



March 23, 2023

ENGROSSED

SENATE BILL No. 412

DIGEST OF SB 412 (Updated March 22, 2023 1:28 pm - DI 148)

Citations Affected: IC 14-8; IC 14-11; IC 14-13; IC 14-25.5; IC 14-26; IC 14-28; IC 25-36.5; IC 36-1.

Synopsis: Natural resources matters. Provides, for purposes of the oil and gas law (which requires the natural resources commission to adopt rules to prevent waste and prohibits actions in the extraction of coal bed methane that would waste commercially minable coal resources), that the term "waste" does not include capturing and destroying coal bed methane for a commercial purpose, including the generation of carbon credits. Authorizes the division of water (division) of the department of natural resources (department) to file, in the deed records of a county recorder's office, an affidavit stating that a violation or deficiency that is the subject of an enforcement action for a structure that is classified by the department as a high hazard structure exists on a particular property in the county. Provides that the affidavit must: (1) include a sworn statement that a violation or deficiency exists on the property that is the subject of the notice of violation; (2) be recorded by the county recorder in the deed records of the county; (3) be designed
(Continued next page)

Effective: July 1, 2023.

Glick, Leising, Randolph Lonnie M
(HOUSE SPONSOR — LINDAUER)

January 19, 2023, read first time and referred to Committee on Natural Resources.
February 21, 2023, amended, reported favorably — Do Pass.
February 23, 2023, read second time, amended, ordered engrossed.
February 24, 2023, engrossed.
February 27, 2023, read third time, passed. Yeas 45, nays 4.

HOUSE ACTION

March 6, 2023, read first time and referred to Committee on Natural Resources.
March 23, 2023, amended, reported — Do Pass.

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and worded so as to provide notice to the public; and (4) include certain details about the property and current owner. Requires the department to file a release of the affidavit with the county when the violation or deficiency is resolved to remove the affidavit from the deed records of the county. Requires: (1) the division to pay for recording an affidavit; and (2) the department to pay for recording a release of the affidavit. Amends the law requiring the natural resources commission to adopt certain rules concerning lakes and reservoirs. Amends the flood control law, which requires a permit to create or maintain a structure, obstruction, deposit, or excavation in a floodway, to: (1) require a person who files a permit application to provide documentation of the person's ownership of the site where the proposed work will be performed or an affidavit from the owner of the site authorizing the performance of the proposed work; (2) allow an applicant to file an amendment to the person's permit application; and (3) provide that two or more persons may jointly apply for a permit. Amends the floodplain management law to: (1) require a permit for the creation, use, or maintenance of a structure, obstruction, deposit, or excavation on any state owned property or state managed property in a floodplain; and (2) provide that the lowest floor of any structure erected on state owned property or state managed property in a floodplain must be least two feet above the 100 year frequency flood elevation. Amends the timber buyers law to provide that information in a timber buyer's records about the timber buyer's transactions with a particular timber grower may be disclosed to that timber grower. Requires the natural resources commission to hold a meeting at least once every five years with officials of counties and municipalities for flood plain management purposes. Provides that after June 30, 2023, a person who applies to a local floodplain administrator for a permit authorizing a structure or construction activity in or near a floodplain may elect that either the best available data as provided by the department or an engineering study provided by the applicant that is reviewed and approved according to the unit's ordinance for flood hazard areas will be used in reviewing the person's application. Provides that officials of a county or municipality may voluntarily request to meet with the natural resources commission on a periodic basis to further the objectives of the flood plain management law. Requires the natural resources commission to review and timely respond to any request from a county or municipality to revise the delineation of a flood hazard area. Authorizes the Little Calumet River basin development commission to make bank improvements and remove sediment and flood-causing debris within the Little Calumet River basin development commission's jurisdiction, subject only to the authority of the United States Army Corps of Engineers. Requires the department to coordinate with local governmental agencies for purposes of a seawall or revetment permit process. Provides that if a local governmental agency does not approve or deny the seawall or revetment permit within 30 business days, the permit is automatically approved and considered issued to the person. Makes conforming changes.



March 23, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 412

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

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

- 1 SECTION 1. IC 14-8-2-1.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2023]: **Sec. 1.5. "Affidavit", for the purposes of IC 14-25.5, has**
4 **the meaning set forth in IC 14-25.5-1-1.5.**
- 5 SECTION 2. IC 14-8-2-302 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 302. "Waste" or
7 "wasted" has the following meaning:
- 8 (1) For purposes of IC 14-25-3, the meaning set forth in
9 IC 14-25-3-2.
- 10 (2) For purposes of IC 14-37, the term includes the following:
- 11 (A) Locating, spacing, drilling, equipping, operating, or
12 producing a well for oil and gas purposes drilled after March
13 13, 1947, in any manner that:
- 14 (i) reduces or tends to reduce the quantity of oil or gas
15 ultimately to be recovered from any well in Indiana; or
16 (ii) violates the spacing provisions adopted by the
17 commission under IC 14-37.

