



January 26, 2000

HOUSE BILL No. 1184

DIGEST OF HB 1184 (Updated January 24, 2000 8:55 PM - DI 22)

Citations Affected: IC 14-8; IC 14-21; IC 34-30; noncode.

Synopsis: Cemeteries. Provides that the department of natural resources (DNR) may survey and record all cemeteries and burial grounds in Indiana and may do this work alone or under an agreement with certain entities. Allows the DNR to accept gifts and grants and establish a trust fund for the cemetery survey. Requires a person who wishes to disturb the ground within 100 feet of a recorded cemetery or burial ground for erecting, altering, or repairing a structure to submit a development plan to the DNR for approval according to standards established by rule. Provides a separate approval procedure for plans of governmental entities. Provides penalties for disturbing the ground. Requires a person who records any interest in property where a burial ground or cemetery is known to be located to also record a survey showing the approximate location of all human remains. Requires a person who wishes to transfer property containing a burial ground or cemetery to deliver a disclosure document to the transferee. Establishes the form of the disclosure document, requires recording of the document, and provides penalties for noncompliance. Provides that various changes in the Indiana cemetery law may not be construed to authorize violation of the confidentiality of information requirements of the National Historic Preservation Act.

Effective: July 1, 2000.

Lytle, Bischoff

January 10, 2000, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.
January 25, 2000, amended, reported — Do Pass.

HB 1184—LS 6803/DI 22+



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January 26, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

HOUSE BILL No. 1184



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 14-8-2-13.5 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2000]: **Sec. 13.5. "Archeological plan", for purposes of**
- 4 **IC 14-21-1, has the meaning set forth in IC 14-21-1-8(b).**
- 5 SECTION 2. IC 14-8-2-30 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2000]: ~~Sec. 30. "Burial ground", for~~
- 7 ~~purposes of IC 14-21-1~~ **IC 14-21**, has the meaning set forth in
- 8 IC 14-21-1-3.
- 9 SECTION 3. IC 14-8-2-37.5 IS ADDED TO THE INDIANA CODE
- 10 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 11 1, 2000]: **Sec. 37.5. "Cemetery", for purposes of IC 14-21, has the**
- 12 **meaning set forth in IC 23-14-33-7.**
- 13 SECTION 4. IC 14-8-2-68.5 IS ADDED TO THE INDIANA CODE
- 14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 15 1, 2000]: **Sec. 68.5. "Development plan", for purposes of**
- 16 **IC 14-21-1, has the meaning set forth in IC 14-21-1-8(c).**
- 17 SECTION 5. IC 14-8-2-127 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 127. "Human remains",
 2 for purposes of ~~IC 14-21-1~~ **IC 14-21**, has the meaning set forth in
 3 IC 14-21-1-7.

4 SECTION 6. IC 14-8-2-219 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 219. "Property" has the
 6 following meaning:

7 (1) For purposes of IC 14-12-2 **and IC 14-21-3**, the meaning set
 8 forth in IC 14-12-2-6.

9 (2) For purposes of IC 14-18-8, the meaning set forth in
 10 IC 14-18-8-1.

11 SECTION 7. IC 14-21-1-8 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. **(a) As used in this**
 13 **chapter, "plan" refers to:**

14 **(1) an archeological plan, as described in subsection (b); or**

15 **(2) a development plan, as described in subsection (c).**

16 **(b)** As used in this chapter, **"plan"** **"archeological plan"** means an
 17 archeological a plan for the systematic recovery, analysis, and
 18 disposition by scientific methods of material evidence and information
 19 about the life and culture in past ages.

20 **(c)** As used in this chapter, **"development plan"** means a plan
 21 for the erection, alteration, or repair of any structure.

