

# SENATE BILL No. 342

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 14-28-1-23.

**Synopsis:** Flood plain management. Prohibits the director of the department of natural resources from exercising the director's statutory authority to remove or eliminate an abode or residence from a floodway if: (1) a permit for the construction of the abode or residence was issued by the county in which the abode or residence was constructed; (2) the location of the abode or residence was not shown as being within a special flood hazard area in the Federal Emergency Management Agency Flood Insurance Rate Maps available to the county official when the county official issued the permit; (3) the abode or residence was built in compliance with the county construction permit; and (4) the county official who issued the permit did so in good faith and in the belief that the construction of the abode or residence would not violate the prohibition against building an abode or residence in a floodway.

**Effective:** Upon passage.

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January 11, 2022, read first time and referred to Committee on Natural Resources.

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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.

# SENATE BILL No. 342



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 14-28-1-23, AS AMENDED BY P.L.90-2020,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 23. (a) The director may remove or eliminate  
4 a structure, an obstruction, a deposit, or an excavation in a floodway  
5 that:  
6 (1) adversely affects the efficiency of or unduly restricts the  
7 capacity of the floodway;  
8 (2) constitutes an unreasonable hazard to the safety of life or  
9 property; or  
10 (3) is unreasonably detrimental to fish, wildlife, or botanical  
11 resources;  
12 by an action in condemnation.  
13 (b) In assessing the damages in the proceedings, the appraisers and  
14 the court shall take into consideration whether the structure,  
15 obstruction, deposit, or excavation is legally in or on the floodway.  
16 (c) Beginning January 1, 2020, the director shall not exercise the  
17 authority under subsection (a) to remove or eliminate an abode or



- 1 residence from a floodway if:
- 2 (1) the abode or residence was constructed before January 1,
- 3 2020;
- 4 (2) the owner of the abode or residence has taken necessary
- 5 measures to elevate the lowest floor of the abode or residence, as
- 6 reconstructed, including the basement, to at least two (2) feet
- 7 above the one hundred (100) year flood elevation within two (2)
- 8 years after receiving notification from the department concerning
- 9 the abode or residence; and
- 10 (3) the owner of the abode or residence has taken necessary
- 11 measures to comply with all applicable local, state, and federal
- 12 floodway regulations.
- 13 **(d) Beginning January 1, 2022, the director shall not exercise the**
- 14 **authority under subsection (a) to remove or eliminate an abode or**
- 15 **residence from a floodway if:**
- 16 **(1) a permit for the construction of the abode or residence was**
- 17 **issued by the appropriate official of the county in which the**
- 18 **abode or residence was constructed;**
- 19 **(2) the location of the abode or residence was not shown as**
- 20 **being within a special flood hazard area in the Federal**
- 21 **Emergency Management Agency Flood Insurance Rate Maps**
- 22 **available to the county official when the county official issued**
- 23 **the permit referred to in subdivision (1);**
- 24 **(3) the abode or residence was built in compliance with the**
- 25 **county construction permit; and**
- 26 **(4) the county official who issued the permit did so:**
- 27 **(A) in good faith; and**
- 28 **(B) in the belief that the construction of the abode or**
- 29 **residence would not violate section 20 of this chapter.**
- 30 **SECTION 2. An emergency is declared for this act.**