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- 1 (B) Storing oil in earthen reservoirs except in an emergency to
 2 prevent the total loss of that oil.
 3 (C) Producing oil or gas in a manner that will cause water
 4 channeling or zoning.
 5 (D) Injecting fluids into a stratum or part of a stratum capable
 6 of producing oil or gas, except in accordance with the terms of
 7 a Class II well for which a permit is issued under IC 14-37.
 8 (E) Allowing water other than fresh water to flow from any
 9 producing horizon located in a producing pool, except in
 10 accordance with the terms of a permit issued under IC 14-37.
 11 (F) Allowing gas from a well that produces only gas to escape
 12 into the atmosphere, except as is necessary while making or
 13 changing connections, completing the well, or reconditioning
 14 the well.

15 **(3) For purposes of IC 14-37, the term does not include**
 16 **capturing and destroying coal bed methane for a commercial**
 17 **purpose, including the generation of carbon credits.**

18 SECTION 3. IC 14-11-1-10 IS ADDED TO THE INDIANA CODE
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 20 1, 2023]: **Sec. 10. The department shall coordinate with local**
 21 **governmental agencies (as defined in IC 36-7-4-1109(a)) for**
 22 **purposes of the permit process described in IC 36-1-29-16.**

23 SECTION 4. IC 14-13-2-15 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 15. (a)** In establishing
 25 and developing projects, the commission may:

26 (1) construct, reconstruct, establish, build, repair, remodel,
 27 enlarge, extend, or add to facilities, betterments, and
 28 improvements; and

29 (2) clear and prepare any site for construction;
 30 that the commission considers appropriate in furtherance of the
 31 purposes of this chapter.

32 **(b) Subject only to the authority of the United States Army**
 33 **Corps of Engineers, the commission may:**

34 **(1) remove sediments and flood-causing debris; and**

35 **(2) make bank improvements;**

36 **within the geographic area described in section 6 of this chapter,**
 37 **giving priority to the removal of sediments and flood-causing**
 38 **debris.**

39 SECTION 5. IC 14-25.5-1-1.5 IS ADDED TO THE INDIANA
 40 CODE AS A NEW SECTION TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2023]: **Sec. 1.5. As used in this article,**
 42 **"affidavit" means a written document that:**



- 1 **(1) is executed under oath or affirmation by an officer or**
- 2 **employee of the department; and**
- 3 **(2) states that a violation or deficiency that is the subject of an**
- 4 **enforcement action under this article exists on a particular**
- 5 **property.**

6 SECTION 6. IC 14-25.5-2-7 IS ADDED TO THE INDIANA CODE
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 8 1, 2023]: **Sec. 7. (a) Subsection (b) applies if a person was issued a**
 9 **notice of violation under IC 14-27-7.5-11 for a structure that is**
 10 **classified by the department as a high hazard structure under the**
 11 **hazard classification system in IC 14-27-7.5-8(b)(1) and:**

- 12 **(1) the person:**
 - 13 **(A) has exhausted all available administrative remedies**
 - 14 **relating to the violation; and**
 - 15 **(B) did not initiate judicial review of the department's**
 - 16 **enforcement action under IC 4-21.5-5 within the period**
 - 17 **allowed by IC 4-21.5-5;**
- 18 **(2) the person has initiated judicial review of the department's**
- 19 **enforcement action under IC 4-21.5-5 but the court did not set**
- 20 **aside the enforcement action; or**
- 21 **(3) the person has entered into a settlement agreement with**
- 22 **the department concerning the violation.**

23 **(b) The division may file an affidavit for recording in the county**
 24 **recorder's office of the county in which the property on which the**
 25 **violation or deficiency referred to in the notice of violation exists.**
 26 **When filing an affidavit for recording under this section, the**
 27 **division shall pay to the county recorder the fee charged for the**
 28 **recording of a document in the deed records of the county.**

- 29 **(c) An affidavit filed under this section must:**
 - 30 **(1) include a sworn statement that a violation or deficiency**
 - 31 **exists on the property that is the subject of the notice of**
 - 32 **violation;**
 - 33 **(2) be recorded by the county recorder in the deed records of**
 - 34 **the county in accordance with IC 36-2-7-10 and**
 - 35 **IC 36-2-11-16.5;**
 - 36 **(3) be designed and worded so as to provide notice to the**
 - 37 **public, including any contractor or other person that intends**
 - 38 **to perform construction work on the property on which the**
 - 39 **violation or deficiency referred to in the notice of violation**
 - 40 **exists; and**
 - 41 **(4) include:**
 - 42 **(A) the full legal description of the property; and**



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(B) the most current name of the owner of the property as shown in the records of the auditor of the county where the property is located.

(d) When the violation or deficiency referred to in the notice of violation is resolved, the department shall file a release of the affidavit with the county recorder to remove the affidavit from the deed records of the county. The release filed under this subsection must:

- (1) include a reference to the affidavit; and**
- (2) meet the recording requirements specified in IC 36-2-11-15 through IC 36-2-11-16.5.**

The department shall pay to the county recorder the fee charged for recording the release.