22 SECTION 8. IC 14-21-1-13.5 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2000]: **Sec. 13.5. (a) The division may**
 25 **conduct a program to survey and record all cemeteries and burial**
 26 **grounds in each county in Indiana. The division may conduct the**
 27 **program alone or by entering into an agreement with one (1) or**
 28 **more of the following entities:**

29 **(1) The Indiana historical society established under IC 23-6-3.**

30 **(2) A historical society as defined in IC 20-5-17.5-1(a).**

31 **(3) The Historic Landmarks Foundation of Indiana.**

32 **(4) A professional archeologist or historian associated with a**
 33 **college or university.**

34 **(b)** In conducting a program under subsection (a), the division
 35 may receive gifts and grants under terms, obligations, and
 36 liabilities that the director considers appropriate. The director
 37 shall use a gift or grant received under this subsection:

38 **(1) to carry out subsection (a); and**

39 **(2) according to the terms of the gift or grant.**

40 **(c)** At the request of the director, the auditor of state shall
 41 establish a trust fund for purposes of holding money received
 42 under subsection (b).



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1 (d) The director shall administer a trust fund established by
2 subsection (c). The expenses of administering the trust fund shall
3 be paid from money in the trust fund.

4 (e) The treasurer of state shall invest the money in the trust fund
5 established by subsection (c) that is not currently needed to meet
6 the obligations of the trust fund in the same manner as other public
7 trust funds may be invested. The treasurer of state shall deposit in
8 the trust fund the interest that accrues from the investment of the
9 trust fund.

10 (f) Money in the trust fund at the end of a state fiscal year does
11 not revert to the state general fund.

12 (g) Nothing in this section may be construed to authorize
13 violation of the confidentiality of information requirements of 16
14 U.S.C. 470(w) and 16 U.S.C. 470(h)(h).

15 SECTION 9. IC 14-21-1-25 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 25. (a) The commission
17 shall adopt rules establishing standards for plans.

18 (b) With respect to archeological plans, the rules must impose a
19 standard of conduct that does the following:

- 20 (1) Promotes the scientific investigation and conservation of past
21 cultures.
22 (2) Considers the interests and expertise of amateur archeologists
23 and professional archeologists.

24 (c) With respect to development plans, the rules must impose a
25 standard of conduct that preserves and protects both of the
26 following:

- 27 (1) The rights and interests of landowners.
28 (2) The sensitivity of human beings for treating human
29 remains with respect and dignity, as determined by the
30 commission.

31 (d) Plans required under this chapter must be submitted to the
32 department for approval according to rules adopted by the commission.

33 SECTION 10. IC 14-21-1-26.5 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2000]: Sec. 26.5. (a) This section does not
36 apply to the following:

- 37 (1) A public utility (as defined in IC 8-1-2-1(a)).
38 (2) A corporation organized under IC 8-1-13.
39 (3) A municipally owned utility (as defined in IC 8-1-2-1(h)).

40 (b) Except as provided in subsection (c), a person may not
41 disturb the ground within one hundred (100) feet of a recorded
42 burial ground or cemetery for the purpose of erecting, altering, or

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1 repairing any structure without having a development plan
 2 approved by the department under section 25 of this chapter or in
 3 violation of a development plan approved by the department under
 4 section 25 of this chapter.

5 (c) A development plan for a governmental entity to disturb
 6 ground within one hundred (100) feet of a recorded burial ground
 7 or cemetery must be approved as follows:

8 (1) A development plan of a municipality requires approval of
 9 the executive of the municipality and does not require the
 10 approval of the department. However, if the burial ground or
 11 cemetery is located outside the municipality, approval is also
 12 required by the executive of the county where the burial
 13 ground or cemetery is located. A county cemetery commission
 14 established under IC 23-14-67-2 may advise the executive of
 15 the municipality on whether to approve a development plan.

16 (2) A development plan of a governmental entity other than:

17 (A) a municipality; or

18 (B) the state;

19 requires the approval of the executive of the county where the
 20 governmental entity is located and does not require the
 21 approval of the department. However, if the governmental
 22 entity is located in more than one (1) county, only the
 23 approval of the executive of the county where the burial
 24 ground or cemetery is located is required. A county cemetery
 25 commission established under IC 23-14-67-2 may advise the
 26 county executive on whether to approve a development plan.

27 (3) A development plan of the state requires the approval of
 28 the department.

