



Reprinted  
January 30, 2007

---

---

## SENATE BILL No. 433

---

DIGEST OF SB 433 (Updated January 29, 2007 2:32 pm - DI 52)

**Citations Affected:** IC 13-11; IC 13-19; IC 13-23; IC 13-25; IC 36-1; IC 36-7.

**Synopsis:** Environmental remediation. Broadens permissible uses of the environmental remediation revolving loan fund. Increases from 10% to 50% the amount of money available in the fund that may be loaned by the Indiana finance authority (authority) to any one political subdivision in a state fiscal year. Allows the authority to: (1) undertake activities to make private environmental insurance products available to encourage and facilitate the cleanup and redevelopment of brownfield properties; (2) enter into agreements with political subdivisions for various purposes related to environmental investigation and remediation; and (3) provide services to and collect fees from any person in connection with financial assistance, liability clarification, and technical assistance. Requires the deposit of fee revenue in the fund. Provides governmental immunity to the authority with respect to investigation and remediation of brownfields under agreements with political subdivisions. Allows redevelopment commissions to enter into agreements with the authority and to carry out environmental investigation and remediation. Provides that no activity of a political subdivision related to investigation or remediation on a brownfield site will be considered to contribute to the contamination at the site unless caused by gross negligence or willful misconduct. Provides that a nonprofit corporation that supports a political subdivision is not liable to the state for certain environmental remediation costs and damages unless the corporation causes or contributes to the environmental contamination. Makes technical corrections.

C  
o  
p  
y

**Effective:** July 1, 2007.

---

---

### Gard

---

---

January 11, 2007, read first time and referred to Committee on Energy and Environmental Affairs.

January 23, 2007, amended, reported favorably — Do Pass.

January 29, 2007, read second time, amended, ordered engrossed.

---

---

SB 433—LS 7377/DI 52+



First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

C  
O  
P  
Y

## SENATE BILL No. 433

---

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

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

- 1 SECTION 1. IC 13-11-2-77 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 77. (a) "Facility", for  
3 purposes of IC 13-15-1-3, means a structure or an area of land used for  
4 the disposal, treatment, storage, recovery, processing, or transferring of  
5 solid waste, hazardous waste, or atomic radiation. The term includes  
6 the following:  
7 (1) A hazardous waste facility.  
8 (2) An incinerator.  
9 (3) A solid waste landfill.  
10 (4) A transfer station.  
11 (b) "Facility", for purposes of IC 13-17-7, means a single structure,  
12 piece of equipment, installation, or operation that:  
13 (1) emits; or  
14 (2) has the potential to emit;  
15 a regulated air pollutant.  
16 (c) "Facility", for purposes of IC 13-18-5, means a building, a  
17 structure, equipment, or other stationary item that is located on:

SB 433—LS 7377/DI 52+



- 1 (1) a single site; or
- 2 (2) contiguous or adjacent sites that are owned by, operated by, or
- 3 under common control of the same person.
- 4 (d) "Facility", for purposes of IC 13-21, means a facility, a plant, a
- 5 works, a system, a building, a structure, an improvement, machinery,
- 6 equipment, a fixture, or other real or personal property of any nature
- 7 that is to be used, occupied, or employed for the collection, storage,
- 8 separation, processing, recovery, treatment, marketing, transfer, or
- 9 disposal of solid waste.
- 10 (e) "Facility", for purposes of IC 13-25-2, means all buildings,
- 11 equipment, structures, and other stationary items that are:
- 12 (1) located on a single site or on contiguous or adjacent sites; and
- 13 (2) owned or operated by:
- 14 (A) the same person; or
- 15 (B) any person that controls, is controlled by, or is under
- 16 common control with the same person.
- 17 For purposes of IC 13-25-2-6, the term includes motor vehicles, rolling
- 18 stock, and aircraft.
- 19 **(f) "Facility", for purposes of IC 13-25-4, has the meaning set**
- 20 **forth in 42 U.S.C. 9601(9).**
- 21 **(f)(g) "Facility", for purposes of IC 13-29-1, means a parcel of land**
- 22 **or site, together with the structures, equipment, and improvements on**
- 23 **or appurtenant to the land or site, which is used or is being developed**
- 24 **for the treatment, storage, or disposal of low-level radioactive waste.**
- 25 **SECTION 2. IC 13-11-2-142.3 IS ADDED TO THE INDIANA**
- 26 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
- 27 **[EFFECTIVE JULY 1, 2007]: Sec. 142.3. "Nonprofit corporation",**
- 28 **for purposes of this chapter and IC 13-25-4-8, refers to a nonprofit**
- 29 **corporation:**
- 30 **(1) that is exempt from income taxation under 26 U.S.C. 501;**
- 31 **(2) for which the primary purpose, as identified in the**
- 32 **corporation's articles of incorporation, is to assist and support**
- 33 **a political subdivision in a matter of public concern; and**
- 34 **(3) that has no member affiliated with any other person that**
- 35 **is potentially liable for response costs at a facility through any**
- 36 **of the following:**
- 37 **(A) A direct or an indirect familial relationship.**
- 38 **(B) A contractual, corporate, or financial relationship**
- 39 **other than a contractual, corporate, or financial**
- 40 **relationship that is created:**
- 41 **(i) by the instruments by which title to the facility is**
- 42 **conveyed or financed; or**

COPY



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**(ii) by a contract for the sale of goods or services.  
(C) The result of a reorganization of a business entity that  
was potentially liable for response costs at the facility.**

SECTION 3. IC 13-11-2-148 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 148. (a) "Operator", for  
purposes of IC 13-18-10, means the person in direct or responsible  
charge or control of one (1) or more confined feeding operations.

(b) "Operator", for purposes of IC 13-18-11 and environmental  
management laws, means the person in direct or responsible charge and  
supervising the operation of:

- (1) a water treatment plant;
- (2) a wastewater treatment plant; or
- (3) a water distribution system.

(c) "Operator", for purposes of IC 13-20-6, means a corporation, a  
limited liability company, a partnership, a business association, a unit,  
or an individual who is a sole proprietor that is one (1) of the following:

- (1) A broker.
- (2) A person who manages the activities of a transfer station that  
receives municipal waste.
- (3) A transporter.

(d) "Operator", for purposes of IC 13-23, except as provided in  
subsection (e), means a person:

- (1) in control of; or
- (2) having responsibility for;

the daily operation of an underground storage tank.

(e) "Operator", for purposes of IC 13-23-13, does not include the  
following:

- (1) A person who:
  - (A) does not participate in the management of an underground  
storage tank;
  - (B) is otherwise not engaged in the:
    - (i) production;
    - (ii) refining; and
    - (iii) marketing;
- of regulated substances; and
- (C) holds evidence of ownership, primarily to protect the  
owner's security interest in the tank.

- (2) A person who:
  - (A) does not own or lease, directly or indirectly, the facility or  
business at which the underground storage tank is located;
  - (B) does not participate in the management of the facility or  
business described in clause (A); and

C  
O  
P  
Y



1 (C) is engaged only in:  
 2 (i) filling;  
 3 (ii) gauging; or  
 4 (iii) filling and gauging;  
 5 the product level in the course of delivering fuel to an  
 6 underground storage tank.

7 **(3) A political subdivision (as defined in IC 36-1-2-13) or unit**  
 8 **of federal or state government that:**

9 **(A) acquires ownership or control of an underground**  
 10 **storage tank on a brownfield because of:**

11 **(i) bankruptcy;**  
 12 **(ii) foreclosure;**  
 13 **(iii) tax delinquency, including an acquisition under**  
 14 **IC 6-1.1-24 or IC 6-1.1-25;**  
 15 **(iv) abandonment;**  
 16 **(v) the exercise of eminent domain, including any**  
 17 **purchase of property once an offer to purchase has been**  
 18 **tendered under IC 32-24-1-5;**  
 19 **(vi) receivership;**  
 20 **(vii) transfer from another political subdivision or unit**  
 21 **of federal or state government;**  
 22 **(viii) acquiring an area needing redevelopment (as**  
 23 **defined in IC 36-7-1-3) or conducting redevelopment**  
 24 **activities, specifically under IC 36-7-14-22.2,**  
 25 **IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2,**  
 26 **and IC 36-7-15.1-15.5;**  
 27 **(ix) other circumstances in which the political**  
 28 **subdivision or unit of federal or state government**  
 29 **involuntarily acquired an interest in the property**  
 30 **because of the political subdivision's or unit's function as**  
 31 **sovereign; or**  
 32 **(x) any other means to conduct remedial actions on a**  
 33 **brownfield; and**

34 **(B) is engaged only in activities in conjunction with:**

35 **(i) investigation or remediation of hazardous substances,**  
 36 **petroleum, and other pollutants associated with a**  
 37 **brownfield, including complying with land use**  
 38 **restrictions and institutional controls; or**  
 39 **(ii) monitoring or closure of an underground storage**  
 40 **tank;**

41 **unless existing contamination on the brownfield is**  
 42 **exacerbated due to gross negligence or intentional**

COPY



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**misconduct by the political subdivision or unit of federal or state government.**

