

# HOUSE BILL No. 1538

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 14-27-7.5.

**Synopsis:** Regulation of dams. Provides that in determining the hazard classification of a dam, the department of natural resources (department) may consider only the potential consequences resulting from the uncontrolled release of a dam's contents due to a failure of the dam to certain properties that were present at the time the dam was built. Provides that if a dam is later modified to impound a greater volume of water, the department shall determine the dam's hazard classification based on the potential consequences resulting from the uncontrolled release of the dam's contents due to a failure of the dam at the time the modification is completed. Allows the owner of a dam built, modified, or altered before July 1, 2015, to apply to the department to determine the dam's hazard classification. Makes a conforming change.

**Effective:** July 1, 2015.

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January 20, 2015, read first time and referred to Committee on Natural Resources.

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First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1538

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

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

1 SECTION 1. IC 14-27-7.5-8 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) The department:  
3 (1) has, on behalf of the state, jurisdiction and supervision over  
4 the maintenance and repair of structures in, on, or along the  
5 rivers, streams, and lakes of Indiana;  
6 (2) shall exercise care to see that the structures are maintained in  
7 a good and sufficient state of repair and operating condition to  
8 fully perform the intended purpose;  
9 (3) shall grant permits for the construction and operation of  
10 structures in, on, or along the rivers, streams, and lakes of  
11 Indiana;  
12 (4) may adopt rules under IC 4-22-2 for permitting, maintenance,  
13 and operation that are necessary for the purposes of this chapter;  
14 and  
15 (5) may vary the standards for permits, maintenance, and



- 1 operation, giving due consideration to the following:
- 2 (A) The type and location of the structure.
- 3 (B) The hazards to which the structure is or may be exposed.
- 4 (C) The peril to life or property if the structure fails to perform
- 5 the structure's function.
- 6 (b) **Subject to subsection (c)**, the department shall establish by rule
- 7 the criteria for assigning a hazard classification to a structure that is
- 8 based on the potential consequences resulting from the uncontrolled
- 9 release of the structure's contents due to a failure of the structure. The
- 10 hazard classification system must include the following classes of
- 11 structures:
- 12 (1) High hazard: A structure the failure of which may cause the
- 13 loss of life and serious damage to homes, industrial and
- 14 commercial buildings, public utilities, major highways, or
- 15 railroads.
- 16 (2) Significant hazard: A structure the failure of which may
- 17 damage isolated homes and highways, or cause the temporary
- 18 interruption of public utility services.
- 19 (3) Low hazard: A structure the failure of which may damage
- 20 farm buildings, agricultural land, or local roads.
- 21 (c) **When determining a structure's hazard classification, the**
- 22 **department may consider only the potential consequences resulting**
- 23 **from the uncontrolled release of the structure's contents due to a**
- 24 **failure of the structure to the:**
- 25 (1) homes;
- 26 (2) industrial, commercial, and farm buildings;
- 27 (3) agricultural land;
- 28 (4) public utilities;
- 29 (5) highways; and
- 30 (6) railroads;
- 31 **that were present at the time the structure was built. However, if**
- 32 **a structure is later modified or altered to impound a greater**
- 33 **volume of water, the department shall determine the structure's**
- 34 **hazard classification based on the potential consequences resulting**
- 35 **from the uncontrolled release of the structure's contents due to a**
- 36 **failure of the structure at the time the modification or alteration is**
- 37 **completed.**
- 38 (d) **An owner of a structure built, modified, or altered before**
- 39 **July 1, 2015, may apply to the department to have the structure's**
- 40 **hazard classification determined based on the criteria set forth in**
- 41 **subsection (c). The department shall act on a hazard classification**
- 42 **determination application not more than forty-five (45) days after**



1 **the application is received.**

2 SECTION 2. IC 14-27-7.5-16 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 16. (a) A property  
4 owner, the owner's representative, or an individual who resides  
5 downstream from a structure:

6 (1) over which the department does not have jurisdiction under  
7 this chapter; and

8 (2) that the property owner, the owner's representative, or the  
9 individual believes would cause a loss of life or damage to the  
10 person's home, industrial or commercial building, public utility,  
11 major highway, or railroad if the structure fails;

12 may request in writing that the department declare the structure a high  
13 hazard structure.

14 (b) If the department receives a request under subsection (a), the  
15 department shall:

16 (1) investigate the structure and the area downstream from the  
17 structure;

18 (2) notify the owner of the structure that the structure is being  
19 investigated;

20 (3) review written statements and technical documentation from  
21 any interested party; and

22 (4) after considering the available information, determine, **subject**  
23 **to section 8(c) of this chapter**, whether or not the structure is a  
24 high hazard structure.

25 (c) The department shall issue a written notice of the department's  
26 determination under subsection (b) to:

27 (1) the individual who requested the determination; and

28 (2) the owner of the structure that is the subject of the request.

29 (d) Either:

30 (1) the individual who requested a determination; or

31 (2) the owner of the structure that is the subject of the request;

32 may request an administrative review under IC 4-21.5-3-6 within thirty  
33 (30) days after receipt of the written determination.

34 (e) If the department determines that a structure is a high hazard  
35 structure under subsection (b), the provisions of this chapter  
36 concerning high hazard structures apply to the structure.