29 (d) A person who recklessly, knowingly, or intentionally
 30 violates this section commits a Class A misdemeanor. However, the
 31 offense is a Class D felony if the person disturbs buried human
 32 remains or grave markers while committing the offense.

33 SECTION 11. IC 14-21-3 IS ADDED TO THE INDIANA CODE
 34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2000]:

36 **Chapter 3. Recording Interests in Property Containing a Burial
 37 Ground or Cemetery**

38 **Sec. 1.** Before a person may record any interest in property on
 39 which a burial ground or cemetery is known to be located, the
 40 owner of the property (or other party having a recordable interest)
 41 must record in the recorder's office of the county where the
 42 property is located an accurate survey of that part of the property



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1 on which is located a burial ground or cemetery. The survey must
 2 show the approximate location of all human remains that are
 3 situated on the property.

4 **Sec. 2.** The recording that this chapter requires is in addition to
 5 any recording that may be required by IC 23-14-34-1.

6 **Sec. 3.** Beginning January 1, 2003:

7 (1) a person who violates section 1 of this chapter commits a
 8 Class C infraction; and

9 (2) each period of thirty (30) days during which a survey that
 10 section 1 of this chapter requires to be recorded remains
 11 unrecorded constitutes a separate infraction.

12 **Sec. 4.** Nothing in this chapter may be construed to authorize
 13 violation of the confidentiality of information requirements of 16
 14 U.S.C. 470(w) and 16 U.S.C. 470(h)(h).

15 SECTION 12. IC 14-21-4 IS ADDED TO THE INDIANA CODE
 16 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2000]:

18 **Chapter 4. Transfer of Property Containing a Burial Ground or**
 19 **Cemetery**

20 **Sec. 1.** "Property" means a specific and an identifiable parcel of
 21 real property that:

22 (1) includes the site of a burial ground that contains the
 23 human remains or grave markers of individuals who died
 24 before January 1, 1940; or

25 (2) contains a cemetery.

26 **Sec. 2.** (a) In response to an inquiry from a person in connection
 27 with this chapter, the department shall provide information that is
 28 in the department's possession concerning whether a property
 29 meets any of the descriptions set forth in section 1 of this chapter.

30 (b) The following are not liable in a civil action on the grounds
 31 that information provided under this section was incomplete or
 32 erroneous:

33 (1) The state.

34 (2) The department.

35 (3) An employee of the department who answers an inquiry
 36 under this section.

37 **Sec. 3.** (a) In response to an inquiry from a person in connection
 38 with this chapter, the Indiana historical bureau shall provide
 39 information that is in the bureau's possession concerning whether
 40 a property meets any of the descriptions set forth in section 1 of
 41 this chapter.

42 (b) The following are not liable in a civil action on the grounds

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1 that information provided under this section was incomplete or
2 erroneous:

- 3 (1) The state.
- 4 (2) The Indiana historical bureau.
- 5 (3) An employee of the bureau who answers an inquiry under
6 this section.

7 Sec. 4. (a) In response to an inquiry from a person in connection
8 with this chapter, a county cemetery commission established under
9 IC 23-14-67 shall provide information that is in the commission's
10 possession concerning whether a property meets any of the
11 descriptions set forth in section 1 of this chapter.

12 (b) The following are not liable in a civil action on the grounds
13 that information provided under this section was incomplete or
14 erroneous:

- 15 (1) The county.
- 16 (2) The county cemetery commission.
- 17 (3) A member of the county cemetery commission.
- 18 (4) An employee of the county or county cemetery commission
19 who answers an inquiry under this section.

20 Sec. 5. (a) In response to an inquiry from a person in connection
21 with this chapter, a township trustee performing duties under
22 IC 23-14-68 shall provide information that is in the trustee's
23 possession concerning whether a property meets any of the
24 descriptions set forth in section 1 of this chapter.

25 (b) The following are not liable in a civil action on the grounds
26 that information provided under this section was incomplete or
27 erroneous:

- 28 (1) The township.
- 29 (2) The township trustee.
- 30 (3) An employee of the township who answers an inquiry
31 under this section.