**(f) For purposes of subsection (e)(3)(B), reckless, willful, or wanton misconduct constitutes gross negligence.**

SECTION 4. IC 13-11-2-150, AS AMENDED BY P.L.208-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 150. (a) "Owner", for purposes of IC 13-23 (except as provided in subsections (b), ~~and~~ (c), **and (d)**) means:

- (1) for an underground storage tank that:
  - (A) was:
    - (i) in use on November 8, 1984; or
    - (ii) brought into use after November 8, 1984; for the storage, use, or dispensing of regulated substances, a person who owns the underground storage tank; or
  - (B) is:
    - (i) in use before November 8, 1984; but
    - (ii) no longer in use on November 8, 1984; a person who owned the tank immediately before the discontinuation of the tank's use; or
- (2) a person who conveyed ownership or control of the underground storage tank to a political subdivision (as defined in IC 36-1-2-13) or unit of federal or state government because of:
  - (A) bankruptcy;
  - (B) foreclosure;
  - (C) tax delinquency, including a conveyance under IC 6-1.1-24 or IC 6-1.1-25;
  - (D) abandonment;
  - (E) the exercise of eminent domain, including any purchase of property once an offer to purchase has been tendered under IC 32-24-1-5;
  - (F) receivership;
  - (G) acquiring an area needing redevelopment (as defined in IC 36-7-1-3) or conducting redevelopment activities, specifically under IC 36-7-14-22.2, IC 36-7-14-22.5, IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;**
  - ~~(H)~~ **(H)** other circumstances in which a political subdivision or unit of federal or state government involuntarily acquired ownership or control because of the political subdivision's or unit's function as sovereign; or
  - ~~(I)~~ **(I)** any other means to conduct remedial actions on a brownfield;

C  
o  
p  
y



- 1 if the person was a person described in subdivision (1)
- 2 immediately before the person conveyed ownership or control of
- 3 the underground storage tank.
- 4 (b) "Owner", for purposes of IC 13-23-13, does not include a person
- 5 who:
- 6 (1) does not participate in the management of an underground
- 7 storage tank;
- 8 (2) is otherwise not engaged in the:
- 9 (A) production;
- 10 (B) refining; and
- 11 (C) marketing;
- 12 of regulated substances; and
- 13 (3) holds indicia of ownership primarily to protect the owner's
- 14 security interest in the tank.
- 15 (c) "Owner", for purposes of IC 13-23, does not include a political
- 16 subdivision (as defined in IC 36-1-2-13) or unit of federal or state
- 17 government that acquired ownership or control of an underground
- 18 storage tank because of:
- 19 (1) bankruptcy;
- 20 (2) foreclosure;
- 21 (3) tax delinquency, including an acquisition under IC 6-1.1-24 or
- 22 IC 6-1.1-25;
- 23 (4) abandonment;
- 24 (5) the exercise of eminent domain, including any purchase of
- 25 property once an offer to purchase has been tendered under
- 26 IC 32-24-1-5;
- 27 (6) receivership;
- 28 ~~(7) other circumstances in which the political subdivision or unit~~
- 29 ~~of federal or state government involuntarily acquired ownership~~
- 30 ~~or control because of the political subdivision's or unit's function~~
- 31 ~~as sovereign;~~
- 32 ~~(8) (7) transfer from another political subdivision or unit of~~
- 33 ~~federal or state government; or~~
- 34 **(8) acquiring an area needing redevelopment (as defined in**
- 35 **IC 36-7-1-3) or conducting redevelopment activities,**
- 36 **specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,**
- 37 **IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;**
- 38 **(9) other circumstances in which the political subdivision or**
- 39 **unit of federal or state government involuntarily acquired**
- 40 **ownership or control because of the political subdivision's or**
- 41 **unit's function as sovereign; or**
- 42 ~~(9)~~ **(10) any other means to conduct remedial actions on a**

COPY



1 brownfield;  
 2 unless the political subdivision or unit of federal or state government  
 3 causes or contributes to the release or threatened release of a **regulated**  
 4 substance, in which case the political subdivision or unit of federal or  
 5 state government is subject to IC 13-23 in the same manner and to the  
 6 same extent as a nongovernmental entity under IC 13-23.

7 **(d) "Owner", for purposes of IC 13-23, does not include a**  
 8 **nonprofit corporation that acquired ownership or control of an**  
 9 **underground storage tank to assist and support a political**  
 10 **subdivision's revitalization and reuse of a brownfield for**  
 11 **non-commercial purposes, including conservation, preservation,**  
 12 **and recreation, unless the nonprofit corporation causes or**  
 13 **contributes to the release or threatened release of a regulated**  
 14 **substance, in which case the nonprofit corporation is subject to**  
 15 **IC 13-23 in the same manner and to the same extent as any other**  
 16 **nongovernmental entity under IC 13-23.**

17 SECTION 5. IC 13-11-2-151, AS AMENDED BY P.L.208-2005,  
 18 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2007]: Sec. 151. (a) "Owner or operator", for purposes of  
 20 IC 13-24-1, means the following:

21 (1) For a petroleum facility, a person who owns or operates the  
 22 facility.

23 (2) For a petroleum facility where title or control has been  
 24 conveyed because of:

25 (A) bankruptcy;

26 (B) foreclosure;

27 (C) tax delinquency, including a conveyance under  
 28 IC 6-1.1-24 or IC 6-1.1-25;

29 (D) abandonment;

30 (E) the exercise of eminent domain, including any purchase of  
 31 property once an offer to purchase has been tendered under  
 32 IC 32-24-1-5;

33 (F) receivership;

34 **(G) acquiring an area needing redevelopment (as defined**  
 35 **in IC 36-7-1-3) or conducting redevelopment activities,**  
 36 **specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,**  
 37 **IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and**  
 38 **IC 36-7-15.1-15.5;**

39 ~~(H)~~ **(H) other circumstances in which a political subdivision**  
 40 **(as defined in IC 36-1-2-13) or unit of federal or state**  
 41 **government involuntarily acquired title or control because of**  
 42 **the political subdivision's or unit's function as sovereign; or**

**C**  
**O**  
**P**  
**Y**



1           ~~(H)~~ **(I)** any other means to conduct remedial actions on a  
2           brownfield;  
3           to a political subdivision or unit of federal or state government, a  
4           person who owned, operated, or otherwise controlled the  
5           petroleum facility immediately before title or control was  
6           conveyed.

7           (b) Subject to subsection (c), the term does not include a political  
8           subdivision or unit of federal or state government that acquired  
9           ownership or control of the facility through:

- 10           (1) bankruptcy;
- 11           (2) foreclosure;
- 12           (3) tax delinquency, including an acquisition under IC 6-1.1-24 or  
13           IC 6-1.1-25;
- 14           (4) abandonment;
- 15           (5) the exercise of eminent domain, including any purchase of  
16           property once an offer to purchase has been tendered under  
17           IC 32-24-1-5;
- 18           (6) receivership;
- 19           ~~(7) other circumstances in which the political subdivision or unit~~  
20           ~~of federal or state government involuntarily acquired title because~~  
21           ~~of the political subdivision's or unit's function as sovereign;~~  
22           ~~(8) (7) transfer from another political subdivision or unit of~~  
23           ~~federal or state government; or~~  
24           **(8) acquiring an area needing redevelopment (as defined in**  
25           **IC 36-7-1-3) or conducting redevelopment activities,**  
26           **specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,**  
27           **IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;**  
28           **(9) other circumstances in which the political subdivision or**  
29           **unit of federal or state government involuntarily acquired**  
30           **ownership or control because of the political subdivision's or**  
31           **unit's function as sovereign; or**  
32           ~~(9)~~ **(10)** any other means to conduct remedial actions on a  
33           brownfield.

34           (c) The term includes a political subdivision or unit of federal or  
35           state government that causes or contributes to the release or threatened  
36           release of a **regulated** substance, in which case the political  
37           subdivision or unit of federal or state government is subject to  
38           IC 13-24-1:

- 39           (1) in the same manner; and
- 40           (2) to the same extent;

41           as a nongovernmental entity under IC 13-24-1.

42           (d) The term does not include a person who:

C  
o  
p  
y



- 1 (1) does not participate in the management of a petroleum facility;
- 2 (2) is otherwise not engaged in the:
  - 3 (A) production;
  - 4 (B) refining; and
  - 5 (C) marketing;
  - 6 of petroleum; and
  - 7 (3) holds evidence of ownership in a petroleum facility, primarily
  - 8 to protect the owner's security interest in the petroleum facility.

9 **(e) The term does not include a nonprofit corporation that**  
 10 **acquired ownership or control of a facility to assist and support a**  
 11 **political subdivision's revitalization and reuse of a brownfield for**  
 12 **non-commercial purposes, including conservation, preservation,**  
 13 **and recreation, unless the nonprofit corporation causes or**  
 14 **contributes to the release or threatened release of a regulated**  
 15 **substance, in which case the nonprofit corporation is subject to**  
 16 **IC 13-24-1 in the same manner and to the same extent as any other**  
 17 **nongovernmental entity under IC 13-24-1.**

18 SECTION 6. IC 13-11-2-183 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 183. "Regulated  
 20 substance", for purposes of **this chapter and** IC 13-23, includes the  
 21 following:

- 22 (1) Any substance defined in section 98 of this chapter as a
- 23 hazardous substance, but excluding any substance regulated as a
- 24 hazardous waste under:
  - 25 (A) Subtitle C of the federal Solid Waste Disposal Act, as
  - 26 amended (42 U.S.C. 6921 through 6939(a)); or
  - 27 (B) IC 13-22-2-3.
- 28 (2) Petroleum.
- 29 (3) Any other substance designated by rules adopted by the solid
- 30 waste management board under IC 13-23-1-2.

