

February 13, 1998

**ENGROSSED
SENATE BILL No. 445**

DIGEST OF SB0445 (Updated February 12, 1998 12:58 pm - DI 75)

Citations Affected: IC 36-7.

Synopsis: Agricultural nonconforming uses. Provides that an agricultural nonconforming use of land that began before a comprehensive plan or zoning ordinance came into effect may continue if the landowner maintained the nonconforming use for any three year
(Continued next page)

Effective: July 1, 1998.

**Wolf, Nugent, Ford, Hume,
Jackman, Young, Landske, Lewis,
Lawson, Paul, Waterman,
Weatherwax**

(HOUSE SPONSORS — LEUCK, FRIEND)

January 13, 1998, read first time and referred to Committee on Agriculture and Small Business.

January 22, 1998, amended, reported favorably — Do Pass.

January 27, 1998, read second time, amended, ordered engrossed.

January 28, 1998, engrossed.

January 29, 1998, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 10, 1998, read first time and referred to Committee on Agriculture and Rural Development

February 12, 1998, reported — Do Pass.

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period in a five year period. Provides that a county or municipality may not restrict an agricultural nonconforming use. Provides that an owner of land used for an agricultural nonconforming use is not required to obtain any of the following for the use of the land: (1) A variance. (2) A special exception. (3) A special use. (4) A contingent use. (5) A conditional use. Provides that an owner of land that is located in a historic area in Marion County and used for an agricultural nonconforming use is not required to obtain the following: (1) A special exception. (2) A special use. (3) A contingent use. (4) A conditional use. (5) A work permit. (6) certificate of appropriateness from the Marion County historic preservation commission.

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February 13, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

ENGROSSED SENATE BILL No. 445

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 36-7-4-616 IS ADDED TO THE INDIANA CODE
2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1998]: **Sec. 616. (a) As used in this section, "nonconforming use
4 land" means land that satisfies both of the following:**
5 (1) **The land is agricultural land that is used contrary to a
6 comprehensive plan or zoning ordinance established for the
7 area where the land is located.**
8 (2) **The land was used for agricultural purposes before the
9 adoption of a comprehensive plan or zoning ordinance for the
10 area where the land is located.**
11 (b) **Land remains as nonconforming use land as long as the land
12 is used for agricultural purposes for any three (3) year period in a
13 five (5) year period.**
14 (c) **A county or municipality may not do any of the following:**
15 (1) **Terminate an agricultural nonconforming use on
16 nonconforming use land as long as the agricultural**

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1 **nonconforming use has been maintained for at least any three**
 2 **(3) year period in a five (5) year period.**

3 **(2) Restrict any agricultural nonconforming use on**
 4 **nonconforming use land.**

5 **(3) Require an owner of nonconforming use land to obtain any**
 6 **of the following for the use of the land for agricultural**
 7 **purposes:**

8 **(A) A variance for the land.**

9 **(B) A special exception for the land.**

10 **(C) A special use for the land.**

11 **(D) A contingent use for the land.**

12 **(E) A conditional use for the land.**

13 SECTION 2. IC 36-7-11.1-13 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 13. (a) **Except as**
 15 **provided in section 13.1 of this chapter**, any building, structure, or
 16 land use in existence at the time of the adoption of the historic
 17 preservation plan that is not in conformity to or within the zoning
 18 classification or restrictions or requirements or architectural standards
 19 of this plan, shall be considered to be a nonconforming use and may
 20 continue, but only so long as the owner or owners continuously
 21 maintain this use.

22 (b) **Except as provided in section 13.1 of this chapter**, in addition
 23 to the requirements pertaining to certificates of appropriateness, the
 24 ownership of a nonconforming use is subject to the additional
 25 restriction that a nonconforming use may not be reconstructed or
 26 structurally altered to an extent exceeding in aggregate cost fifty
 27 percent (50%) of the market value thereof unless the structure is
 28 changed to a conforming use.

29 SECTION 3. IC 36-7-11.1-13.1 IS ADDED TO THE INDIANA
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 1998]: **Sec. 13.1. (a) As used in this section,**
 32 **"nonconforming use land" means land that satisfies both of the**
 33 **following:**

34 **(1) The land is agricultural land that is used contrary to a**
 35 **comprehensive plan or zoning ordinance established for the**
 36 **area where the land is located.**

37 **(2) The land was used for agricultural purposes before the**
 38 **adoption of a comprehensive plan or zoning ordinance for the**
 39 **area where the land is located.**

40 (b) **Land remains as nonconforming use land as long as the land**
 41 **is used for agricultural purposes for any three (3) year period in a**
 42 **five (5) year period.**



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- 1 **(c) A county or municipality may not do any of the following:**
- 2 **(1) Terminate an agricultural nonconforming use on**
- 3 **nonconforming use land as long as the agricultural**
- 4 **nonconforming use is maintained for at least any three (3)**
- 5 **year period in a five (5) year period.**
- 6 **(2) Restrict any agricultural nonconforming use on**
- 7 **nonconforming use land.**
- 8 **(3) Require an owner of nonconforming use land to obtain any**
- 9 **of the following for the nonconforming use land:**
- 10 **(A) A variance for the land.**
- 11 **(B) A special exception for the land.**
- 12 **(C) A special use for the land.**
- 13 **(D) A contingent use for the land.**
- 14 **(E) A conditional use for the land.**
- 15 **(F) A permit for work under section 8 of this chapter.**
- 16 **(G) A certificate of appropriateness.**

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SENATE MOTION

Mr. President: I move that Senators Ford, Hume, Jackman, Landske, Lewis, Lawson, Paul, Waterman, Weatherwax, R. Young be added as coauthors of Senate Bill 445.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Agriculture and Small Business, to which was referred Senate Bill 445, 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, line 3, delete "and except as".

Page 1, line 4, delete "provided in subsection (d)".

Page 2, delete lines 7 through 10.

Page 2, line 30, delete "and except as provided in subsection (d)".

Page 3, deletes lines 11 through 14.

and when so amended that said bill do pass.

(Reference is to Senate Bill 445 as introduced.)

NUGENT, Chairperson

Committee Vote: Yeas 7, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 445 be amended to read as follows:

Page 2, line 4, delete "a".

Page 2, delete line 5 and insert **"any of the following for the use of the land for agricultural purposes:**

- (A) **A variance for the land.**
- (B) **A special exception for the land.**
- (C) **A special use for the land.**
- (D) **A contingent use for the land.**
- (E) **A conditional use for the land."**

Page 3, line 3, delete "use or building".

Page 3, delete lines 4 through 5, begin a new line double block indented and insert:

- "(B) A special exception for the land.**
- (C) A special use for the land.**
- (D) A contingent use for the land.**
- (E) A conditional use for the land.**
- (F) A permit for work under section 8 of this chapter.**
- (G) A certificate of appropriateness."**

(Reference is to Senate Bill 445 as printed January 23, 1998.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred Senate Bill 445, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BISCHOFF, Chair

Committee Vote: yeas 13, nays 1.

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