32 Sec. 6. (a) Except as provided in subsections (b) and (c), a
33 transferor of property shall deliver a disclosure document to each
34 of the other parties to a transfer of property at least thirty (30)
35 days before the transfer. The disclosure document must be in the
36 form set forth in section 11 of this chapter and must include the
37 information elicited by that form. However, the signature of the
38 transferee is not required on the disclosure document delivered to
39 a party involved in the transfer of property as a lender.

40 (b) If all other parties to a transfer of property waive the thirty
41 (30) day deadline set forth in subsection (a) in written waivers that
42 indicate that the parties are aware of the purpose and intent of the

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1 disclosure document, the transferor is not required to deliver the
 2 disclosure document to the other parties thirty (30) days before the
 3 transfer of the property. However, the transferor shall deliver a
 4 disclosure document that meets the requirements set forth in
 5 subsection (a) to each of the other parties to the transfer of
 6 property on or before the date on which the transfer of property is
 7 to become final.

8 (c) If a party involved in a transfer of property as a lender is not
 9 identified to the transferor at least thirty (30) days before the
 10 transfer, the thirty (30) day deadline set forth in subsection (a) does
 11 not apply to the delivery of a disclosure document by the transferor
 12 to that lender. However, if a lender is identified to a transferor less
 13 than thirty (30) days before the transfer, the transferor shall
 14 deliver a disclosure document to the lender immediately after the
 15 lender is identified to the transferor.

16 Sec. 7. If the disclosure document delivered by the transferor to
 17 another party to the transfer of property under section 6 of this
 18 chapter reveals the existence of a burial ground or cemetery that
 19 was previously unknown to the other party, the other party is
 20 relieved of an obligation to:

- 21 (1) accept the transfer of the property; or
- 22 (2) finance the transfer of the property.

23 Sec. 8. (a) If a transferor:

- 24 (1) fails to deliver a disclosure document meeting the
- 25 requirements set forth in section 6 of this chapter to one (1) or
- 26 more other parties to the transfer of property before the
- 27 deadline set forth in section 6(a) of this chapter; and
- 28 (2) does not obtain a waiver under section 6(b) of this chapter;
- 29 a party that did not receive a disclosure document may demand a
- 30 disclosure document from the transferor.

31 (b) A party who demands a disclosure document under this
 32 section may void an obligation to accept the transfer of the
 33 property or to finance the transfer of the property if:

- 34 (1) the party does not receive a disclosure document not later
- 35 than ten (10) days after demanding a disclosure document; or
- 36 (2) the party receives a disclosure document not later than ten
- 37 (10) days after demanding the disclosure document but the
- 38 disclosure document reveals the existence of a burial ground
- 39 or cemetery that was previously unknown to the party.

40 Sec. 9. (a) If a transferor:

- 41 (1) obtains a waiver under section 6(b) of this chapter; and
- 42 (2) fails to deliver a disclosure document meeting the



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1 requirements set forth in section 6 of this chapter to one (1) or
2 more of the other parties to the transfer of property before
3 the date on which the transfer is scheduled to become final;
4 a party that did not receive a disclosure document may demand a
5 disclosure document from the transferor.

6 (b) Subject to section 10 of this chapter, a party who demands
7 a disclosure document under this section may void an obligation to
8 accept the transfer of the property or to finance the transfer of the
9 property if:

- 10 (1) the party does not receive a disclosure document not later
- 11 than ten (10) days after demanding a disclosure document; or
- 12 (2) the party receives a disclosure document not later than ten
- 13 (10) days after demanding the disclosure document but the
- 14 disclosure document reveals the existence of a burial ground
- 15 or cemetery that was previously unknown to the party.

16 Sec. 10. A party to a transfer of property may not void an
17 obligation to:

- 18 (1) accept the transfer of the property; or
- 19 (2) finance the transfer of property under sections 7 through
- 20 9 of this chapter;

21 after the transfer of property has taken place.

22 Sec. 11. A disclosure document delivered by a transferor of
23 property under this chapter must follow this form:

24 "A WARNING TO THE PARTIES TO A TRANSFER OF
25 PROPERTY: You are strongly encouraged not only to read this
26 document carefully but also to take all other actions necessary for
27 the exercise of due diligence in your inquiry into the previous
28 ownership and uses of the property.