31 SECTION 7. IC 13-19-5-1, AS AMENDED BY P.L.235-2005,  
 32 SECTION 171, IS AMENDED TO READ AS FOLLOWS  
 33 [EFFECTIVE JULY 1, 2007]: Sec. 1. The environmental remediation  
 34 revolving loan program is established to assist in the remediation of  
 35 brownfields to encourage the rehabilitation, redevelopment, and reuse  
 36 of real property ~~by political subdivisions~~ by providing grants, loans,  
 37 forgivable loans, or other financial assistance to political subdivisions  
 38 to conduct any of the following activities:

- 39 (1) Identification and acquisition of brownfields within a political
- 40 subdivision as suitable candidates for redevelopment following
- 41 the completion of remediation activities.
- 42 (2) Environmental assessment of identified brownfields,

C  
o  
p  
y



1 **including assessment of petroleum contamination**, and other  
2 activities necessary or convenient to complete the environmental  
3 assessments.

4 (3) Remediation activities conducted on brownfields, including:  
5 **(A) remediation of petroleum contamination; and**  
6 **(B) other activities necessary or convenient to complete**  
7 **remediation activities conducted on brownfields, including**  
8 **clearance of real property.**

9 ~~(4) The clearance of real property under IC 36-7-14-12.2 or~~  
10 ~~IC 36-7-15.1-7 in connection with remediation activities.~~

11 ~~(5) (4) Other activities in conjunction with assessment and~~  
12 ~~remediation activities necessary or convenient to complete~~  
13 ~~remediation activities on brownfields: prepare a brownfield for~~  
14 ~~redevelopment.~~

15 SECTION 8. IC 13-19-5-2, AS AMENDED BY P.L.235-2005,  
16 SECTION 172, IS AMENDED TO READ AS FOLLOWS  
17 [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) The environmental  
18 remediation revolving loan fund is established for the purpose of  
19 providing money for loans and other financial assistance, including  
20 grants, to or for the benefit of political subdivisions under this chapter.  
21 The authority shall administer, hold, and manage the fund.

22 (b) Expenses of administering the fund shall be paid from money in  
23 the fund.

24 (c) The fund consists of the following:

- 25 (1) Appropriations made by the general assembly.
- 26 (2) Grants and gifts intended for deposit in the fund.
- 27 (3) Repayments of loans and other financial assistance, including
- 28 premiums, interest, and penalties.
- 29 (4) Proceeds from the sale of loans and other financial assistance
- 30 under section 9 of this chapter.
- 31 (5) Interest, premiums, gains, or other earnings on the fund.
- 32 (6) Money transferred from the hazardous substances response
- 33 trust fund under IC 13-25-4-1(a)(9).

34 **(7) Fees collected under section 7 of this chapter.**

35 (d) The authority shall invest the money in the fund not currently  
36 needed to meet the obligations of the fund in accordance with an  
37 investment policy adopted by the authority. Interest, premiums, gains,  
38 or other earnings from these investments shall be credited to the fund.

39 (e) As an alternative to subsection (d), the authority may invest or  
40 cause to be invested all or a part of the fund in a fiduciary account with  
41 a trustee that is a financial institution. Notwithstanding any other law,  
42 any investment may be made by the trustee in accordance with at least

C  
o  
p  
y



1 one (1) trust agreement or indenture. A trust agreement or indenture  
2 may allow disbursements by the trustee to:

- 3 (1) the authority;
- 4 (2) a political subdivision;
- 5 (3) the Indiana bond bank; or
- 6 (4) any person to which the authority, the Indiana bond bank, or
- 7 a political subdivision is obligated, including a trustee that is a
- 8 financial institution for a grantor trust;

9 as provided in the trust agreement or indenture. The budget agency  
10 must approve any trust agreement or indenture before its execution.

11 SECTION 9. IC 13-19-5-3, AS AMENDED BY P.L.235-2005,  
12 SECTION 173, IS AMENDED TO READ AS FOLLOWS  
13 [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The authority shall do the  
14 following under this chapter:

- 15 (1) Be responsible for the management of all aspects of the
- 16 program.
- 17 (2) Prepare and provide program information.
- 18 (3) Negotiate the negotiable aspects of each financial assistance
- 19 agreement and submit the agreement to the budget agency for
- 20 approval.
- 21 (4) Sign each financial assistance agreement.
- 22 (5) Review each proposed project and financial assistance
- 23 agreement to determine if the project meets the credit, economic,
- 24 or fiscal criteria established by guidelines of the authority.
- 25 (6) Periodically inspect or cause to be inspected projects to
- 26 determine compliance with this chapter.
- 27 (7) Conduct or cause to be conducted an evaluation concerning
- 28 the financial ability of a political subdivision to:
  - 29 (A) pay a loan or other financial assistance and other
  - 30 obligations evidencing loans or other financial assistance, if
  - 31 required to be paid; and
  - 32 (B) otherwise comply with terms of the financial assistance
  - 33 agreement.
- 34 (8) Evaluate or cause to be evaluated the technical aspects of the
- 35 political subdivision's:
  - 36 (A) environmental assessment of potential brownfield
  - 37 properties;
  - 38 (B) proposed remediation; and
  - 39 (C) remediation activities conducted on brownfield properties.
- 40 (9) Inspect or cause to be inspected remediation activities
- 41 conducted under this chapter.
- 42 (10) Act as a liaison ~~with the department~~ to the United States

C  
o  
p  
y



1 Environmental Protection Agency regarding the program.  
 2 (11) Be a point of contact for political subdivisions concerning  
 3 questions about the program.  
 4 (12) Enter into memoranda of understanding, as necessary, with  
 5 the department and the budget agency concerning the  
 6 administration and management of the fund and the program.  
 7 **(b) The authority may do the following under this chapter:**  
 8 **(1) Undertake activities to make private environmental**  
 9 **insurance products available to encourage and facilitate the**  
 10 **cleanup and redevelopment of brownfield properties.**  
 11 **(2) Enter into agreements with political subdivisions to**  
 12 **manage any of the following conducted on brownfield**  
 13 **properties:**  
 14 **(A) Environmental assessment activities.**  
 15 **(B) Environmental remediation activities.**  
 16 **(c) The authority may:**  
 17 **(1) negotiate with;**  
 18 **(2) select; and**  
 19 **(3) contract with;**  
 20 **one (1) or more insurers to provide insurance products as**  
 21 **described in subsection (b)(1).**  
 22 **(d) Notwithstanding IC 13-23, IC 13-24-1, and IC 13-25-4, the**  
 23 **authority is not liable for any contamination addressed by the**  
 24 **authority under an agreement under subsection (b)(2) unless**  
 25 **existing contamination on the brownfield is exacerbated due to**  
 26 **gross negligence or intentional misconduct by the authority.**  
 27 **(e) For purposes of subsection (d), reckless, willful, or wanton**  
 28 **misconduct constitutes gross negligence.**  
 29 **(f) The authority is entitled to the same governmental immunity**  
 30 **afforded a political subdivision under IC 34-13-3-3(23) for any act**  
 31 **taken to investigate or remediate hazardous substances, petroleum,**  
 32 **or other pollutants associated with a brownfield under an**  
 33 **agreement under subsection (b)(2).**  
 34 SECTION 10. IC 13-19-5-7, AS AMENDED BY P.L.235-2005,  
 35 SECTION 175, IS AMENDED TO READ AS FOLLOWS  
 36 [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The authority may provide  
 37 services to a ~~political subdivision~~ **person (as defined in**  
 38 **IC 13-11-2-158(a))** in connection with ~~a loan or other financial~~  
 39 ~~assistance, including advisory and other services;~~ **technical assistance,**  
 40 **and liability clarification,** and may ~~charge~~ **assess and collect** a fee  
 41 for:  
 42 (1) services provided **to offset the costs of providing the**

C  
O  
P  
Y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**services; and**  
(2) costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a political subdivision under this chapter, regardless of whether the application is approved or rejected.

(b) A political subdivision may pay fees charged under this section.

**(c) The authority shall adopt guidelines for the assessment and collection of fees under this section.**

**(d) Fees collected under this section shall be deposited in the fund.**

SECTION 11. IC 13-19-5-8, AS AMENDED BY P.L.235-2005, SECTION 176, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. The authority may use a priority ranking system in making loans and providing other financial assistance under this chapter based on the following:

(1) Socioeconomic distress in an area, as determined by the poverty level and unemployment rate in the area.

(2) The technical evaluation ~~by the department~~ under section 3(8)(A) and 3(8)(B) of this chapter.

(3) Other factors determined by the authority, including the following:

(A) The number and quality of jobs that would be generated by a project.

(B) Housing, recreational, and educational needs of communities.

