



April 6, 1999

**ENGROSSED
SENATE BILL No. 26**

DIGEST OF SB0026 (Updated March 30, 1999 3:22 pm - DI 38)

Citations Affected: IC 22-13; IC 22-15; IC 36-7.

Synopsis: Interpretive powers of state building commissioner. Gives the office of the state building commissioner the power to issue written interpretations of building laws upon the written request of a person that has a dispute with a county or a municipality regarding the interpretation of a building law. Provides that the interpretation binds the county or municipality and the person requesting the interpretation until the interpretation is overruled in a proceeding under the administrative adjudication act. Provides that the state building commissioner may make a written interpretation binding on all counties and municipalities by publishing the interpretation in the Indiana Register. Provides that a published interpretation is binding until overruled by the general assembly, the fire prevention and building safety commission, a court, or the state building commissioner. Requires units of local government to comply with binding written interpretations of the state building commissioner.

Effective: July 1, 1999.

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Wyss, Lewis

(HOUSE SPONSORS — MOSES, SAUNDERS, STEVENSON)

January 6, 1999, read first time and referred to Committee on Governmental and Regulatory Affairs.

February 25, 1999, reported favorably — Do Pass.

March 2, 1999, read second time, amended, ordered engrossed.

March 3, 1999, engrossed. Read third time, passed. Yeas 33, nays 16.

HOUSE ACTION

March 8, 1999, read first time and referred to Committee on Rules and Legislative Procedures.

April 5, 1999, reported — Do Pass.

ES 26—LS 6336/DI 101+



April 6, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

ENGROSSED SENATE BILL No. 26

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

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

- 1 SECTION 1. IC 22-13-5 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1999]:
4 **Chapter 5. Power of State Building Commissioner to Interpret**
5 **Building Laws**
6 **Sec. 1. As used in this chapter, "interested person" refers to a**
7 **person that has a dispute with a county or a municipality regarding**
8 **the interpretation of a building law.**
9 **Sec. 2. Upon the written request of an interested person, the**
10 **office of the state building commissioner may issue a written**
11 **interpretation of a building law. An interpretation issued by the**
12 **office of the state building commissioner must be consistent with**
13 **building laws enacted by the general assembly or adopted by the**
14 **commission.**
15 **Sec. 3. (a) A written interpretation issued under section 2 of**
16 **this chapter binds the interested person and the county or**

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1 municipality with whom the interested person has the dispute until
 2 the written interpretation is overruled in a proceeding under
 3 IC 4-21.5.

4 (b) For purposes of IC 4-21.5, the commission is the ultimate
 5 authority regarding a written interpretation issued under section
 6 2 of this chapter.

7 Sec. 4. (a) A written interpretation of a building law binds all
 8 counties and municipalities if the office of the state building
 9 commissioner publishes the written interpretation of the building
 10 law in the Indiana Register under IC 4-22-7-7(b). For purposes of
 11 IC 4-22-7-7, a written interpretation of a building law published by
 12 the office of the state building commissioner is considered adopted
 13 by an agency.

14 (b) A written interpretation of a building law published under
 15 subsection (a) binds all counties and municipalities until the earlier
 16 of the following:

17 (1) The general assembly enacts a statute that
 18 substantively changes the building law interpreted or
 19 voids the written interpretation.

20 (2) The commission adopts a rule under IC 4-22-2 to state
 21 a different interpretation of the building law.

22 (3) The written interpretation is found to be an erroneous
 23 interpretation of the building law in a judicial proceeding.

24 (4) The office of the state building commissioner publishes
 25 a different written interpretation of the building law.

26 SECTION 2. IC 22-15-2-6 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. To carry out the
 28 office's responsibilities, the state building commissioner or an
 29 employee or another agent of the office may:

30 (1) exercise any program of supervision that is approved by
 31 the commission, if the responsibility involves the
 32 administration or enforcement of a building law;

33 (2) enter and inspect any property, at a reasonable hour;

34 (3) issue and enforce administrative orders under IC 22-12-7
 35 and apply for judicial orders under IC 22-12-7-13; ~~and~~

36 (4) cooperate with law enforcement officers and political
 37 subdivisions that have jurisdiction over a matter; ~~and~~

38 (5) issue a written interpretation of any building law
 39 under IC 22-13-5.

40 SECTION 3. IC 36-7-2-9 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. Each unit shall
 42 require compliance with:



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- 1 (1) the code of building laws that is adopted in the rules of
- 2 the fire prevention and building safety commission under
- 3 IC 22-13;
- 4 (2) orders issued under IC 22-13-2-11 that grant a variance
- 5 to the code of building laws described in subdivision (1);
- 6 (3) orders issued under IC 22-12-7 that apply the code of
- 7 building laws described in subdivision (1); ~~and~~
- 8 (4) IC 22-15-3-7; **and**
- 9 **(5) a written interpretation of a building law binding on**
- 10 **the unit under IC 22-13-5-3 or IC 22-13-5-4.**

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SENATE MOTION

Mr. President: I move that Senator Lewis be added as second author of Senate Bill 26.

WYSS

SENATE MOTION

Mr. President: I move that Senator Skillman be removed as author of Senate Bill 26 and that Senator Wyss be substituted therefor.

SKILLMAN

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred Senate Bill No. 26, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 26 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 6, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 26 be amended to read as follows:

Page 1, between lines 5 and 6, begin a new paragraph and insert:

"Sec. 1. As used in this chapter, "interested person" refers to a person that has a dispute with a county or a municipality regarding the interpretation of a building law."

Page 1, line 6, delete "Sec. 1. The" and insert **"Sec. 2. Upon the written request of an interested person, the"**

Page 1, delete lines 11 through 17, begin a new paragraph and insert:

"Sec. 3. (a) A written interpretation issued under section 2 of this chapter binds the interested person and the county or municipality with whom the interested person has the dispute until the written interpretation is overruled in a proceeding under IC 4-21.5.

(b) For purposes of IC 4-21.5, the commission is the ultimate authority regarding a written interpretation issued under section 2 of this chapter.

Sec. 4. (a) A written interpretation of a building law binds all counties and municipalities if the office of the state building commissioner publishes the written interpretation of the building law in the Indiana Register under IC 4-22-7-7(b). For purposes of IC 4-22-7-7, a written interpretation of a building law published by the office of the state building commissioner is considered adopted by an agency.

(b) A written interpretation of a building law published under subsection (a) binds all counties and municipalities until the earlier of the following:

- (1) The general assembly enacts a statute that substantively changes the building law interpreted or voids the written interpretation.**
- (2) The commission adopts a rule under IC 4-22-2 to state a different interpretation of the building law.**
- (3) The written interpretation is found to be an erroneous interpretation of the building law in a judicial proceeding.**
- (4) The office of the state building commissioner publishes a different written interpretation of the building law."**

Page 2, delete line 1.

Page 2, delete lines 27 through 29, begin a new line block indented and insert:

- (5) a written interpretation of a building law binding on the**



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unit under IC 22-13-5-3 or IC 22-13-5-4."

(Reference is to SB 26 as printed February 26, 1999.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures, to which was referred Senate Bill 26, 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.

CROSBY, Chair

Committee Vote: yeas 9, nays 0.

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