29 **BURIAL GROUND/CEMETERY DISCLOSURE DOCUMENT**
30 **FOR TRANSFER OF REAL PROPERTY**

31 For Use By County Recorder's Office:

- 32 County:
- 33 Date:
- 34 Doc. No.:
- 35 Vol.: Page:

36 The following information is provided under IC 14-21-3, the
37 Respectful Property Transfer Law.

38 Rec'd by:

39 **I. PROPERTY IDENTIFICATION**

40 **A. Address of property:**

- 41 Street:
- 42 City or Town:

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1 **Township:**
2 **Tax Parcel Identification No. (Key Number):**
3 **LIABILITY DISCLOSURE: Transferors and transferees of real**
4 **property are advised that their ownership or other control of such**
5 **property may render them liable for the cost of carrying out a plan**
6 **approved by the Department of Natural Resources under**
7 **IC 14-21-1 whether or not they were aware of the existence of a**
8 **burial ground or cemetery in or on the property.**
9 **B. Property Characteristics:**
10 **Lot size:**
11 **Acreage:**
12 **Check all types of improvements and uses that pertain to the**
13 **property:**
14 ___ **Apartment building (6 units or less)**
15 ___ **Commercial apartment (over 6 units)**
16 ___ **Store, office, commercial building**
17 ___ **Industrial building**
18 ___ **Farm, with buildings**
19 ___ **Other (specify)**
20 **II. NATURE OF TRANSFER**
21 **A. (Answer Yes or No)**
22 (1) **Is this a transfer by deed or other instrument of**
23 **conveyance of fee title to property? ___**
24 (2) **Is this a transfer by assignment of more than 25% of the**
25 **beneficial interest of a land trust? ___**
26 (3) **A lease exceeding a term of 40 years? ___**
27 (4) **A collateral assignment of beneficial interest? ___**
28 (5) **An installment contract for the sale of property? ___**
29 (6) **A mortgage or trust deed? ___**
30 (7) **A lease of any duration that includes an option to**
31 **purchase? ___**
32 **B. Identify Transferor**
33 (1) **Name and Current Address of Transferor:**
34 **Trust No.:**
35 **Name and Address of Trustee if this is a transfer of a**
36 **beneficial interest of a land trust:**
37 (2) **Identify the person who has completed this form on behalf**
38 **of the Transferor and who has knowledge of the information**
39 **contained in this form by Name, Position (if any), Telephone**
40 **No., and Address:**
41 **C. Identify Transferee**
42 **Name and Current Address of Transferee:**

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III. HISTORICAL INFORMATION

A. Regulatory Information During Current Ownership (Answer Yes or No)

(1) Has the transferor ever submitted to the Department of Natural Resources, under IC 14-21-1-25, a plan (as defined in IC 14-21-1-8) for the purpose of discovering artifacts (as defined in IC 14-21-1-2) or burial objects (as defined in IC 14-21-1-4) on the property? ___

(2) Has the transferor ever notified the Department of Natural Resources, under IC 14-21-1-27, of the disturbance of buried human remains (as defined in IC 14-21-1-7) on the property? ___

(3) Has the transferor ever notified the Department of Natural Resources, under IC 14-21-1-29, of the discovery of artifacts or burial objects on the property while disturbing the ground for a purpose other than the discovery of artifacts or burial objects? ___

(4) Has a plan for continued ground disturbance activity, under IC 14-21-1-29, ever been submitted to the Department of Natural Resources? ___

(5) Has the transferor ever recorded, under IC 23-14-34, in the recorder's office of the county in which the property is located, a survey and plat of any part of the property in which the transferor proposed to grant or sell burial rights (as defined in IC 23-14-33-6)? ___

(6) Has the township trustee of the township in which the property is located repaired or maintained, under IC 23-14-68, a cemetery on any part of the property? ___

(7) Has a county cemetery commission of the county in which the property is located restored or maintained, under IC 23-14-67, a cemetery on any part of the property? ___