(C) Any other factors the authority determines will assist in the implementation of this chapter.

SECTION 12. IC 13-19-5-9, AS AMENDED BY P.L.235-2005, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A loan or other financial assistance must be used for at least one (1) of the purposes under section 1 of this chapter and may be used for any of the following purposes:

(1) To:

(A) establish guaranties, reserves, or sinking funds, including guaranties, reserves, or sinking funds to secure and pay, in whole or in part, loans or other financial assistance made from sources other than the fund (including financial institutions) for a purpose permitted by this chapter; or

(B) provide interest subsidies.

(2) To pay financing charges, including interest on the loan or other financial assistance during remediation and for a reasonable

C  
o  
p  
y



1 period after the completion of remediation.  
 2 (3) To pay consultant, advisory, and legal fees, and any other  
 3 costs or expenses resulting from:  
 4 (A) the assessment, planning, or remediation of a brownfield;  
 5 or  
 6 (B) the loan or other financial assistance.  
 7 (b) The authority shall establish the interest rate or parameters for  
 8 establishing the interest rate on each loan made under this chapter,  
 9 including parameters for establishing the amount of interest subsidies.  
 10 (c) The authority, in setting the interest rate or parameters for  
 11 establishing the interest rate on each loan, may take into account the  
 12 following:  
 13 (1) Credit risk.  
 14 (2) Environmental enforcement and protection.  
 15 (3) Affordability.  
 16 (4) Other fiscal factors the authority considers relevant, including  
 17 the program's cost of funds and whether the financial assistance  
 18 provided to a particular political subdivision is taxable or tax  
 19 exempt under federal law.  
 20 Based on the factors set forth in subdivisions (1) through (4), more than  
 21 one (1) interest rate may be established and used for loans or other  
 22 financial assistance to different political subdivisions or for different  
 23 loans or other financial assistance to the same political subdivision.  
 24 (d) Not more than ~~ten~~ **fifty** percent (~~10%~~) **(50%)** of the money  
 25 available in the fund during a **state fiscal** year may be loaned or  
 26 otherwise provided to any one (1) political subdivision **during that**  
 27 **fiscal year.**  
 28 (e) Before a political subdivision may receive a loan or other  
 29 financial assistance, including grants, from the fund, a political  
 30 subdivision must submit the following:  
 31 (1) Documentation of community and neighborhood comment  
 32 concerning the use of a brownfield on which remediation  
 33 activities will be undertaken after remediation activities are  
 34 completed.  
 35 (2) A plan for repayment of the loan or other financial assistance,  
 36 if applicable.  
 37 (3) An approving opinion of a nationally recognized bond counsel  
 38 if required by the authority.  
 39 (4) A summary of the environmental objectives of the proposed  
 40 project.  
 41 (f) A political subdivision that receives a loan or other financial  
 42 assistance from the fund shall enter into a financial assistance

C  
O  
P  
Y



1 agreement. A financial assistance agreement is a valid, binding, and  
2 enforceable agreement of the political subdivision.

3 (g) The authority may sell or assign:

4 (1) loans or evidence of other financial assistance; and

5 (2) other obligations of political subdivisions evidencing the loans  
6 or other financial assistance from the fund;

7 at any price and on terms acceptable to the authority. Proceeds of sales  
8 or assignments under this subsection shall be deposited in the fund. A  
9 sale or an assignment under this subsection does not create a liability  
10 or an indebtedness of the state or the authority except, in the case of the  
11 authority, strictly in accordance with the sale or assignment terms.

12 (h) The authority may pledge loans or evidences of other financial  
13 assistance and other obligations of political subdivisions evidencing the  
14 loans or other financial assistance from the fund to secure other loans  
15 or financial assistance from the fund to or for the benefit of political  
16 subdivisions. The terms of a pledge under this subsection must be  
17 approved by the budget agency. Notwithstanding any other law, a  
18 pledge of property made by the authority and approved by the budget  
19 agency under this subsection is binding from the time the pledge is  
20 made. Revenues, other money, or other property pledged and then  
21 received are immediately subject to the lien of the pledge without any  
22 further act. The lien of a pledge is binding against all parties having  
23 claims of any kind in tort, contract, or otherwise against the authority,  
24 a trustee, or the fund, regardless of whether the parties have notice of  
25 a lien. A resolution, an indenture, or other instrument by which a  
26 pledge is created is not required to be filed or recorded, except in the  
27 records of the authority. An action taken to enforce a pledge under this  
28 subsection and to realize the benefits of the pledge is limited to the  
29 property pledged. A pledge under this subsection does not create a  
30 liability or an indebtedness of the state or the authority except, in the  
31 case of the authority, strictly in accordance with the pledge terms.

32 SECTION 13. IC 13-23-13-16 IS ADDED TO THE INDIANA  
33 CODE AS A NEW SECTION TO READ AS FOLLOWS  
34 [EFFECTIVE JULY 1, 2007]: **Sec. 16. (a) A political subdivision or**  
35 **unit of federal or state government that acquired ownership or**  
36 **control of an underground storage tank on a brownfield by any of**  
37 **the means listed in IC 13-11-2-150(c) and IC 13-11-2-151(b) may**  
38 **undertake any activity in conjunction with:**

39 (1) **investigation or remediation of hazardous substances,**  
40 **petroleum, and other pollutants associated with a brownfield,**  
41 **including complying with land use restrictions and**  
42 **institutional controls; or**

C  
O  
P  
Y



1           **(2) monitoring or closure of an underground storage tank;**  
2 **without being considered as contributing to the existing release or**  
3 **threatened release of a regulated substance on, in, or at the**  
4 **brownfield unless existing contamination on the brownfield is**  
5 **exacerbated due to gross negligence or intentional misconduct by**  
6 **the political subdivision or unit of federal or state government.**

7           **(b) For purposes of subsection (a), reckless, willful, or wanton**  
8 **misconduct constitutes gross negligence.**

9           SECTION 14. IC 13-25-4-8, AS AMENDED BY P.L.1-2006,  
10 SECTION 205, IS AMENDED TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) Except as provided in  
12 subsection (b), (c), or (d), a person that is liable under Section 107(a)  
13 of CERCLA (42 U.S.C. 9607(a)) for:

- 14           (1) the costs of removal or remedial action incurred by the
- 15           commissioner consistent with the national contingency plan;
- 16           (2) the costs of any health assessment or health effects study
- 17           carried out by or on behalf of the commissioner under Section
- 18           104(i) of CERCLA (42 U.S.C. 9604(i)); or
- 19           (3) damages for:
  - 20           (A) injury to;
  - 21           (B) destruction of; or
  - 22           (C) loss of;

23           natural resources of Indiana;  
24 is liable, in the same manner and to the same extent, to the state under  
25 this section.

26           (b) The exceptions provided by Sections 107(b), 107(q), and 107(r)  
27 of CERCLA (42 U.S.C. 9607(b), 42 U.S.C. 9607(q), and 42 U.S.C.  
28 9607(r)) to liability otherwise imposed by Section 107(a) of CERCLA  
29 (42 U.S.C. 9607(a)) are equally applicable to any liability otherwise  
30 imposed under subsection (a).

31           (c) Notwithstanding any liability imposed by the environmental  
32 management laws, a lender, a secured or unsecured creditor, or a  
33 fiduciary is not liable under the environmental management laws, in  
34 connection with the release or threatened release of a hazardous  
35 substance from a facility unless the lender, the fiduciary, or creditor has  
36 participated in the management of the hazardous substance at the  
37 facility.

38           (d) Notwithstanding any liability imposed by the environmental  
39 management laws, the liability of a fiduciary for a release or threatened  
40 release of a hazardous substance from a facility that is held by the  
41 fiduciary in its fiduciary capacity may be satisfied only from the assets  
42 held by the fiduciary in the same estate or trust as the facility that gives

C  
o  
p  
y



1 rise to the liability.

2 (e) Except as provided in subsection (g), a political subdivision (as  
3 defined in IC 36-1-2-13) or unit of federal or state government is not  
4 liable to the state under this section for costs or damages associated  
5 with the presence of a hazardous substance on, in, or at a property in  
6 which the political subdivision or unit of federal or state government  
7 acquired an interest in the property because of:

- 8 (1) bankruptcy;
- 9 (2) foreclosure;
- 10 (3) tax delinquency, including an acquisition under IC 6-1.1-24 or
- 11 IC 6-1.1-25;
- 12 (4) abandonment;
- 13 (5) the exercise of eminent domain, including any purchase of
- 14 property once an offer to purchase has been tendered under
- 15 IC 32-24-1-5;
- 16 (6) receivership;
- 17 ~~(7) other circumstances in which the political subdivision or unit~~
- 18 ~~of federal or state government involuntarily acquired an interest~~
- 19 ~~in the property because of the political subdivision's or unit's~~
- 20 ~~function as sovereign;~~
- 21 ~~(8) (7) transfer from another political subdivision or unit of~~
- 22 ~~federal or state government; or~~
- 23 **(8) acquiring an area needing redevelopment (as defined in**
- 24 **IC 36-7-1-3) or conducting redevelopment activities,**
- 25 **specifically under IC 36-7-14-22.2, IC 36-7-14-22.5,**
- 26 **IC 36-7-15.1-15.1, IC 36-7-15.1-15.2, and IC 36-7-15.1-15.5;**
- 27 **(9) other circumstances in which the political subdivision or**
- 28 **unit of federal or state government involuntarily acquired**
- 29 **ownership or control because of the political subdivision's or**
- 30 **unit's function as sovereign; or**
- 31 ~~(9) (10) any other means to conduct remedial actions on a~~
- 32 ~~brownfield.~~

33 (f) If a transfer of an interest in property as described in subsection  
34 (e) occurs, a person who owned, operated, or otherwise controlled the  
35 property immediately before the political subdivision or unit of federal  
36 or state government acquired the interest in the property remains liable  
37 under this section:

- 38 (1) in the same manner; and
- 39 (2) to the same extent;
- 40 as the person was liable immediately before the person's interest in the
- 41 property was acquired by the political subdivision or unit of federal or
- 42 state government.