(e) The presence of an affidavit recorded under this section in the deed records of the county in which the property referred to in the affidavit is located does not:

- (1) constitute a judgment lien against the property;**
- (2) invalidate the conveyance, purchase, lease, or acquisition of the property; or**
- (3) deprive the holder of title to the property of marketable record title (as defined in IC 32-20-2-2) for the purposes of IC 32-20.**

SECTION 7. IC 14-26-2-23, AS AMENDED BY P.L.195-2017, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 23. (a) Unless a person obtains a permit from the department under this section and conducts the activities according to the terms of the permit, a person may not conduct the following activities:

- (1) Over, along, or lakeward of the shoreline or water line of a public freshwater lake:
 - (A) excavate;
 - (B) place fill; or
 - (C) place, modify, or repair a temporary or permanent structure.
- (2) Construct a wall whose lowest point would be:
 - (A) below the elevation of the shoreline or water line; and
 - (B) within ten (10) feet landward of the shoreline or water line, as measured perpendicularly from the shoreline or water line; of a public freshwater lake.
- (3) Change the water level, area, or depth of a public freshwater lake or the location of the shoreline or water line.

(b) An application for a permit for an activity described in



- 1 subsection (a) must be accompanied by the following:
- 2 (1) A nonrefundable minimum fee of one hundred dollars (\$100).
- 3 (2) A project plan that provides the department with sufficient
- 4 information concerning the proposed excavation, fill, temporary
- 5 structure, or permanent structure.
- 6 (3) A written acknowledgment from the landowner that any
- 7 additional water area created under the project plan is part of the
- 8 public freshwater lake and is dedicated to the general public use
- 9 with the public rights described in section 5 of this chapter.
- 10 (c) The department may issue a permit after investigating the merits
- 11 of the application. In determining the merits of the application, the
- 12 department may consider any factor, including cumulative effects of
- 13 the proposed activity upon the following:
- 14 (1) The shoreline, water line, or bed of the public freshwater lake.
- 15 (2) The fish, wildlife, or botanical resources.
- 16 (3) The public rights described in section 5 of this chapter.
- 17 (4) The management of watercraft operations under IC 14-15.
- 18 (5) The interests of a landowner having property rights abutting
- 19 the public freshwater lake or rights to access the public freshwater
- 20 lake.
- 21 (d) A contractor or agent of the landowner who engages in an
- 22 activity described in subsection (a)(1), (a)(2), or (a)(3) must comply
- 23 with the terms of a permit issued under this section.
- 24 (e) The commission shall adopt rules under IC 4-22-2 to do the
- 25 following:
- 26 (1) Assist in the administration of this chapter.
- 27 (2) Provide objective standards for issuing permits under this
- 28 section, including standards for the configuration of piers, boat
- 29 stations, platforms, and similar structures. The standards:
- 30 (A) may provide for a common use if the standard is needed to
- 31 accommodate the interests of landowners having:
- 32 (i) property rights abutting the public freshwater lake; or
- 33 (ii) rights to access the public freshwater lake; and
- 34 (B) shall exempt any class of activities, ~~from licensing,~~
- 35 including **the construction or placement of** temporary
- 36 structures, **from licensing** if the commission finds that the
- 37 class is unlikely to pose more than a minimal potential for
- 38 harm to the public rights described in section 5 of this chapter.
- 39 ~~(3) Establish a process under IC 4-21.5 for the mediation of~~
- 40 ~~disputes among persons with competing interests or between a~~
- 41 ~~person and the department. A rule adopted under this subsection~~
- 42 ~~must provide that:~~



- 1 (A) if good faith mediation under the process fails to achieve
2 a settlement, the department shall make a determination of the
3 dispute; and
4 (B) a person affected by the determination of the department
5 may seek administrative review by the commission.
6 ~~(4)~~ (3) Subject to IC 14-10-2-1, set the permit application fee at
7 or above the minimum fee established in subsection (b).
8 ~~(f)~~ After:
9 (1) a final agency action in a mediation under subsection ~~(e)~~(3)
10 that makes a determination of a dispute among persons with
11 competing riparian interests; and
12 (2) the completion of judicial review or the expiration of the
13 opportunity for judicial review;
14 a party to the dispute may seek enforcement of the determination in a
15 civil proceeding. The remedy provided under this subsection is
16 supplemental to any other legal remedy of the party.
17 SECTION 8. IC 14-28-1-19.5 IS REPEALED [EFFECTIVE JULY
18 1, 2023]. ~~Sec. 19.5.~~ For purposes of this chapter, property owners may
19 jointly apply for a permit.
20 SECTION 9. IC 14-28-1-22, AS AMENDED BY P.L.141-2022,
21 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2023]: Sec. 22. (a) As used in subsection (b)(1) with respect
23 to a stream, "total length" means the length of the stream, expressed in
24 miles, from the confluence of the stream with the receiving stream to
25 the upstream or headward extremity of the stream, as indicated by the
26 solid or dashed, blue or purple line depicting the stream on the most
27 current edition of the seven and one-half (7 1/2) minute topographic
28 quadrangle map published by the United States Geological Survey,
29 measured along the meanders of the stream as depicted on the map.
30 (b) This section does not apply to the following:
31 (1) A reconstruction or maintenance project (as defined in
32 IC 36-9-27) on a stream or an open regulated drain if the total
33 length of the stream or open drain is not more than ten (10) miles.
34 (2) A construction or reconstruction project on a state or county
35 highway bridge in a rural area that crosses a stream having an
36 upstream drainage area of not more than fifty (50) square miles
37 and the relocation of utility lines associated with the construction
38 or reconstruction project if confined to an area not more than one
39 hundred (100) feet from the limits of the highway construction
40 right-of-way.
41 (3) The performance of an activity described in subsection (c)(1)
42 or (c)(2) by a surface coal mining operation that is operated under