B. Site Information Under Other Ownership Or Operation

(1) Provide the following information about the previous owner or about any entity or person to whom the transferor leased the property or with whom the transferor contracted for the management of the property:

Name:

Type of business or property usage:

(2) If the transferor has knowledge, indicate whether the following existed under prior ownerships, leaseholds granted by the transferor, or other contracts for management or use of the property (Answer Yes or No):

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1 Burial Ground (Individuals Who Died Before January 1,
 2 1940) ____
 3 Religious Cemetery (As Defined in IC 23-14-33-32) ____
 4 Cemetery (As Defined in IC 23-14-33-7), Other Than A
 5 Religious Cemetery ____

6 **IV. CERTIFICATION**

7 **A. Based on my inquiry of those persons directly responsible for**
 8 **gathering the information, I certify that the information submitted**
 9 **is, to the best of my knowledge and belief, true and accurate.**

10 _____
 11 **Signature of TRANSFEROR (or on behalf of Transferor)**

12 **B. This form was delivered to me with all elements completed on**
 13 _____ **(date)**

14 _____
 15 **Signature of TRANSFEE (or on behalf of Transferee)".**

16 **Sec. 12. (a) Not more than thirty (30) days after the effective**
 17 **date of a transfer of property that requires the preparation of a**
 18 **disclosure document under this chapter:**

- 19 **(1) the transferor or transferee shall record the disclosure**
- 20 **document in the office of the county recorder of the county in**
- 21 **which the property is located; and**
- 22 **(2) the transferor shall file a copy of the disclosure document**
- 23 **with the department.**

24 **(b) The transferor and transferee are jointly responsible for**
 25 **recording a disclosure document in the county recorder's office**
 26 **under this section. However, the recording of a disclosure**
 27 **document by one (1) person referred to in this subsection**
 28 **discharges the responsibility of the other person.**

29 **(c) A disclosure document recorded in the county recorder's**
 30 **office or filed with the department:**

- 31 **(1) is a public record under IC 5-14-3; and**
- 32 **(2) must be available for inspection and copying during**
- 33 **normal business hours.**

34 **Sec. 13. If a disclosure document recorded under section**
 35 **12(a)(1) of this chapter reports the existence of a burial ground or**
 36 **cemetery on a property, a person who has a financial interest in the**
 37 **property may record, in the same county recorder's office in which**
 38 **the disclosure document is recorded, a document that reports that**
 39 **all human remains have been removed from the property and**
 40 **reburied in a manner and place according to rules adopted by the**
 41 **commission or a court order and permit issued by the state**
 42 **department of health under IC 23-14-56.**

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1 **Sec. 14. A transferor who fails to deliver a disclosure document**
 2 **to a party in violation of section 6 of this chapter commits a Class**
 3 **B infraction.**

4 **Sec. 15. A transferor who knowingly makes a false statement in**
 5 **a disclosure document delivered under this chapter commits a**
 6 **Class A infraction. Each day that the transferor knows of the**
 7 **falsity of the statement made in the disclosure document but fails**
 8 **to correct that statement through the filing, recording, and**
 9 **delivery of a corrected disclosure statement constitutes a separate**
 10 **infraction.**

11 **Sec. 16. (a) Except as provided in subsection (b), a person who:**

12 **(1) is responsible for filing a disclosure document in the office**
 13 **of the county recorder under section 12(a)(1) and 12(b) of this**
 14 **chapter; and**

15 **(2) fails to record the disclosure document;**

16 **commits a Class A infraction.**

17 **(b) The failure of a transferee to record a disclosure document**
 18 **within the period allowed under section 12(a) of this chapter is not**
 19 **an infraction under this section if the disclosure document:**

20 **(1) was not delivered to the transferee within the time allowed**
 21 **under section 6 of this chapter; or**

22 **(2) contains one (1) or more false statements about**
 23 **substantive matters.**

24 **Sec. 17. (a) The duties imposed by this chapter are subject to the**
 25 **exceptions set forth in this section.**

