



Reprinted  
February 1, 2000

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## HOUSE BILL No. 1184

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DIGEST OF HB 1184 (Updated January 31, 2000 5:22 PM - DI 22)

**Citations Affected:** IC 14-8; IC 14-21; IC 23-14; IC 34-30; IC 35-43; noncode.

**Synopsis:** Cemeteries and burial grounds. Provides that the department of natural resources (DNR) alone or with the assistance of certain entities may survey and register all cemeteries and burial grounds in Indiana in a registry that the DNR establishes and maintains. Allows the DNR to accept donations 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. 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 and establishes the form of the disclosure document which the transferor must record. Allows a person having a right of interment, entombment, or inurnment in a family burial plot to transfer that right through sale or another method. Provides that it is a misdemeanor to disturb, deface, or damage a burial ground (current law applies only to cemeteries).

**Effective:** Upon passage; July 1, 2000.

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### Lytle, Bischoff, Dillon

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January 10, 2000, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.  
January 25, 2000, amended, reported — Do Pass.  
January 31, 2000, read second time, amended, ordered engrossed.

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HB 1184—LS 6803/DI 22+



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Reprinted  
February 1, 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 burial grounds and cemeteries.

*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 register in a registry of Indiana**  
 26 **cemeteries and burial grounds that the division establishes and**  
 27 **maintains all cemeteries and burial grounds in each county in**  
 28 **Indiana. The division may conduct the program alone or by**  
 29 **entering into an agreement with one (1) or more of the following**  
 30 **entities:**

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

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

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

34 **(4) A professional archeologist or historian associated with a**  
 35 **college or university.**

36 **(5) Any other entity that the division selects.**

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

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

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



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1 (c) At the request of the director, the auditor of state shall  
2 establish a trust fund for purposes of holding money received  
3 under subsection (b).

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

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

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

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

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

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

- 23 (1) Promotes the scientific investigation and conservation of past  
24 cultures.  
25 (2) Considers the interests and expertise of amateur archeologists  
26 and professional archeologists.

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

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

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

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

- 40 (1) A public utility (as defined in IC 8-1-2-1(a)).  
41 (2) A corporation organized under IC 8-1-13.  
42 (3) A municipally owned utility (as defined in IC 8-1-2-1(h)).

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- 1           **(4) A surface coal mining and reclamation operation**  
 2           **permitted under IC 14-34.**
- 3           **(b) Except as provided in subsection (c), a person may not**  
 4           **disturb the ground within one hundred (100) feet of a recorded**  
 5           **burial ground or cemetery for the purpose of erecting, altering, or**  
 6           **repairing any structure without having a development plan**  
 7           **approved by the department under section 25 of this chapter or in**  
 8           **violation of a development plan approved by the department under**  
 9           **section 25 of this chapter.**
- 10           **(c) A development plan for a governmental entity to disturb**  
 11           **ground within one hundred (100) feet of a recorded burial ground**  
 12           **or cemetery must be approved as follows:**
- 13           **(1) A development plan of a municipality requires approval of**  
 14           **the executive of the municipality and does not require the**  
 15           **approval of the department. However, if the burial ground or**  
 16           **cemetery is located outside the municipality, approval is also**  
 17           **required by the executive of the county where the burial**  
 18           **ground or cemetery is located. A county cemetery commission**  
 19           **established under IC 23-14-67-2 may advise the executive of**  
 20           **the municipality on whether to approve a development plan.**
- 21           **(2) A development plan of a governmental entity other than:**  
 22           **(A) a municipality; or**  
 23           **(B) the state;**  
 24           **requires the approval of the executive of the county where the**  
 25           **governmental entity is located and does not require the**  
 26           **approval of the department. However, if the governmental**  
 27           **entity is located in more than one (1) county, only the**  
 28           **approval of the executive of the county where the burial**  
 29           **ground or cemetery is located is required. A county cemetery**  
 30           **commission established under IC 23-14-67-2 may advise the**  
 31           **county executive on whether to approve a development plan.**
- 32           **(3) A development plan of the state requires the approval of**  
 33           **the department.**
- 34           **(d) A person who recklessly, knowingly, or intentionally**  
 35           **violates this section commits a Class A misdemeanor. However, the**  
 36           **offense is a Class D felony if the person disturbs buried human**  
 37           **remains or grave markers while committing the offense.**
- 38           **SECTION 11. IC 14-21-3 IS ADDED TO THE INDIANA CODE**  
 39           **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**  
 40           **JULY 1, 2000]:**
- 41           **Chapter 3. Recording Interests in Property Containing a Burial**  
 42           **Ground or Cemetery**



1           **Sec. 1.** Before a person may record any interest in property on  
 2 which a burial ground or cemetery is known to be located, the  
 3 owner of the property (or other party having a recordable interest)  
 4 must record in the recorder's office of the county where the  
 5 property is located an accurate survey of that part of the property  
 6 on which is located a burial ground or cemetery. The survey must  
 7 show the approximate location of all human remains that are  
 8 situated on the property.

