

# SENATE BILL No. 445

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-7-4-616; IC 36-7-11.1-13;  
IC 36-7-11.1-13.1.

**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 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 a use or building variance for the land. 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 a use or building variance, work permit, or certificate of appropriateness from the Marion County historic preservation commission.

**Effective:** July 1, 1998.

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Wolf, Nugent

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

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Introduced

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.

## 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, and except as  
4 provided in subsection (d), "nonconforming use land" means land  
5 that satisfies both of the following:**  
6 (1) The land is agricultural land that is used contrary to a  
7 comprehensive plan or zoning ordinance established for the  
8 area where the land is located.  
9 (2) The land was used for agricultural purposes before the  
10 adoption of a comprehensive plan or zoning ordinance for the  
11 area where the land is located.  
12 (b) Land remains as nonconforming use land as long as the land  
13 is used for agricultural purposes for any three (3) year period in a  
14 five (5) year period.  
15 (c) A county or municipality may not do any of the following:  
16 (1) Terminate an agricultural nonconforming use on  
17 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 a**  
 6           **use or building variance for the land.**

7           **(d) This section does not apply to a confined feeding operation,**  
 8           **(as defined in IC 13-11-2-40) that receives approval from the**  
 9           **department of environmental management for construction or**  
 10           **operation under IC 13-18-10 after June 30, 1998.**

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

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

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

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

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

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

41           **(c) A county or municipality may not do any of the following:**

42           **(1) Terminate an agricultural nonconforming use on**



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- 1           **nonconforming use land as long as the agricultural**
- 2           **nonconforming use is maintained for at least any three (3)**
- 3           **year period in a five (5) year period.**
- 4           **(2) Restrict any agricultural nonconforming use on**
- 5           **nonconforming use land.**
- 6           **(3) Require an owner of nonconforming use land to obtain any**
- 7           **of the following for the nonconforming use land:**
- 8                 **(A) A use or building variance for the land.**
- 9                 **(B) A permit for work under section 8 of this chapter.**
- 10                **(C) A certificate of appropriateness.**
- 11           **(d) This section does not apply to a confined feeding operation**
- 12           **(as defined in IC 13-11-2-40) that receives approval from the**
- 13           **department of environmental management for construction or**
- 14           **operation under IC 13-18-10 after June 30, 1998.**

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