34 **under this section shall:**

- 35 (1) **retain twenty-five percent (25%) of the fee charged for**  
36 **deposit in the unit's general fund; and**  
37 (2) **transfer seventy-five percent (75%) of the fee charged to**  
38 **the fiscal officer of the Indiana natural resources foundation**  
39 **for deposit in the forest restoration fund established by**  
40 **IC 14-12-1-11.1.**