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

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

- 12           (1) a person who violates section 1 of this chapter commits a  
 13 Class C infraction; and  
 14           (2) each period of thirty (30) days during which a survey that  
 15 section 1 of this chapter requires to be recorded remains  
 16 unrecorded constitutes a separate infraction.

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

20           **Sec. 5.** This chapter does not apply to the following:

- 21           (1) A public utility (as defined in IC 8-1-2-1(a)).  
 22           (2) A corporation organized under IC 8-1-13.  
 23           (3) A municipally owned utility (as defined in IC 8-1-2-1(h)).  
 24           (4) Property that has been subject to bonding or other  
 25 financial assurances released by the appropriate  
 26 governmental agency after compliance with applicable state  
 27 laws.

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

31           **Chapter 4. Transfer of Property Containing a Burial Ground or**  
 32 **Cemetery**

33           **Sec. 1.** (a) "Property" means a specific and an identifiable  
 34 parcel of real property that:

- 35           (1) includes the site of a burial ground that contains the  
 36 human remains or grave markers of individuals who died  
 37 before January 1, 1940; or  
 38           (2) contains a cemetery.

39           (b) The term does not include the following:

- 40           (1) Property owned by:  
 41               (A) a public utility (as defined in IC 8-1-2-1(a));  
 42               (B) a corporation organized under IC 8-1-13; or



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1           (C) a municipally owned utility (as defined in IC 8-1-2-1).  
 2           (2) Property that has been subject to bonding or other  
 3           financial assurances released by the appropriate  
 4           governmental agency after compliance with applicable state  
 5           laws.

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

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

- 13           (1) The state.  
 14           (2) The department.  
 15           (3) An employee of the department who answers an inquiry  
 16           under this section.

17          Sec. 3. (a) In response to an inquiry from a person in connection  
 18          with this chapter, the Indiana historical bureau shall provide  
 19          information that is in the bureau's possession concerning whether  
 20          a property meets any of the descriptions set forth in section 1 of  
 21          this chapter.

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

- 25           (1) The state.  
 26           (2) The Indiana historical bureau.  
 27           (3) An employee of the bureau who answers an inquiry under  
 28           this section.

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

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

- 37           (1) The county.  
 38           (2) The county cemetery commission.  
 39           (3) A member of the county cemetery commission.  
 40           (4) An employee of the county or county cemetery commission  
 41           who answers an inquiry under this section.

42          Sec. 5. (a) In response to an inquiry from a person in connection

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1 with this chapter, a township trustee performing duties under  
 2 IC 23-14-68 shall provide information that is in the trustee's  
 3 possession concerning whether a property meets any of the  
 4 descriptions set forth in section 1 of this chapter.

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

8 (1) The township.

9 (2) The township trustee.

10 (3) An employee of the township who answers an inquiry  
 11 under this section.

12 Sec. 6. (a) Except as provided in subsections (b) and (c), a  
 13 transferor of property shall deliver a disclosure document to each  
 14 of the other parties to a transfer of property at least thirty (30)  
 15 days before the transfer. The disclosure document must be in the  
 16 form set forth in section 11 of this chapter and must include the  
 17 information elicited by that form. However, the signature of the  
 18 transferee is not required on the disclosure document delivered to  
 19 a party involved in the transfer of property as a lender.

20 (b) If all other parties to a transfer of property waive the thirty  
 21 (30) day deadline set forth in subsection (a) in written waivers that  
 22 indicate that the parties are aware of the purpose and intent of the  
 23 disclosure document, the transferor is not required to deliver the  
 24 disclosure document to the other parties thirty (30) days before the  
 25 transfer of the property. However, the transferor shall deliver a  
 26 disclosure document that meets the requirements set forth in  
 27 subsection (a) to each of the other parties to the transfer of  
 28 property on or before the date on which the transfer of property is  
 29 to become final.

30 (c) If a party involved in a transfer of property as a lender is not  
 31 identified to the transferor at least thirty (30) days before the  
 32 transfer, the thirty (30) day deadline set forth in subsection (a) does  
 33 not apply to the delivery of a disclosure document by the transferor  
 34 to that lender. However, if a lender is identified to a transferor less  
 35 than thirty (30) days before the transfer, the transferor shall  
 36 deliver a disclosure document to the lender immediately after the  
 37 lender is identified to the transferor.