26 **(b) A buyer of property who finances the purchase of the**
 27 **property through a mortgage loan is not required under section 6,**
 28 **8, or 9 of this chapter to deliver a disclosure document to the**
 29 **mortgagee that provides the mortgage loan.**

30 **(c) A person who lends money and takes a mortgage on property**
 31 **to secure the loan is not required under section 12 of this chapter**
 32 **to:**

33 **(1) record a disclosure document concerning the property in**
 34 **the office of the county recorder of the county in which the**
 35 **property is located; or**

36 **(2) file a copy of the disclosure document with the**
 37 **department.**

38 **Sec. 18. In an action based on an alleged infraction defined in**
 39 **sections 14 through 16 of this chapter, the prosecuting attorney**
 40 **may obtain an order requiring the defendant to comply with this**
 41 **chapter.**

42 **Sec. 19. A party to a transfer of property may bring a civil**

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1 action against another party to the transfer of property to recover
2 consequential damages based upon a violation of this chapter. In
3 an action brought under this section, a party may recover
4 reasonable costs and attorney's fees.

5 **Sec. 20. Nothing in this chapter may be construed to authorize**
6 **violation of the confidentiality of information requirements of 16**
7 **U.S.C. 470(w) and 16 U.S.C. 470(h)(h).**

8 SECTION 13. IC 34-30-2-1.5 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2000]: **Sec. 1.5. IC 14-21-4 (Concerning the**
11 **disclosure of information about property containing a burial**
12 **ground or cemetery.)**

13 SECTION 14. [EFFECTIVE JULY 1, 2000] **(a) If the division of**
14 **historic preservation and archeology of the department of natural**
15 **resources conducts a survey under IC 14-21-1-13.5, as added by**
16 **this act, the division shall complete an initial survey not later than**
17 **December 31, 2003.**

18 **(b) This SECTION expires January 1, 2004.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1184, 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 2, line 21, delete ":".

Page 2, line 22, delete "(1)".

Page 2, line 22, delete "; or" and insert ".".

Page 2, run in lines 21 through 22.

Page 2, delete lines 23 through 24.

Page 2, between lines 34 and 35, begin a new line block indented and insert:

"(4) A professional archeologist or historian associated with a college or university."

Page 3, line 36, delete "(A)" and insert **"This section does not apply to the following:**

(1) A public utility (as defined in IC 8-1-2-1(a)).

(2) A corporation organized under IC 8-1-13.

(3) A municipally owned utility (as defined in IC 8-1-2-1(h)).

(b) Except as provided in subsection (c), a"

Page 3, line 38, delete ":".

Page 3, line 39, delete "(1)".

Page 3, line 39, delete "; or".

Page 3, run in lines 38 through 39.

Page 3, delete lines 40 through 41.

Page 3, run in lines 39 and 42.

Page 4, delete lines 3 through 4, begin a new paragraph and insert:

"(c) A development plan for a governmental entity to disturb ground within one hundred (100) feet of a recorded burial ground or cemetery must be approved as follows:

(1) A development plan of a municipality requires approval of the executive of the municipality and does not require the approval of the department. However, if the burial ground or cemetery is located outside the municipality, approval is also required by the executive of the county where the burial ground or cemetery is located. A county cemetery commission established under IC 23-14-67-2 may advise the executive of the municipality on whether to approve a development plan.

(2) A development plan of a governmental entity other than:

(A) a municipality; or

(B) the state;



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requires the approval of the executive of the county where the governmental entity is located and does not require the approval of the department. However, if the governmental entity is located in more than one (1) county, only the approval of the executive of the county where the burial ground or cemetery is located is required. A county cemetery commission established under IC 23-14-67-2 may advise the county executive on whether to approve a development plan. (3) A development plan of the state requires the approval of the department."

Page 4, line 5, delete "(c)" and insert "(d)".

Page 4, line 6, delete "subsection (a)" and insert "**this section**".

Page 4, line 15, after "is" insert "**known to be**".

and when so amended that said bill do pass.

(Reference is to HB 1184 as introduced.)

ULMER, Chair

Committee Vote: yeas 12, nays 0.

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