- 1 a permit issued under IC 14-34.
- 2 (4) Any other activity that is determined by the commission,
3 according to rules adopted under IC 4-22-2, to pose not more than
4 a minimal threat to floodway areas.
- 5 (5) An activity in a boundary river floodway to which section 26.5
6 of this chapter applies.
- 7 (6) The removal of a logjam or mass of wood debris that has
8 accumulated in a river or stream, subject to the following
9 conditions:
- 10 (A) Work must not be within a salmonid stream designated
11 under 327 IAC 2-1.5-5 without the prior written approval of
12 the department's division of fish and wildlife.
- 13 (B) Work must not be within a natural, scenic, or recreational
14 river or stream designated under 312 IAC 7-2.
- 15 (C) Except as otherwise provided in Indiana law, free logs or
16 affixed logs that are crossways in the channel must be cut,
17 relocated, and removed from the floodplain. Logs may be
18 maintained in the floodplain if properly anchored or otherwise
19 secured so as to resist flotation or dislodging by the flow of
20 water and placement in an area that is not a wetland. Logs
21 must be removed and secured with a minimum of damage to
22 vegetation.
- 23 (D) Isolated or single logs that are embedded, lodged, or
24 rooted in the channel, and that do not span the channel or
25 cause flow problems, must not be removed unless the logs are
26 either of the following:
- 27 (i) Associated with or in close proximity to larger
28 obstructions.
- 29 (ii) Posing a hazard to agriculture, business, navigation, or
30 property.
- 31 (E) A leaning or severely damaged tree that is in immediate
32 danger of falling into the waterway may be cut and removed.
33 The root system and stump of the tree must be left in place.
- 34 (F) To the extent practicable, the construction of access roads
35 must be minimized, and should not result in the elevation of
36 the floodplain.
- 37 (G) To the extent practicable, work should be performed
38 exclusively from one (1) side of a waterway. Crossing the bed
39 of a waterway is prohibited.
- 40 (H) To prevent the flow of sediment laden water back into the
41 waterway, appropriate sediment control measures must be
42 installed.



- 1 (I) Within fifteen (15) days, all bare and disturbed areas must
 2 be revegetated with a mixture of grasses and legumes. Tall
 3 fescue must not be used under this subdivision, except that low
 4 endophyte tall fescue may be used in the bottom of the
 5 waterway and on side slopes.
- 6 (c) A person who desires to:
- 7 (1) erect, make, use, or maintain a structure, an obstruction, a
 8 deposit, or an excavation; or
 9 (2) suffer or permit a structure, an obstruction, a deposit, or an
 10 excavation to be erected, made, used, or maintained;
 11 in or on a floodway must file with the director a verified written
 12 application for a permit. **The permit application must be**
 13 **accompanied by a nonrefundable minimum fee of two hundred dollars**
 14 **(\$200).**
- 15 (d) ~~The A permit application for a permit filed under this section:~~
 16 **(1) must set forth the material facts together with concerning the**
 17 **structure, obstruction, deposit, or excavation; and**
 18 **(2) must be accompanied by plans and specifications for the**
 19 **structure, obstruction, deposit, or excavation.**
- 20 (e) **A person who files a permit application under this section**
 21 **must provide:**
- 22 **(1) documentation of the person's ownership of the site where**
 23 **the proposed work will be performed; or**
 24 **(2) an affidavit from the owner of the site where the proposed**
 25 **work will be performed expressly authorizing the**
 26 **performance of the proposed work on that site.**
- 27 (f) **A person who applies for a permit under this section may file**
 28 **an amendment to the person's permit application. The director**
 29 **may approve a permit application amendment filed under this**
 30 **subsection only if the permit, as amended by the amendment,**
 31 **would meet the requirements of this section.**
- 32 (g) **Two (2) or more persons may jointly apply for a permit**
 33 **under this section.**
- 34 (e) (h) **An applicant A person described in subsection (c) must**
 35 **receive a permit from the director for the work before beginning**
 36 **construction. The director shall issue a permit only if, in the opinion of**
 37 **the director, the applicant has clearly proven that the structure,**
 38 **obstruction, deposit, or excavation will not do any of the following:**
 39 (1) **Adversely affect the efficiency of or unduly restrict the**
 40 **capacity of the floodway.**
 41 (2) **Constitute an unreasonable hazard to the safety of life or**
 42 **property.**



1 (3) Result in unreasonably detrimental effects upon fish, wildlife,
2 or botanical resources.

3 ~~(f)~~ (i) In deciding whether to issue a permit under this section, the
4 director shall consider the cumulative effects of the structure,
5 obstruction, deposit, or excavation. The director may incorporate in and
6 make a part of an order of authorization conditions and restrictions that
7 the director considers necessary for the purposes of this chapter.