38 Sec. 7. If the disclosure document delivered by the transferor to  
 39 another party to the transfer of property under section 6 of this  
 40 chapter reveals the existence of a burial ground or cemetery that  
 41 was previously unknown to the other party, the other party is  
 42 relieved of an obligation to:



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1 (1) accept the transfer of the property; or

2 (2) finance the transfer of the property.

3 **Sec. 8. (a) If a transferor:**

4 (1) fails to deliver a disclosure document meeting the  
5 requirements set forth in section 6 of this chapter to one (1) or  
6 more other parties to the transfer of property before the  
7 deadline set forth in section 6(a) of this chapter; and

8 (2) does not obtain a waiver under section 6(b) of this chapter;  
9 a party that did not receive a disclosure document may demand a  
10 disclosure document from the transferor.

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

14 (1) the party does not receive a disclosure document not later  
15 than ten (10) days after demanding a disclosure document; or

16 (2) the party receives a disclosure document not later than ten  
17 (10) days after demanding the disclosure document but the  
18 disclosure document reveals the existence of a burial ground  
19 or cemetery that was previously unknown to the party.

20 **Sec. 9. (a) If a transferor:**

21 (1) obtains a waiver under section 6(b) of this chapter; and

22 (2) fails to deliver a disclosure document meeting the  
23 requirements set forth in section 6 of this chapter to one (1) or  
24 more of the other parties to the transfer of property before  
25 the date on which the transfer is scheduled to become final;

26 a party that did not receive a disclosure document may demand a  
27 disclosure document from the transferor.

28 (b) Subject to section 10 of this chapter, a party who demands  
29 a disclosure document under this section may void an obligation to  
30 accept the transfer of the property or to finance the transfer of the  
31 property if:

32 (1) the party does not receive a disclosure document not later  
33 than ten (10) days after demanding a disclosure document; or

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

38 **Sec. 10. A party to a transfer of property may not void an  
39 obligation to:**

40 (1) accept the transfer of the property; or

41 (2) finance the transfer of property under sections 7 through  
42 9 of this chapter;

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after the transfer of property has taken place.

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

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

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

**For Use By County Recorder's Office:**

**County:**

**Date:**

**Doc. No.:**

**Vol.: Page:**

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

**Rec'd by:**

**I. PROPERTY IDENTIFICATION**

**A. Address of property:**

**Street:**

**City or Town:**

**Township:**

**Tax Parcel Identification No. (Key Number):**

**LIABILITY DISCLOSURE: Transferors and transferees of real property are advised that their ownership or other control of such property may render them liable for the cost of carrying out a plan approved by the Department of Natural Resources under IC 14-21-1 whether or not they were aware of the existence of a burial ground or cemetery in or on the property.**

**B. Property Characteristics:**

**Lot size:**

**Acreage:**

**Check all types of improvements and uses that pertain to the property:**

**Apartment building (6 units or less)**

**Commercial apartment (over 6 units)**

**Store, office, commercial building**

**Industrial building**

**Farm, with buildings**

**Other (specify)**

**II. NATURE OF TRANSFER**

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- 1     **A. (Answer Yes or No)**
- 2         (1) Is this a transfer by deed or other instrument of
- 3         conveyance of fee title to property? \_\_\_\_
- 4         (2) Is this a transfer by assignment of more than 25% of the
- 5         beneficial interest of a land trust? \_\_\_\_
- 6         (3) A lease exceeding a term of 40 years? \_\_\_\_
- 7         (4) A collateral assignment of beneficial interest? \_\_\_\_
- 8         (5) An installment contract for the sale of property? \_\_\_\_
- 9         (6) A mortgage or trust deed? \_\_\_\_
- 10        (7) A lease of any duration that includes an option to
- 11        purchase? \_\_\_\_
- 12     **B. Identify Transferor**
- 13         (1) Name and Current Address of Transferor:
- 14         Trust No.:
- 15         Name and Address of Trustee if this is a transfer of a
- 16         beneficial interest of a land trust:
- 17         (2) Identify the person who has completed this form on behalf
- 18         of the Transferor and who has knowledge of the information
- 19         contained in this form by Name, Position (if any), Telephone
- 20         No., and Address:
- 21     **C. Identify Transferee**
- 22         Name and Current Address of Transferee:
- 23     **III. HISTORICAL INFORMATION**
- 24     **A. Regulatory Information During Current Ownership (Answer**
- 25     **Yes or No)**
- 26         (1) Has the transferor ever submitted to the Department of
- 27         Natural Resources, under IC 14-21-1-25, a plan (as defined in
- 28         IC 14-21-1-8) for the purpose of discovering artifacts (as
- 29         defined in IC 14-21-1-2) or burial objects (as defined in
- 30         IC 14-21-1-4) on the property? \_\_\_\_
- 31         (2) Has the transferor ever notified the Department of
- 32         Natural Resources, under IC 14-21-1-27, of the disturbance of
- 33         buried human remains (as defined in IC 14-21-1-7) on the
- 34         property? \_\_\_\_
- 35         (3) Has the transferor ever notified the Department of
- 36         Natural Resources, under IC 14-21-1-29, of the discovery of
- 37         artifacts or burial objects on the property while disturbing the
- 38         ground for a purpose other than the discovery of artifacts or
- 39         burial objects? \_\_\_\_
- 40         (4) Has a plan for continued ground disturbance activity,
- 41         under IC 14-21-1-29, ever been submitted to the Department
- 42         of Natural Resources? \_\_\_\_