C  
o  
p  
y



1 (g) Notwithstanding subsection (e), a political subdivision or unit of  
2 federal or state government that causes or contributes to the release or  
3 threatened release of a hazardous substance on, in, or at a property  
4 remains subject to this section:

- 5 (1) in the same manner; and
- 6 (2) to the same extent;

7 as a nongovernmental entity under this section.

8 **(h) Except as provided in subsection (i), a nonprofit corporation**  
9 **is not liable to the state under this section for costs or damages**  
10 **associated with the presence of a hazardous substance on, in, or at**  
11 **a property in which the nonprofit corporation acquired an interest**  
12 **to assist and support a political subdivision's revitalization and**  
13 **reuse of a brownfield for non-commercial purposes, including**  
14 **conservation, preservation, and recreation.**

15 **(i) Notwithstanding subsection (h), a nonprofit corporation that**  
16 **causes or contributes to a release or threatened release of a**  
17 **hazardous substance on, in, or at a property remains subject to this**  
18 **section:**

- 19 (1) in the same manner; and
- 20 (2) to the same extent;

21 as any other nongovernmental entity under this section.

22 **(j) A political subdivision or unit of federal or state government**  
23 **that establishes an exemption or defense under subsection (b) or (e)**  
24 **may undertake any activity related to:**

- 25 (1) investigation, removal, or remedial action on a brownfield,  
26 including complying with land use restrictions and  
27 institutional controls; or
- 28 (2) monitoring or closure of an underground storage tank;

29 without being considered as contributing to the existing release or  
30 threatened release of hazardous substances on, in, or at the  
31 brownfield unless existing contamination on the brownfield is  
32 exacerbated due to gross negligence or intentional misconduct by  
33 the political subdivision or unit of federal or state government.

34 **(k) For purposes of subsection (j), reckless, willful, or wanton**  
35 **misconduct constitutes gross negligence.**

36 SECTION 15. IC 36-1-7-1 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This chapter applies  
38 to the following:

- 39 (1) The state.
- 40 (2) All political subdivisions.
- 41 (3) All state agencies.
- 42 **(4) Any of the following created by state law:**

C  
O  
P  
Y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**(A) Public instrumentalities.**

**(B) Public corporate bodies.**

~~(4)~~ **(5)** Another state to the extent authorized by the law of that state.

~~(5)~~ **(6)** Political subdivisions of states other than Indiana, to the extent authorized by laws of the other states.

~~(6)~~ **(7)** Agencies of the federal government, to the extent authorized by federal laws.

SECTION 16. IC 36-1-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) If an agreement under section 3 of this chapter:

(1) involves as parties:

**(A) only Indiana political subdivisions; or**

**(B) an Indiana political subdivision and:**

**(i) a public instrumentality; or**

**(ii) a public corporate body;**

**created by state law;**

(2) is approved by the fiscal body of each party **that is an Indiana political subdivision** either before or after it **the agreement** is entered into by the ~~executives~~ **executive** of the ~~parties;~~ **party;** and

(3) delegates to the treasurer or disbursing officer of one (1) of the parties **that is an Indiana political subdivision** the duty to receive, disburse, and account for all monies of the joint undertaking;

then the approval of the attorney general is not required.

(b) If subsection (a) does not apply, an agreement under section 3 of this chapter must be submitted to the attorney general for his approval. The attorney general shall approve the agreement unless ~~he~~ **the attorney general** finds that it does not comply with the statutes, in which case ~~he~~ **the attorney general** shall detail in writing for the ~~executives of the~~ parties the specific respects in which the agreement does not comply. If the attorney general fails to disapprove the agreement within sixty (60) days after it is submitted to ~~him;~~ **the attorney general,** it is considered approved.

SECTION 17. IC 36-1-7-15, AS AMENDED BY P.L.203-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) As used in this section, "economic development entity" means **any of the following:**

**(1)** A department of redevelopment organized under IC 36-7-14.

**(2)** A department of metropolitan development under IC 36-7-15.1.

C  
o  
p  
y



1           (3) A port authority organized under IC 8-10-5. ✕  
 2           (4) An airport authority organized under IC 8-22-3.  
 3           (5) **The Indiana finance authority.**  
 4           (b) Notwithstanding section 2 of this chapter, two (2) or more  
 5 economic development entities may enter into a written agreement  
 6 under section 3 of this chapter if the agreement is approved by each  
 7 entity's governing body.  
 8           (c) A party to an agreement under this section may do one (1) or  
 9 more of the following:  
 10           (1) Except as provided in subsection (d), grant one (1) or more of  
 11 its powers to another party to the agreement.  
 12           (2) Exercise any power granted to it by a party to the agreement.  
 13           (3) Pledge any of its revenues, including taxes or allocated taxes  
 14 under IC 36-7-14, IC 36-7-15.1, or IC 8-22-3.5, to the bonds or  
 15 lease rental obligations of another party to the agreement under  
 16 IC 5-1-14-4.  
 17           (d) An economic development entity may not grant to another entity  
 18 the power to tax or to establish an allocation area under IC 8-22-3.5,  
 19 IC 36-7-14-39, or IC 36-7-15.1.  
 20           (e) An agreement under this section does not have to comply with  
 21 section 3(a)(5) or 4 of this chapter.  
 22           (f) An action to challenge the validity of an agreement under this  
 23 section must be brought within thirty (30) days after the agreement has  
 24 been approved by all the parties to the agreement. After that period has  
 25 passed, the agreement is not contestable for any cause.  
 26           SECTION 18. IC 36-7-1-3, AS AMENDED BY P.L.185-2005,  
 27 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2007]: Sec. 3. "Area needing redevelopment" means an area  
 29 in which normal development and occupancy are undesirable or  
 30 impossible because of **any of the following**:  
 31           (1) Lack of development.  
 32           (2) Cessation of growth.  
 33           (3) Deteriorated or deteriorating improvements.  
 34           (4) **Environmental contamination.**  
 35           ~~(4)~~ (5) Character of occupancy.  
 36           ~~(5)~~ (6) Age.  
 37           ~~(6)~~ (7) Obsolescence.  
 38           ~~(7)~~ (8) Substandard buildings. ✕  
 39           ~~(8)~~ (9) Other factors that impair values or prevent a normal use or  
 40 development of property.  
 41           SECTION 19. IC 36-7-1-18, AS AMENDED BY P.L.185-2005,  
 42 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

C  
o  
p  
y



1 JULY 1, 2007]: Sec. 18. "Redevelopment" includes the following  
2 activities:

- 3 (1) Acquiring real property in areas needing redevelopment.
- 4 (2) Replatting and determining the proper use of real property  
5 acquired.
- 6 (3) Opening, closing, relocating, widening, and improving public  
7 ways.
- 8 (4) Relocating, constructing, and improving sewers, utility  
9 services, offstreet parking facilities, and levees.
- 10 (5) Laying out and constructing necessary public improvements,  
11 including parks, playgrounds, and other recreational facilities.
- 12 (6) Restricting the use of real property acquired according to law.
- 13 (7) Repairing and maintaining buildings acquired, if demolition  
14 of those buildings is not considered necessary to carry out the  
15 redevelopment plan.
- 16 (8) Rehabilitating real or personal property ~~whether or not~~  
17 ~~acquired~~, to carry out the redevelopment or urban renewal plan,  
18 **regardless of whether the real or personal property is**  
19 **acquired by the unit.**
- 20 **(9) Investigating and remediating environmental**  
21 **contamination on real property to carry out the**  
22 **redevelopment or urban renewal plan, regardless of whether**  
23 **the real property is acquired by the unit.**
- 24 ~~(9)~~ **(10)** Disposing of property acquired on the terms and  
25 conditions and for the uses and purposes that best serve the  
26 interests of the units served by the redevelopment commission.
- 27 ~~(10)~~ **(11)** Making payments required or authorized by IC 8-23-17.
- 28 ~~(11)~~ **(12)** Performing all acts incident to the statutory powers and  
29 duties of a redevelopment commission.