8 ~~(g)~~ (j) **The following apply to a permit issued under this section:**

9 (1) **Except as provided in subdivisions (2) and (3), a permit is**
10 **valid for two (2) years after the date of issuance of the permit.**

11 (2) **A permit issued to:**

12 (A) the Indiana department of transportation or a county
13 highway department **in connection with a construction**
14 **project**, if there is any federal funding for the project; or

15 (B) an electric utility for the construction of a power
16 generating facility;

17 is valid for five (5) years from the date of issuance ~~and of the~~
18 **permit.**

19 (3) ~~is valid for the duration of a permitted project subject to~~
20 ~~periodic compliance evaluations for A permit issued to a~~
21 ~~quarrying or aggregate company for the excavation of industrial~~
22 ~~materials, including:~~

23 (A) clay and shale;

24 (B) crushed limestone and dolostone;

25 (C) dimension limestone;

26 (D) dimension sandstone;

27 (E) gypsum;

28 (F) peat;

29 (G) construction sand and gravel; and

30 (H) industrial sand;

31 **is valid for the duration of the permitted project, subject to**
32 **periodic compliance evaluations.**

33 However, a permit issued under this section expires if construction is
34 not commenced within two (2) years after the permit is issued. ~~Except~~
35 ~~as provided under section 22.1 of this chapter, a permit that is active~~
36 ~~and was issued under subdivision (1) before July 1, 2014, is valid for~~
37 ~~two (2) years beginning July 2014; and a permit that is active and was~~
38 ~~issued under subdivision (2) before July 1, 2014, is valid for five (5)~~
39 ~~years beginning July 2014.~~

40 ~~(h)~~ (k) The holder of a permit issued under subsection ~~(g)~~(3) (j)(3)
41 shall notify the commission **of the completion of the permitted**
42 **project** within six (6) months ~~of~~ **after** completing the permitted



- 1 project.
- 2 ~~(i)~~ **(l)** The following apply to the renewal of a permit issued under
- 3 **this section:**
- 4 (1) A permit to which subsection ~~(g)(1)~~ **(j)(1)** applies may be
- 5 renewed one (1) time for a period not to exceed two (2) additional
- 6 years. ~~and~~
- 7 (2) A permit to which subsection ~~(g)(2)~~ **(j)(2)** applies may be
- 8 renewed one (1) time for a period not to exceed five (5) additional
- 9 years.
- 10 ~~(j)~~ **(m)** The director shall send a copy of each permit issued under
- 11 this section to each river basin commission organized under:
- 12 (1) IC 14-29-7 or IC 13-2-27 (before its repeal); or
- 13 (2) IC 14-13-9, IC 14-30-1 (before its repeal), or IC 36-7-6
- 14 (before its repeal);
- 15 that is affected.
- 16 ~~(k)~~ **(n)** The permit holder shall post and maintain a permit issued
- 17 under this section at the authorized site.
- 18 ~~(h)~~ **(o)** For the purposes of this chapter, the lowest floor of a
- 19 building, including a residence or abode, that is to be constructed or
- 20 reconstructed in the one hundred (100) year floodplain of an area
- 21 protected by a levee that is:
- 22 (1) inspected; and
- 23 (2) found to be in good or excellent condition;
- 24 by the United States Army Corps of Engineers shall not be lower than
- 25 the one hundred (100) year frequency flood elevation plus one (1) foot.
- 26 SECTION 10. IC 14-28-1-22.1, AS ADDED BY P.L.21-2021,
- 27 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 28 JULY 1, 2023]: Sec. 22.1. (a) A permit issued under section ~~22(g)(1)~~
- 29 **22(j)(3)** of this chapter on or before July 1, 2014, for a quarrying or
- 30 aggregate company that is active for the excavation of industrial
- 31 materials, including:
- 32 (1) clay and shale;
- 33 (2) crushed limestone and dolostone;
- 34 (3) dimension limestone;
- 35 (4) dimension sandstone;
- 36 (5) gypsum;
- 37 (6) peat;
- 38 (7) construction sand and gravel; and
- 39 (8) industrial sand;
- 40 is valid for the duration of the permitted project subject to the permit
- 41 conditions and periodic compliance evaluations.
- 42 ~~(b)~~ The holder of a permit described in subsection (a) shall notify



1 the department not later than January 1, 2022; if the permitted project
 2 is still active. Failure to notify the department not later than January 1,
 3 2022, will cause the permit to expire.

4 ~~(c)~~ (b) The holder of a permit described in subsection (a) is required
 5 to notify the department that the permitted project is complete not later
 6 than six (6) months after completing the permitted project.

7 SECTION 11. IC 14-28-1-34, AS AMENDED BY P.L.21-2021,
 8 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2023]: Sec. 34. A person who knowingly fails to comply with
 10 section ~~22(k)~~ **22(n)** of this chapter commits a Class B infraction. Each
 11 day a person violates section ~~22(k)~~ **22(n)** of this chapter constitutes a
 12 separate infraction.

13 SECTION 12. IC 14-28-3-4 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. (a) The commission
 15 may provide technical data and information and otherwise assist a
 16 county or municipality in the following:

17 (1) The identification and delineation of all flood hazard areas
 18 within the jurisdiction of the county or municipality.

19 (2) The preparation of all necessary ordinances, rules, and
 20 regulations.