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- 1 (5) Has the transferor ever recorded, under IC 23-14-34, in
- 2 the recorder's office of the county in which the property is
- 3 located, a survey and plat of any part of the property in which
- 4 the transferor proposed to grant or sell burial rights (as
- 5 defined in IC 23-14-33-6)? \_\_\_\_
- 6 (6) Has the township trustee of the township in which the
- 7 property is located repaired or maintained, under
- 8 IC 23-14-68, a cemetery on any part of the property? \_\_\_\_
- 9 (7) Has a county cemetery commission of the county in which
- 10 the property is located restored or maintained, under
- 11 IC 23-14-67, a cemetery on any part of the property? \_\_\_\_

12 **B. Site Information Under Other Ownership Or Operation**

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

- 17 Name:
- 18 Type of business or property usage:
- 19 (2) If the transferor has knowledge, indicate whether the
- 20 following existed under prior ownerships, leaseholds granted
- 21 by the transferor, or other contracts for management or use
- 22 of the property (Answer Yes or No):
- 23 Burial Ground (Individuals Who Died Before January 1,
- 24 1940) \_\_\_\_
- 25 Religious Cemetery (As Defined in IC 23-14-33-32) \_\_\_\_
- 26 Cemetery (As Defined in IC 23-14-33-7), Other Than A
- 27 Religious Cemetery \_\_\_\_

28 **IV. CERTIFICATION**

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

32 \_\_\_\_\_

33 **Signature of TRANSFEROR (or on behalf of Transferor)**

34 **B. This form was delivered to me with all elements completed on**

35 \_\_\_\_\_ **(date)**

36 \_\_\_\_\_

37 **Signature of TRANSFEE (or on behalf of Transferee)".**

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

- 41 (1) the transferor or transferee shall record the disclosure
- 42 document in the office of the county recorder of the county in

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which the property is located; and  
(2) the transferor shall file a copy of the disclosure document with the department.

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

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

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

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

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

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

**Sec. 16. (a)** Except as provided in subsection (b), a person who:  
(1) is responsible for filing a disclosure document in the office of the county recorder under section 12(a)(1) and 12(b) of this chapter; and  
(2) fails to record the disclosure document;  
commits a Class A infraction.

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

- (1) was not delivered to the transferee within the time allowed

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under section 6 of this chapter; or  
(2) contains one (1) or more false statements about substantive matters.

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

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

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

- (1) record a disclosure document concerning the property in the office of the county recorder of the county in which the property is located; or**
- (2) file a copy of the disclosure document with the department.**

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

**Sec. 19. A party to a transfer of property may bring a civil action against another party to the transfer of property to recover consequential damages based upon a violation of this chapter. In an action brought under this section, a party may recover reasonable costs and attorney's fees.**

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

SECTION 13. IC 23-14-41-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A

(+) surviving spouse, or  
(-) parent, child, or heir  
of the deceased record owner of a family burial plot who has a right of interment, entombment, or inurnment in the plot may:

- (1) waive that right in favor of another relative or spouse of the deceased record owner through a written instrument that is recorded with the cemetery; or**
- (2) transfer that right through sale or another method.**

**A transfer under subdivision (2) must be recorded with the cemetery to be valid.**

(b) After a written waiver is recorded under subsection (a) (1),

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1 the body of the individual in whose favor the waiver is made may be  
2 interred, entombed, or inurned in the family burial plot.

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

8 SECTION 15. IC 35-43-1-2.1, AS ADDED BY P.L.100-1999,  
9 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2000]: Sec. 2.1. (a) This section does not apply to the  
11 following:

12 (1) A person who acts in a proper and acceptable manner as  
13 authorized by IC 14-21 other than a person who disturbs the earth  
14 for an agricultural purpose under the exemption to IC 14-21 that  
15 is provided in IC 14-21-1-24.