30 SECTION 20. IC 36-7-1-18.5 IS ADDED TO THE INDIANA  
31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
32 [EFFECTIVE JULY 1, 2007]: **Sec. 18.5. "Remediation" has the**  
33 **meaning set forth in IC 13-11-2-186.**

34 SECTION 21. IC 36-7-14-2.5 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.5. (a) The  
36 **assessment**, planning, replanning, **remediation**, development, and  
37 redevelopment of economic development areas:

- 38 (1) are public and governmental functions that cannot be  
39 accomplished through the ordinary operations of private  
40 enterprise because of:  
41 ~~(A)~~ **(A)** the necessity for requiring the proper use of the land so  
42 as to best serve the interests of the county and its citizens; and

C  
o  
p  
y



1                   (2) (B) the costs of these projects;

2           (b) ~~The planning, replanning, development, and redevelopment of~~

3 ~~economic development areas~~

4           (2) will:

5                   (+) (A) benefit the public health, safety, morals, and welfare;

6                   (2) (B) increase the economic well-being of the unit and the

7                   state; and

8                   (3) (C) serve to protect and increase property values in the unit

9                   and the state;

10           (c) ~~The planning, replanning, development, and redevelopment of~~

11 ~~economic development areas under this chapter~~

12           (3) are public uses and purposes for which public money may be

13           spent and private property may be acquired.

14           (4) (b) This section and sections 41 and 43 of this chapter shall be

15           liberally construed to carry out the purposes of this section.

16           SECTION 22. IC 36-7-14-11, AS AMENDED BY P.L.185-2005,

17           SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

18           JULY 1, 2007]: Sec. 11. The redevelopment commission shall:

19                   (1) investigate, study, and survey areas needing redevelopment

20                   within the corporate boundaries of the unit;

21                   (2) investigate, study, determine, and, to the extent possible,

22                   combat the causes of areas needing redevelopment;

23                   (3) promote the use of land in the manner that best serves the

24                   interests of the unit and its inhabitants;

25                   (4) cooperate:

26                           (A) with the departments and agencies of:

27                                   (i) the unit; and of

28                                   (ii) other governmental entities; and

29                           (B) with:

30                                   (i) **public instrumentalities; and**

31                                   (ii) **public corporate bodies;**

32                                   **created by state law;**

33                   in the manner that best serves the purposes of this chapter;

34                   (5) make findings and reports on their activities under this

35                   section, and keep those reports open to inspection by the public

36                   at the offices of the department;

37                   (6) select and acquire the areas needing redevelopment to be

38                   redeveloped under this chapter; and

39                   (7) replan and dispose of the areas needing redevelopment in the

40                   manner that best serves the social and economic interests of the

41                   unit and its inhabitants.

42           SECTION 23. IC 36-7-14-12.2, AS AMENDED BY P.L.185-2005,

C  
O  
P  
Y



1 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 2 JULY 1, 2007]: Sec. 12.2. (a) The redevelopment commission may **do**  
 3 **the following:**

4 (1) Acquire by purchase, exchange, gift, grant, condemnation, or  
 5 lease, or any combination of methods, any personal property or  
 6 interest in real property needed for the redevelopment of areas  
 7 needing redevelopment that are located within the corporate  
 8 boundaries of the unit.

9 (2) Hold, use, sell (by conveyance by deed, land sale contract, or  
 10 other instrument), exchange, lease, rent, or otherwise dispose of  
 11 property acquired for use in the redevelopment of areas needing  
 12 redevelopment on the terms and conditions that the commission  
 13 considers best for the unit and its inhabitants.

14 (3) Sell, lease, or grant interests in all or part of the real property  
 15 acquired for redevelopment purposes to any other department of  
 16 the unit or to any other governmental agency for public ways,  
 17 levees, sewerage, parks, playgrounds, schools, and other public  
 18 purposes on any terms that may be agreed on.

19 (4) Clear real property acquired for redevelopment purposes.

20 **(5) Enter on or into, inspect, investigate, and assess real**  
 21 **property and structures acquired or to be acquired for**  
 22 **redevelopment purposes to determine the existence, source,**  
 23 **nature, and extent of any environmental contamination,**  
 24 **including the following:**

25 (A) Hazardous substances.  
 26 (B) Petroleum.  
 27 (C) Other pollutants.

28 **(6) Remediate environmental contamination, including the**  
 29 **following, found on any real property or structures acquired**  
 30 **for redevelopment purposes:**

31 (A) Hazardous substances.  
 32 (B) Petroleum.  
 33 (C) Other pollutants.

34 ~~(5)~~ (7) Repair and maintain structures acquired for redevelopment  
 35 purposes.

36 ~~(6)~~ (8) Remodel, rebuild, enlarge, or make major structural  
 37 improvements on structures acquired for redevelopment purposes.

38 ~~(7)~~ (9) Survey or examine any land to determine whether it should  
 39 be included within an area needing redevelopment to be acquired  
 40 for redevelopment purposes and to determine the value of that  
 41 land.

42 ~~(8)~~ (10) Appear before any other department or agency of the unit,

C  
O  
P  
Y



- 1 or before any other governmental agency in respect to any matter
- 2 affecting:
- 3 (A) real property acquired or being acquired for
- 4 redevelopment purposes; or
- 5 (B) any area needing redevelopment within the jurisdiction of
- 6 the commissioners.
- 7 ~~(9)~~ **(11)** Institute or defend in the name of the unit any civil
- 8 action.
- 9 ~~(10)~~ **(12)** Use any legal or equitable remedy that is necessary or
- 10 considered proper to protect and enforce the rights of and perform
- 11 the duties of the department of redevelopment.
- 12 ~~(11)~~ **(13)** Exercise the power of eminent domain in the name of
- 13 and within the corporate boundaries of the unit in the manner
- 14 prescribed by section 20 of this chapter.
- 15 ~~(12)~~ **(14)** Appoint an executive director, appraisers, real estate
- 16 experts, engineers, architects, surveyors, and attorneys.
- 17 ~~(13)~~ **(15)** Appoint clerks, guards, laborers, and other employees
- 18 the commission considers advisable, except that those
- 19 appointments must be made in accordance with the merit system
- 20 of the unit if such a system exists.
- 21 ~~(14)~~ **(16)** Prescribe the duties and regulate the compensation of
- 22 employees of the department of redevelopment.
- 23 ~~(15)~~ **(17)** Provide a pension and retirement system for employees
- 24 of the department of redevelopment by using the Indiana public
- 25 employees' retirement fund or a retirement plan approved by the
- 26 United States Department of Housing and Urban Development.
- 27 ~~(16)~~ **(18)** Discharge and appoint successors to employees of the
- 28 department of redevelopment subject to subdivision ~~(13)~~; **(15)**.
- 29 ~~(17)~~ **(19)** Rent offices for use of the department of redevelopment,
- 30 or accept the use of offices furnished by the unit.
- 31 ~~(18)~~ **(20)** Equip the offices of the department of redevelopment
- 32 with the necessary furniture, furnishings, equipment, records, and
- 33 supplies.
- 34 ~~(19)~~ **(21)** Expend, on behalf of the special taxing district, all or
- 35 any part of the money of the special taxing district.
- 36 ~~(20)~~ **(22)** Contract for the construction of:
- 37 (A) local public improvements (as defined in IC 36-7-14.5-6)
- 38 or structures that are necessary for redevelopment of areas
- 39 needing redevelopment or economic development within the
- 40 corporate boundaries of the unit; or
- 41 (B) any structure that enhances development or economic
- 42 development.

C  
o  
p  
y



- 1           ~~(21)~~ **(23)** Contract for the construction, extension, or  
 2 improvement of pedestrian skyways.
- 3           ~~(22)~~ **(24)** Accept loans, grants, and other forms of financial  
 4 assistance from the federal government, the state government, a  
 5 municipal corporation, a special taxing district, a foundation, or  
 6 any other source.
- 7           ~~(23)~~ **(25)** Provide financial assistance (including grants and loans)  
 8 to enable individuals and families to purchase or lease residential  
 9 units within the district. However, financial assistance may be  
 10 provided only to individuals and families whose income is at or  
 11 below the unit's median income for individuals and families,  
 12 respectively.
- 13           ~~(24)~~ **(26)** Provide financial assistance (including grants and loans)  
 14 to neighborhood development corporations to permit them to:
- 15           (A) provide financial assistance for the purposes described in  
 16 subdivision ~~(23)~~; **(25)**; or
- 17           (B) construct, rehabilitate, or repair commercial property  
 18 within the district. ~~and~~
- 19           ~~(25)~~ **(27)** Require as a condition of financial assistance to the  
 20 owner of a multiple unit residential structure that any of the units  
 21 leased by the owner must be leased:
- 22           (A) for a period to be determined by the commission, which  
 23 may not be less than five (5) years;
- 24           (B) to families whose income does not exceed eighty percent  
 25 (80%) of the unit's median income for families; and
- 26           (C) at an affordable rate.
- 27           (b) Conditions imposed by the commission under subsection ~~(a)(25)~~  
 28 **(a)(27)** remain in force throughout the period determined under  
 29 subsection ~~(a)(25)(A)~~; **(a)(27)(A)**, even if the owner sells, leases, or  
 30 conveys the property. The subsequent owner or lessee is bound by the  
 31 conditions for the remainder of the period.
- 32           (c) As used in this section, "pedestrian skyway" means a pedestrian  
 33 walkway within or outside of the public right-of-way and through and  
 34 above public or private property and buildings, including all structural  
 35 supports required to connect skyways to buildings or buildings under  
 36 construction. Pedestrian skyways constructed, extended, or improved  
 37 over or through public or private property constitute public property  
 38 and public improvements, constitute a public use and purpose, and do  
 39 not require vacation of any public way or other property.
- 40           (d) All powers that may be exercised under this chapter by the  
 41 redevelopment commission may also be exercised by the  
 42 redevelopment commission in carrying out its duties and purposes

C  
O  
P  
Y



1 under IC 36-7-14.5.