21 (b) The commission may cooperate with a state, regional, local, or
 22 federal board, commission, or agency in the preparation of necessary
 23 information or data.

24 **(c) In furtherance of the objectives of subsections (a) and (b), the**
 25 **commission shall hold a meeting at least once every five (5) years**
 26 **with officials of counties and municipalities to do the following:**

27 **(1) Promote cooperation among the counties and**
 28 **municipalities participating in the National Flood Insurance**
 29 **Program managed by the Federal Emergency Management**
 30 **Agency.**

31 **(2) Provide technical and data assistance to officials of**
 32 **counties and municipalities.**

33 **(3) Conduct training for and provide communication and**
 34 **outreach to officials of counties and municipalities.**

35 **(d) In addition to attending meetings held under subsection (c),**
 36 **officials of a county or municipality may voluntarily request to**
 37 **meet with the commission on a periodic basis that the officials**
 38 **consider appropriate to further the objectives of this chapter.**

39 SECTION 13. IC 14-28-3-5.1 IS ADDED TO THE INDIANA
 40 CODE AS A NEW SECTION TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2023]: Sec. 5.1. (a) Except as provided in
 42 subsection (c), a person must obtain a permit under this section to



1 erect, make, use, or maintain a structure, obstruction, deposit, or
2 excavation in any place in a floodplain that is:

- 3 (1) state owned property; or
4 (2) state managed property.

5 (b) To obtain a permit, a person described in subsection (a) must
6 file with the director a verified written application for a permit.
7 The application must include plans and specifications for the
8 structure, obstruction, deposit, or excavation.

9 (c) A separate permit is not required under this section for an
10 activity for which a permit has been granted under IC 14-28-1.

11 (d) Except as provided in subsection (e), the federal regulations
12 that:

- 13 (1) were adopted by the director of the Federal Emergency
14 Management Agency to implement the National Flood
15 Insurance Act (42 U.S.C. 4001 et seq.);
16 (2) are published in 44 CFR 59 through 60; and
17 (3) were in effect on January 1, 1997;

18 are adopted as the criteria for determining whether an activity
19 referred to in subsection (a) is allowed in Indiana.

20 (e) If the activity referred to in subsection (a) is the proposed
21 erection, making, use, or maintenance of a structure in any place
22 in a floodplain that is:

- 23 (1) state owned property; or
24 (2) state managed property;

25 the activity is not allowed unless the lowest floor of the structure is
26 at least two (2) feet above the one hundred (100) year frequency
27 flood elevation.

28 SECTION 14. IC 14-28-3-6 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 6. (a) City, county, and
30 state employees, agencies, boards, districts, and commissions may
31 cooperate with and furnish information to the commission or a county
32 or municipality for the purpose of implementing this chapter.

33 (b) The commission shall review and timely respond to any
34 request from a county or municipality to revise the delineation of
35 a flood hazard area.

36 SECTION 15. IC 14-28-3-7 IS ADDED TO THE INDIANA CODE
37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
38 1, 2023]: Sec. 7. (a) As used in this section, "unit" has the meaning
39 set forth in IC 36-1-29.5-6.

40 (b) After June 30, 2023, a unit may not issue a permit:

- 41 (1) authorized by ordinance or resolution; and
42 (2) for construction of a structure or other construction



1 **activity in or near a floodplain;**
2 **unless the unit complies with this section.**
3 **(c) A person who applies to a local floodplain administrator for**
4 **a permit authorizing a structure or construction activity in or near**
5 **a floodplain may elect that:**
6 **(1) the best available data as provided by the department; or**
7 **(2) an engineering study provided by the applicant that is**
8 **reviewed and approved according to the unit's ordinance for**
9 **flood hazard areas;**
10 **will be used by the local floodplain administrator when reviewing**
11 **the person's permit application.**
12 **(d) A local floodplain administrator shall not issue a permit**
13 **authorizing a structure or construction activity in or near a**
14 **floodplain if the permit's authorization will result in a unit**
15 **violating its obligations to the National Flood Insurance Program.**
16 SECTION 16. IC 25-36.5-1-8, AS AMENDED BY P.L.141-2022,
17 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2023]: Sec. 8. (a) The department may inspect the premises
19 used by any timber buyer in the conduct of the timber buyer's business
20 at any reasonable time and the books, accounts, records and papers of
21 every such timber buyer shall at all times during business hours be
22 subject to inspection by the department.
23 (b) A timber buyer shall keep complete and accurate records and
24 accounts for each transaction. The timber buyer shall retain records and
25 accounts for not less than five (5) years after a transaction.
26 (c) The information obtained under this section is exempt under
27 IC 5-14-3-4(a)(1). Unless otherwise required by judicial order, the
28 information obtained under this section may be disclosed only as
29 **follows:**
30 **(1) All of the information may be disclosed** to the director or
31 the director's designee.
32 **(2) If a timber buyer had transactions with a particular**
33 **timber grower, information about those transactions may be**
34 **disclosed or a to that timber grower.**
35 SECTION 17. IC 36-1-29-16, AS ADDED BY P.L.164-2020,
36 SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2023]: Sec. 16. **(a)** This section applies to an application for
38 a seawall or revetment permit that is not an emergency permit.
39 **(b)** Not later than thirty (30) business days after a person submits a
40 completed application and meets all required conditions for a seawall
41 or revetment permit, a local governmental agency shall:
42 (1) approve; or



1 (2) deny;
2 the person's application for the permit.
3 **(c) If a local governmental agency does not approve or deny the**
4 **seawall or revetment permit within thirty (30) business days, the**
5 **permit is automatically approved and considered issued to the**
6 **person.**



COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 412, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 2. IC 14-8-2-302 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2023 (RETROACTIVE)]:

Sec. 302. "Waste" or "wasted" has the following meaning:

(1) For purposes of IC 14-25-3, the meaning set forth in IC 14-25-3-2.