16 (2) A person who acts in a proper and acceptable manner as  
17 authorized by IC 23-14.

18 (b) A person who recklessly, knowingly, or intentionally:

19 (1) damages a cemetery or a facility used for memorializing the  
20 dead;

21 (2) damages the grounds owned or rented by a cemetery or facility  
22 used for memorializing the dead; ~~or~~

23 (3) disturbs, defaces, or damages a cemetery monument, grave  
24 marker, grave artifact, grave ornamentation, or cemetery  
25 enclosure; **or**

26 **(4) disturbs, defaces, or damages a burial ground (as defined**  
27 **in IC 14-21-1-3);**

28 commits cemetery **or burial ground** mischief, a Class A misdemeanor.  
29 However, the offense is a Class D felony if the pecuniary loss is at least  
30 two thousand five hundred dollars (\$2,500).

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

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

37 SECTION 17. **An emergency is declared for this act.**

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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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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1184 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning burial grounds and cemeteries.

Page 2, line 25, delete "record" and insert "**register in a registry of Indiana cemeteries and burial grounds that the division establishes and maintains**".

Page 2, between lines 33 and 34, begin a new line block indented and insert:

**"(5) Any other entity that the division selects."**

Page 13, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 14. IC 35-43-1-2.1, AS ADDED BY P.L.100-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2.1. (a) This section does not apply to the following:

(1) A person who acts in a proper and acceptable manner as authorized by IC 14-21 other than a person who disturbs the earth for an agricultural purpose under the exemption to IC 14-21 that is provided in IC 14-21-1-24.

(2) A person who acts in a proper and acceptable manner as authorized by IC 23-14.

(b) A person who recklessly, knowingly, or intentionally:

(1) damages a cemetery or a facility used for memorializing the dead;

(2) damages the grounds owned or rented by a cemetery or facility used for memorializing the dead; **or**

(3) disturbs, defaces, or damages a cemetery monument, grave marker, grave artifact, grave ornamentation, or cemetery enclosure; **or**

**(4) disturbs, defaces, or damages a burial ground (as defined in IC 14-21-1-3);**

commits cemetery **or burial ground** mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two thousand five hundred dollars (\$2,500)."

Renumber all SECTIONS consecutively.

(Reference is to HB 1184 as printed January 26, 2000.)

LYTLE



## HOUSE MOTION

Mr. Speaker: I move that House Bill 1184 be amended to read as follows:

Page 3, between lines 39 and 40, begin a new line block indented and insert:

**"(4) A surface coal mining and reclamation operation permitted under IC 14-34."**

Page 5, between lines 14 and 15, begin a new paragraph and insert:

**"Sec. 5. This chapter 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)).**
- (4) Property that has been subject to bonding or other financial assurances released by the appropriate governmental agency after compliance with applicable state laws."**

Page 5, line 20, after "Sec.1." insert "(a)".

Page 5, between lines 25 and 26, begin a new paragraph and insert:

**"(b) The term does not include the following:**

- (1) Property owned by:**
  - (A) a public utility (as defined in IC 8-1-2-1(a));**
  - (B) a corporation organized under IC 8-1-13; or**
  - (C) a municipally owned utility (as defined in IC 8-1-2-1).**
- (2) Property that has been subject to bonding or other financial assurances released by the appropriate governmental agency after compliance with applicable state laws."**

(Reference is to HB 1184 as printed January 26, 2000.)

LYTLE

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 HOUSE MOTION

Mr. Speaker: I move that House Bill 1184 be amended to read as follows:

Page 13, between lines 7 and 8, begin a new paragraph and insert:

**"SECTION 13. IC 23-14-41-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A**

- (†) surviving spouse, or**
- (‡) parent, child, or heir**

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of the deceased record owner of a family burial plot who has a right of interment, entombment, or inurnment in the plot may:

(1) waive that right in favor of another relative or spouse of the deceased record owner through a written instrument that is recorded with the cemetery; **or**

(2) **transfer that right through sale or another method.**

**A transfer under subdivision (2) must be recorded with the cemetery to be valid.**

(b) After a written waiver is recorded under subsection ~~(a)~~ **(a)(1)**, the body of the individual in whose favor the waiver is made may be interred, entombed, or inurned in the family burial plot."

Page 13, after line 18, begin a new paragraph and insert:

"SECTION 16. **An emergency is declared for this act.**"

Renumber all SECTIONS consecutively.

(Reference is to HB 1184 as printed on January 26, 2000.)

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