2 SECTION 24. IC 36-7-14-12.3 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.3. IC 5-16-7 applies  
4 to:

5 (1) a person that enters into a contract with a redevelopment  
6 commission to perform construction work referred to in section  
7 12.2(a)(4), ~~12.2(a)(6)~~, ~~12.2(a)(20)~~, or ~~12.2(a)(21)~~, **12.2(a)(7),**  
8 **12.2(a)(22), or 12.2(a)(23)** of this chapter; and

9 (2) a subcontractor of a person described in subdivision (1);  
10 with respect to the construction work referred to in subdivision (1).

11 SECTION 25. IC 36-7-14-14 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) A county may  
13 contract with a city within the county to have any of the duties and  
14 powers listed in sections 11 and 12.2 of this chapter performed by the  
15 redevelopment commission of the city.

16 (b) A city may contract with the county in which it is located to have  
17 any of the duties and powers listed in sections 11 and 12.2 of this  
18 chapter performed by the redevelopment commission of the county.

19 **(c) A city or county may contract with:**

20 **(1) a public instrumentality; or**

21 **(2) a public corporate body;**

22 **created by state law to have the powers listed in section 12.2(a)(4)**  
23 **through 12.2(a)(7) of this chapter performed by the public**  
24 **instrumentality or public corporate body.**

25 ~~(c)~~ **(d)** A contract made under this section must be for a stated and  
26 limited period and may be renewed.

27 ~~(d)~~ **(e)** Whenever a city official acts under a contract made under  
28 this section, or whenever permits or other writings are used under such  
29 a contract, the action or use must be in the name of the county  
30 redevelopment commission.

31 SECTION 26. IC 36-7-14-15, AS AMENDED BY P.L.185-2005,  
32 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
33 JULY 1, 2007]: Sec. 15. (a) Whenever the redevelopment commission  
34 finds that:

35 (1) an area in the territory under their jurisdiction is an area  
36 needing redevelopment;

37 (2) the conditions described in IC 36-7-1-3 cannot be corrected in  
38 the area by regulatory processes or the ordinary operations of  
39 private enterprise without resort to this chapter; and

40 (3) the public health and welfare will be benefited by the  
41 acquisition and redevelopment of the area under this chapter;

42 the commission shall cause to be prepared the data described in

C  
O  
P  
Y



1 subsection (b).  
 2 (b) After making a finding under subsection (a), the commission  
 3 shall cause to be prepared:  
 4 (1) maps and plats showing:  
 5 (A) the boundaries of the area needing redevelopment, the  
 6 location of the various parcels of property, streets, alleys, and  
 7 other features affecting the acquisition, clearance,  
 8 **remediation**, replatting, replanning, rezoning, or  
 9 redevelopment of the area, indicating any parcels of property  
 10 to be excluded from the acquisition; and  
 11 (B) the parts of the area acquired that are to be devoted to  
 12 public ways, levees, sewerage, parks, playgrounds, and other  
 13 public purposes under the redevelopment plan;  
 14 (2) lists of the owners of the various parcels of property proposed  
 15 to be acquired; and  
 16 (3) an estimate of the cost of acquisition and redevelopment.  
 17 (c) After completion of the data required by subsection (b), the  
 18 redevelopment commission shall adopt a resolution declaring that:  
 19 (1) the area needing redevelopment is a menace to the social and  
 20 economic interest of the unit and its inhabitants;  
 21 (2) it will be of public utility and benefit to acquire the area and  
 22 redevelop it under this chapter; and  
 23 (3) the area is designated as a redevelopment project area for  
 24 purposes of this chapter.  
 25 The resolution must state the general boundaries of the redevelopment  
 26 project area, and that the department of redevelopment proposes to  
 27 acquire all of the interests in the land within the boundaries, with  
 28 certain designated exceptions, if there are any.  
 29 (d) For the purpose of adopting a resolution under subsection (c), it  
 30 is sufficient to describe the boundaries of the redevelopment project  
 31 area by its location in relation to public ways or streams, or otherwise,  
 32 as determined by the commissioners. Property excepted from the  
 33 acquisition may be described by street numbers or location.  
 34 SECTION 27. IC 36-7-14-21 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) The  
 36 redevelopment commission may proceed with the clearing and  
 37 replanning of the area described in the resolution before the acquisition  
 38 of all of that area. It may also proceed with the repair and maintenance  
 39 of buildings that have been acquired and are not to be cleared, **and**  
 40 **with the following with respect to environmental contamination:**  
 41 (1) **Investigation.**  
 42 (2) **Remediation.**

C  
O  
P  
Y



1 ~~This clearance, repair, and maintenance~~ **The redevelopment**  
2 **commission may be carried carry out activities under this subsection**  
3 by labor employed directly by the commission or by contract. Contracts  
4 for clearance may provide that the contractor is entitled to retain and  
5 dispose of salvaged material, as a part of the contract price or on the  
6 basis of stated prices for the amounts of the various materials actually  
7 salvaged.

8 (b) All contracts for material or labor under this section shall be let  
9 under IC 36-1.

10 (c) In the planning and rezoning of the real property acquired, the  
11 opening, closing, relocation, and improvement of public ways, and the  
12 construction, relocation, and improvement of levees, sewers, parking  
13 facilities, and utility services, the redevelopment commission shall  
14 proceed in the same manner as private owners of the property. It may  
15 negotiate with the proper officers and agencies of the unit to secure the  
16 proper orders, approvals, and consents.

17 (d) Any construction work required in connection with  
18 improvements in the area described in the resolution may be carried out  
19 by:

- 20 (1) the appropriate municipal or county department or agency; or
- 21 (2) the department of redevelopment, if:
  - 22 (A) all plans, specifications, and drawings are approved by the
  - 23 appropriate department or agency; and
  - 24 (B) the statutory procedures for the letting of contracts by the
  - 25 appropriate department or agency are followed by the
  - 26 department of redevelopment.

27 (e) The redevelopment commission may pay any charges or  
28 assessments made on account of orders, approval, consents, and  
29 construction work under this section, or may agree to pay these  
30 assessments in installments as provided by statute in the case of private  
31 owners. The commission may:

- 32 (1) by special waiver filed with the municipal works board or
- 33 county executive, waive the statutory procedure and notices
- 34 required by law in order to create valid liens on private property;
- 35 and
- 36 (2) cause any assessments to be spread on a different basis than
- 37 that provided by statute.

38 (f) None of the real property acquired under this chapter may be set  
39 aside and dedicated for public ways, parking facilities, sewers, levees,  
40 parks, or other public purposes until the redevelopment commission  
41 has obtained the consent and approval of the department or agency  
42 under whose jurisdiction the property will be placed.

C  
o  
p  
y



1 SECTION 28. IC 36-7-14-30, AS AMENDED BY P.L.185-2005,  
 2 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2007]: Sec. 30. In addition to its authority under any other  
 4 section of this chapter, the redevelopment commission may plan and  
 5 undertake urban renewal projects. For purposes of this chapter, an  
 6 urban renewal project includes undertakings and activities for the  
 7 elimination and the prevention of the conditions described in  
 8 IC 36-7-1-3, and may involve any work or undertaking that is  
 9 performed for those purposes and is related to a redevelopment project,  
 10 or any rehabilitation or conservation work, or any combination of such  
 11 an undertaking or work, such as **the following:**

- 12 (1) Carrying out plans for a program of voluntary or compulsory
- 13 repair and rehabilitation of buildings or other improvements.
- 14 (2) Acquisition of real property and demolition, removal, or
- 15 rehabilitation of buildings and improvements on the property
- 16 when necessary **for the following:**
- 17 (A) To eliminate unhealthful, unsanitary, or unsafe conditions.
- 18 (B) **To mitigate or eliminate environmental contamination.**
- 19 (C) **To do any of the following:**
- 20 (i) Lessen density.
- 21 (ii) Reduce traffic hazards.
- 22 (iii) Eliminate uses that are obsolete or otherwise
- 23 detrimental to the public welfare.
- 24 (iv) Otherwise remove or prevent the spread of the
- 25 conditions described in IC 36-7-1-3. ~~or~~
- 26 (v) Provide land for needed public facilities.
- 27 (3) Installation, construction, or reconstruction of streets, utilities,
- 28 parks, playgrounds, and other improvements necessary for
- 29 carrying out the objectives of the urban renewal project. ~~and~~
- 30 (4) The disposition, for uses in accordance with the objectives of
- 31 the urban renewal project, of any property acquired in the area of
- 32 the project.