(2) For purposes of IC 14-37, the term includes the following:

(A) Locating, spacing, drilling, equipping, operating, or producing a well for oil and gas purposes drilled after March 13, 1947, in any manner that:

(i) reduces or tends to reduce the quantity of oil or gas ultimately to be recovered from any well in Indiana; or

(ii) violates the spacing provisions adopted by the commission under IC 14-37.

(B) Storing oil in earthen reservoirs except in an emergency to prevent the total loss of that oil.

(C) Producing oil or gas in a manner that will cause water channeling or zoning.

(D) Injecting fluids into a stratum or part of a stratum capable of producing oil or gas, except in accordance with the terms of a Class II well for which a permit is issued under IC 14-37.

(E) Allowing water other than fresh water to flow from any producing horizon located in a producing pool, except in accordance with the terms of a permit issued under IC 14-37.

(F) Allowing gas from a well that produces only gas to escape into the atmosphere, except as is necessary while making or changing connections, completing the well, or reconditioning the well.

(3) For purposes of IC 14-37, the term does not include capturing and destroying coal bed methane for a commercial purpose, including the generation of carbon credits."

Page 2, line 14, after "exists." insert "**When filing an affidavit for recording under this section, the division shall pay to the county recorder the fee charged for the recording of a document in the deed records of the county.**"

Page 9, between lines 25 and 26, begin a new paragraph and insert:



"SECTION 9. IC 14-28-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. (a) The commission may provide technical data and information and otherwise assist a county or municipality in the following:

- (1) The identification and delineation of all flood hazard areas within the jurisdiction of the county or municipality.
- (2) The preparation of all necessary ordinances, rules, and regulations.

(b) The commission may cooperate with a state, regional, local, or federal board, commission, or agency in the preparation of necessary information or data.

(c) In furtherance of the objectives of subsections (a) and (b), the commission shall hold a meeting at least once every five (5) years with officials of counties and municipalities to do the following:

- (1) Promote cooperation among the counties and municipalities participating in the National Flood Insurance Program managed by the Federal Emergency Management Agency.**
- (2) Provide technical and data assistance to officials of counties and municipalities.**
- (3) Conduct training for and provide communication and outreach to officials of counties and municipalities.**

(d) In addition to attending meetings held under subsection (c), officials of a county or municipality may voluntarily request to meet with the commission on a periodic basis that the officials consider appropriate to further the objectives of this chapter."

Page 10, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 11. IC 14-28-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 6. (a) City, county, and state employees, agencies, boards, districts, and commissions may cooperate with and furnish information to the commission or a county or municipality for the purpose of implementing this chapter.

(b) The commission shall review and timely respond to any request from a county or municipality to revise the delineation of a flood hazard area.

SECTION 10. IC 15-16-10-13, AS AMENDED BY P.L.27-2015, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2023]: Sec. 13. This chapter expires July 1, ~~2023~~ **2031**."

Page 10, after line 33, begin a new paragraph and insert:

"SECTION 12. **An emergency is declared for this act.**"

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

ES 412—LS 7393/DI 55



(Reference is to SB 412 as introduced.)

GLICK, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 412 be amended to read as follows:

Page 1, delete lines 5 through 17.

Page 2, delete lines 1 through 17.

Page 11, delete lines 40 through 42.

Page 12, delete line 20.

Renumber all SECTIONS consecutively.

(Reference is to SB 412 as printed February 22, 2023.)

GLICK

SENATE MOTION

Madam President: I move that Senate Bill 412 be amended to read as follows:

Page 11, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 13. IC 14-28-3-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 7. (a) As used in this section, "unit" has the meaning set forth in IC 36-1-29.5-6.**

(b) After June 30, 2023, a unit may not issue a permit:

(1) authorized by ordinance or resolution; and

(2) for construction of a structure or other construction activity in or near a floodplain;

unless the unit complies with this section.

(c) A person who applies to a local floodplain administrator for a permit authorizing a structure or construction activity in or near a floodplain may elect that:

(1) the best available data as provided by the department; or

(2) an engineering study provided by the applicant that is reviewed and approved according to the unit's ordinance for



**flood hazard areas;
will be used by the local floodplain administrator when reviewing
the person's permit application.**

**(d) A local floodplain administrator shall not issue a permit
authorizing a structure or construction activity in or near a
floodplain if the permit's authorization will result in a unit
violating its obligations to the National Flood Insurance Program."**

Renumber all SECTIONS consecutively.

