



January 30, 2018

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## HOUSE BILL No. 1289

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DIGEST OF HB 1289 (Updated January 29, 2018 1:18 pm - DI 109)

**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 when exercising jurisdiction within the geographic area of a plan commission or board of zoning appeals, 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.

**Effective:** Upon passage.

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### Ellington

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January 16, 2018, read first time and referred to Committee on Natural Resources.  
January 30, 2018, amended, reported — Do Pass.

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HB 1289—LS 7103/DI 92





January 30, 2018

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

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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 UPON PASSAGE]: 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 a  
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 exercising jurisdiction within the geographic area**

HB 1289—LS 7103/DI 92



1 of the plan commission or board of zoning appeals, including areas  
2 within a flood plain, that is prohibited by IC 36-7-39.

3 SECTION 2. IC 36-7-39 IS ADDED TO THE INDIANA CODE AS  
4 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
5 PASSAGE]:

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

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

- 10 (1) The extraction of mineral resources.
- 11 (2) The sale or removal of merchantable timber.

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 section 4 of this chapter and**  
15 **notwithstanding IC 36-7-2-6, a unit may not regulate the**  
16 **development of natural resources on 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 SECTION 3. An emergency is declared for this act.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred House Bill 1289, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "[EFFECTIVE JULY 1, 2018]:" and insert "[EFFECTIVE UPON PASSAGE]:".

Page 1, line 17, delete "outside of urban areas," and insert "**exercising jurisdiction within the geographic area of the plan commission or board of zoning appeals,**".

Page 2, line 3, delete "[EFFECTIVE JULY" and insert "[EFFECTIVE UPON PASSAGE]:".

Page 2, line 4, delete "1, 2018]:".

Page 2, delete line 11.

Page 2, line 14, delete "sections 4 and 6 of this chapter," and insert "**section 4 of this chapter and notwithstanding IC 36-7-2-6,**".

Page 2, delete lines 31 through 40, begin a new paragraph and insert:

**"SECTION 3. An emergency is declared for this act."**

and when so amended that said bill do pass.

(Reference is to HB 1289 as introduced.)

EBERHART

Committee Vote: yeas 6, nays 3.

