



February 11, 2021

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## HOUSE BILL No. 1328

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DIGEST OF HB 1328 (Updated February 10, 2021 1:01 pm - DI 137)

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

**Synopsis:** Subdividing land. Requires a unit to allow a property owner to subdivide the owner's property by deed if: (1) the owner requests a subdivision exemption; and (2) certain requirements are met. Requires the property owner to file an application with the plan commission accompanied by a plat drawing, the recorded deed of the parent parcel, and any application fee. Provides that the application must be reviewed and approved by the plan commission staff or the plan director, without a public hearing or the approval of the plan commission. Provides that approval of the application does not exempt the property owner from complying with any other requirements regarding construction of a new residential home, including obtaining a building permit. Provides that if the number of lots that are created by the subdivision make the provisions of the subdivision ordinance applicable, the property owner must comply with the ordinance, except for any provisions controlling lot size.

**Effective:** July 1, 2021.

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## Ellington, Davisson

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January 14, 2021, read first time and referred to Committee on Local Government.  
February 11, 2021, amended, reported — Do Pass.

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HB 1328—LS 7236/DI 137





February 11, 2021

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. 1328

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 36-7-4-702.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2021]: **Sec. 702.5. (a) A unit shall provide a**  
4 **subdivision exemption to a property owner if:**  
5 (1) **the property owner requests a subdivision exemption; and**  
6 (2) **the requirements of this section are met.**  
7 (b) **The proposed subdivision must meet all of the following**  
8 **eligibility criteria:**  
9 (1) **The property is located in an unincorporated area of the**  
10 **county.**  
11 (2) **The property is currently zoned to allow residential**  
12 **development as a permitted use.**  
13 (3) **The property owner's purpose for subdividing the parcel**  
14 **is to create:**  
15 (A) **a parcel for an existing residential structure or home;**  
16 **or**  
17 (B) **a lot on which to construct a new residential structure**

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- 1                   or home.
- 2                   **(4) The subdivision of the parcel may not result in an existing**
- 3                   **parcel or parcel remnant being landlocked.**
- 4                   **(5) The parent parcel and the proposed lot must be served by:**
- 5                   **(A) a sanitary sewer system;**
- 6                   **(B) an approved septic system; or**
- 7                   **(C) a package plant for sewage treatment;**
- 8                   **authorized by a permit issued by the proper state or local**
- 9                   **agency.**
- 10                  **(6) The property is not deed restricted.**
- 11                  **(7) The property is not:**
- 12                  **(A) platted into lots; or**
- 13                  **(B) part of a planned unit development that has lots;**
- 14                  **that are less than one (1) acre in size.**
- 15                  **(c) A property owner must submit an application to the plan**
- 16                  **commission accompanied by the following:**
- 17                  **(1) A plat drawing prepared or certified and sealed by a**
- 18                  **responsible professional surveyor as provided in IC 25-21.5-9,**
- 19                  **that satisfies any applicable requirements of IC 6-1.1-5.**
- 20                  **However, the unit may not require the property owner to**
- 21                  **obtain the unit's approval of the plat drawing.**
- 22                  **(2) The recorded parent parcel deed.**
- 23                  **(3) Any application fee.**
- 24                  **(d) The review and approval of the application shall be carried**
- 25                  **out by plan commission staff or the plan director. The application**
- 26                  **review and approval process may not require a public hearing or**
- 27                  **the approval of the plan commission. Except as provided in**
- 28                  **subsection (e), a complete application shall be approved if the**
- 29                  **proposed subdivision meets the eligibility criteria under subsection**
- 30                  **(b).**
- 31                  **(e) This subsection applies if the proposed subdivision creates a**
- 32                  **sufficient number of lots to make the unit's subdivision control**
- 33                  **ordinance applicable. The plan commission staff or plan director**
- 34                  **may approve an application for a subdivision exemption only if the**
- 35                  **proposed subdivision:**
- 36                  **(1) meets the eligibility criteria under subsection (b); and**
- 37                  **(2) complies with the development standards of the**
- 38                  **subdivision control ordinance, except that the proposed**
- 39                  **subdivision is not subject to any requirements in the**
- 40                  **subdivision control ordinance controlling the size of a lot.**
- 41                  **(f) The approval of a property owner's application for a**
- 42                  **subdivision exemption under this section does not exempt the**



1       **property owner from any:**  
2           **(1) requirements of the unit for constructing a new residential**  
3           **home or structure on the lot, if the same requirements would**  
4           **apply to constructing a new residential home or structure on**  
5           **the parent parcel, including obtaining a building permit,**  
6           **improvement permit, or certificate of occupancy; or**  
7           **(2) requirements outside of this chapter applicable to**  
8           **subdivision of property, including recording requirements or**  
9           **requirements under IC 6-1.1.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1328, 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 4, delete "if the requirements of" and insert "**if:**

**(1) the property owner requests a subdivision exemption; and**

**(2) the requirements of this section are met."**

Page 1, delete line 5.

Page 2, line 13, delete "one and one-half (1 1/2) acres" and insert "**one (1) acre**".

and when so amended that said bill do pass.

(Reference is to HB 1328 as introduced.)

MAY

Committee Vote: yeas 11, nays 1.