(Reference is to SB 412 as printed February 22, 2023.)

PERFECT

COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred Senate Bill 412, 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, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 2. IC 14-8-2-302 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 302. "Waste" or "wasted" has the following meaning:

- (1) For purposes of IC 14-25-3, the meaning set forth in IC 14-25-3-2.
- (2) For purposes of IC 14-37, the term includes the following:
 - (A) Locating, spacing, drilling, equipping, operating, or producing a well for oil and gas purposes drilled after March 13, 1947, in any manner that:
 - (i) reduces or tends to reduce the quantity of oil or gas ultimately to be recovered from any well in Indiana; or
 - (ii) violates the spacing provisions adopted by the commission under IC 14-37.
 - (B) Storing oil in earthen reservoirs except in an emergency to prevent the total loss of that oil.
 - (C) Producing oil or gas in a manner that will cause water channeling or zoning.
 - (D) Injecting fluids into a stratum or part of a stratum capable of producing oil or gas, except in accordance with the terms of a Class II well for which a permit is issued under IC 14-37.

ES 412—LS 7393/DI 55



(E) Allowing water other than fresh water to flow from any producing horizon located in a producing pool, except in accordance with the terms of a permit issued under IC 14-37.

(F) Allowing gas from a well that produces only gas to escape into the atmosphere, except as is necessary while making or changing connections, completing the well, or reconditioning the well.

(3) For purposes of IC 14-37, the term does not include capturing and destroying coal bed methane for a commercial purpose, including the generation of carbon credits.

SECTION 3. IC 14-11-1-10 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 10. The department shall coordinate with local governmental agencies (as defined in IC 36-7-4-1109(a)) for purposes of the permit process described in IC 36-1-29-16.**

SECTION 4. IC 14-13-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 15. (a)** In establishing and developing projects, the commission may:

(1) construct, reconstruct, establish, build, repair, remodel, enlarge, extend, or add to facilities, betterments, and improvements; and

(2) clear and prepare any site for construction;

that the commission considers appropriate in furtherance of the purposes of this chapter.

(b) Subject only to the authority of the United States Army Corps of Engineers, the commission may:

(1) remove sediments and flood-causing debris; and

(2) make bank improvements;

within the geographic area described in section 6 of this chapter, giving priority to the removal of sediments and flood-causing debris."

Page 1, delete lines 14 through 17, begin a new paragraph and insert:

"SECTION 5. IC 14-25.5-2-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 7. (a) Subsection (b) applies if a person was issued a notice of violation under IC 14-27-7.5-11 for a structure that is classified by the department as a high hazard structure under the hazard classification system in IC 14-27-7.5-8(b)(1) and:**

(1) the person:

(A) has exhausted all available administrative remedies



relating to the violation; and

(B) did not initiate judicial review of the department's enforcement action under IC 4-21.5-5 within the period allowed by IC 4-21.5-5-5;

(2) the person has initiated judicial review of the department's enforcement action under IC 4-21.5-5 but the court did not set aside the enforcement action; or

(3) the person has entered into a settlement agreement with the department concerning the violation."

Page 2, delete lines 1 through 11.

Page 2, delete lines 18 through 38, begin a new paragraph and insert:

"(c) An affidavit filed under this section must:

(1) include a sworn statement that a violation or deficiency exists on the property that is the subject of the notice of violation;

(2) be recorded by the county recorder in the deed records of the county in accordance with IC 36-2-7-10 and IC 36-2-11-16.5;

(3) be designed and worded so as to provide notice to the public, including any contractor or other person that intends to perform construction work on the property on which the violation or deficiency referred to in the notice of violation exists; and

(4) include:

(A) the full legal description of the property; and

(B) the most current name of the owner of the property as shown in the records of the auditor of the county where the property is located.

(d) When the violation or deficiency referred to in the notice of violation is resolved, the department shall file a release of the affidavit with the county recorder to remove the affidavit from the deed records of the county. The release filed under this subsection must:

(1) include a reference to the affidavit; and

(2) meet the recording requirements specified in IC 36-2-11-15 through IC 36-2-11-16.5.

The department shall pay to the county recorder the fee charged for recording the release.

(e) The presence of an affidavit recorded under this section in the deed records of the county in which the property referred to in the affidavit is located does not:



- (1) constitute a judgment lien against the property;**
- (2) invalidate the conveyance, purchase, lease, or acquisition of the property; or**
- (3) deprive the holder of title to the property of marketable record title (as defined in IC 32-20-2-2) for the purposes of IC 32-20."**

Page 12, after line 8, begin a new paragraph and insert:

"SECTION 18. IC 36-1-29-16, AS ADDED BY P.L.164-2020, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 16. **(a)** This section applies to an application for a seawall or revetment permit that is not an emergency permit.

(b) Not later than thirty (30) business days after a person submits a completed application and meets all required conditions for a seawall or revetment permit, a local governmental agency shall:

- (1) approve; or
- (2) deny;

the person's application for the permit.

(c) If a local governmental agency does not approve or deny the seawall or revetment permit within thirty (30) business days, the permit is automatically approved and considered issued to the person."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 412 as reprinted February 24, 2023.)

LINDAUER

Committee Vote: yeas 9, nays 1.