33 SECTION 29. IC 36-7-14-32, AS AMENDED BY P.L.185-2005,  
 34 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2007]: Sec. 32. (a) In connection with the planning and  
 36 undertaking of an urban renewal plan or urban renewal project, the  
 37 redevelopment commission, municipal, county, public, and private  
 38 officers, agencies, and bodies have all the rights, powers, privileges,  
 39 duties, and immunities that they have with respect to a redevelopment  
 40 plan or redevelopment project, as if all of the provisions of this chapter  
 41 applicable to a redevelopment plan or redevelopment project were  
 42 applicable to an urban renewal plan or urban renewal project.

C  
o  
p  
y



- 1 (b) In addition to its other powers, the redevelopment commission
- 2 may also:
- 3 (1) make plans for carrying out a program of voluntary repair and
- 4 rehabilitation of buildings and improvements;
- 5 (2) make plans for the enforcement of laws and regulations
- 6 relating to the use of land and the use and occupancy of buildings
- 7 and improvements, and to the compulsory repair, rehabilitation,
- 8 demolition, or removal of buildings and improvements;
- 9 (3) make preliminary plans outlining urban renewal activities for
- 10 neighborhoods to embrace two (2) or more urban renewal areas;
- 11 (4) make preliminary surveys, **including environmental**
- 12 **assessments**, to determine if the undertaking and carrying out of
- 13 an urban renewal project are feasible;
- 14 (5) make plans for the relocation of persons (including families,
- 15 business concerns, and others) displaced by an urban renewal
- 16 project;
- 17 (6) make relocation payments to or with respect to persons
- 18 (including families, business concerns, and others) displaced by
- 19 an urban renewal project, for moving expenses and losses of
- 20 property for which reimbursement or compensation is not
- 21 otherwise made, including the making of payments financed by
- 22 the federal government; and
- 23 (7) develop, test, and report methods and techniques, and carry
- 24 out demonstrations and other activities, for the prevention and the
- 25 elimination of the conditions described in IC 36-7-1-3 in urban
- 26 areas.

27 SECTION 30. IC 36-7-14-33 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 33. (a) Any:

- 29 (1) political subdivision; ~~or~~
- 30 (2) other governmental entity;
- 31 (3) **public instrumentality created by state law; or**
- 32 (4) **public body created by state law;**
- 33 may, in the area in which it is authorized to act, do all things necessary
- 34 to aid and cooperate in the planning and undertaking of an urban
- 35 renewal project, including furnishing the financial and other assistance
- 36 that it is authorized by this chapter to furnish for or in connection with
- 37 a redevelopment plan or redevelopment project.
- 38 (b) The redevelopment commission may delegate to:
- 39 (1) an executive department of a unit or county; ~~or to~~
- 40 (2) another governmental entity;
- 41 (3) **a public instrumentality created by state law; or**
- 42 (4) **a public body created by state law;**

C  
O  
P  
Y



1 any of the powers or functions of the commission with respect to the  
2 planning or undertaking of an urban renewal project in the area in  
3 which that department, ~~or~~ entity, **public instrumentality, or public**  
4 **body** is authorized to act. The department, ~~or~~ entity, **public**  
5 **instrumentality, or public body** may then carry out or perform those  
6 powers or functions for the commission.

7 (c) A unit, ~~or other~~ **another** governmental entity, **a public**  
8 **instrumentality created by state law, or a public body created by**  
9 **state law** may enter into agreements with the redevelopment  
10 commission or any other entity respecting action to be taken under this  
11 chapter, including the furnishing of funds or other assistance in  
12 connection with an urban renewal plan or urban renewal project. These  
13 agreements may extend over any period, notwithstanding any other  
14 law.

15 SECTION 31. IC 36-7-15.1-2, AS AMENDED BY P.L.185-2005,  
16 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2007]: Sec. 2. (a) The **assessment**, clearance, **remediation**,  
18 replanning, and redevelopment of areas needing redevelopment are  
19 public and governmental functions that cannot be accomplished  
20 through the ordinary operations of private enterprise, due to the  
21 necessity for the exercise of the power of eminent domain, the  
22 necessity for requiring the proper use of the land so as to best serve the  
23 interests of the county and its citizens, and the cost of these projects.

24 (b) The conditions that exist in areas needing redevelopment are  
25 beyond remedy and control by regulatory processes because of the  
26 obsolescence and deteriorated conditions of improvements,  
27 **environmental contamination**, faulty land use, shifting of population,  
28 and technological and social changes.

29 (c) The **assessment**, clearing, **remediation**, replanning, and  
30 redevelopment of areas needing redevelopment will benefit the health,  
31 safety, morals, and welfare and will serve to protect and increase  
32 property values in the county and the state.

33 (d) The **assessment**, clearance, **remediation**, replanning, and  
34 redevelopment of areas needing redevelopment under this chapter are  
35 public uses and purposes for which public money may be spent and  
36 private property may be acquired.

37 (e) This chapter shall be liberally construed to carry out the  
38 purposes of this section.

39 SECTION 32. IC 36-7-15.1-6, AS AMENDED BY P.L.185-2005,  
40 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
41 JULY 1, 2007]: Sec. 6. The commission shall:

42 (1) investigate, study, and survey areas needing redevelopment

C  
o  
p  
y



- 1 within the redevelopment district;
- 2 (2) investigate, study, determine, and to the extent possible
- 3 combat the causes of the conditions described in IC 36-7-1-3;
- 4 (3) promote the use of land in the manner that best serves the
- 5 interests of the consolidated city and its inhabitants, both from the
- 6 standpoint of human needs and economic values;
- 7 (4) cooperate:
- 8 (A) with the departments and agencies of:
- 9 (i) the city; and ~~of~~
- 10 (ii) other governmental entities; **and**
- 11 (B) with:
- 12 (i) **public instrumentalities; and**
- 13 (ii) **public bodies;**
- 14 **created by state law;**
- 15 in the manner that best serves the purposes of this chapter;
- 16 (5) make findings and reports on its activities under this section,
- 17 and keep those reports open to inspection by the public at the
- 18 offices of the department;
- 19 (6) select and acquire the areas needing redevelopment to be
- 20 redeveloped under this chapter; and
- 21 (7) replan and dispose of the areas needing redevelopment in the
- 22 manner that best serves the social and economic interests of the
- 23 city and its inhabitants.

24 SECTION 33. IC 36-7-15.1-7, AS AMENDED BY P.L.185-2005,  
 25 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2007]: Sec. 7. (a) In carrying out its duties and purposes under  
 27 this chapter, the commission may do the following:

- 28 (1) Acquire by purchase, exchange, gift, grant, lease, or
- 29 condemnation, or any combination of methods, any real or
- 30 personal property or interest in property needed for the
- 31 redevelopment of areas needing redevelopment that are located
- 32 within the redevelopment district.
- 33 (2) Hold, use, sell (by conveyance by deed, land sale contract, or
- 34 other instrument), exchange, lease, rent, invest in, or otherwise
- 35 dispose of, through any combination of methods, property
- 36 acquired for use in the redevelopment of areas needing
- 37 redevelopment on the terms and conditions that the commission
- 38 considers best for the city and its inhabitants.
- 39 (3) Acquire from and sell, lease, or grant interests in all or part of
- 40 the real property acquired for redevelopment purposes to any
- 41 other department of the city, or to any other governmental agency,
- 42 for public ways, levees, sewerage, parks, playgrounds, schools,

C  
 O  
 P  
 Y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

and other public purposes, on any terms that may be agreed upon.  
(4) Clear real property acquired for redevelopment purposes.  
**(5) Enter on or into, inspect, investigate, and assess real property and structures acquired or to be acquired for redevelopment purposes to determine the existence, source, nature, and extent of any environmental contamination, including the following:**  
    **(A) Hazardous substances.**  
    **(B) Petroleum.**  
    **(C) Other pollutants.**  
**(6) Remediate environmental contamination, including the following, found on any real property or structures acquired for redevelopment purposes:**  
    **(A) Hazardous substances.**  
    **(B) Petroleum.**  
    **(C) Other pollutants.**  
~~(5)~~ **(7)** Repair and maintain structures acquired or to be acquired for redevelopment purposes.  
~~(6)~~ **(8)** Enter upon, survey, or examine any land, to determine whether it should be included within an area needing redevelopment to be acquired for redevelopment purposes, and determine the value of that land.  
~~(7)~~ **(9)** Appear before any other department or agency of the city, or before any other governmental agency in respect to any matter affecting:  
    (A) real property acquired or being acquired for redevelopment purposes; or  
    (B) any area needing redevelopment within the jurisdiction of the commission.  
~~(8)~~ **(10)** Exercise the power of eminent domain in the name of the city, within the redevelopment district, in the manner prescribed by this chapter.  
~~(9)~~ **(11)** Establish a uniform fee schedule whenever appropriate for the performance of governmental assistance, or for providing materials and supplies to private persons in project or program related activities.  
~~(10)~~ **(12)** Expend, on behalf of the redevelopment district, all or any part of the money available for the purposes of this chapter.  
~~(11)~~ **(13)** Contract for the construction, extension, or improvement of pedestrian skyways.  
~~(12)~~ **(14)** Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a

C  
O  
P  
Y



1 municipal corporation, a special taxing district, a foundation, or  
 2 any other source.  
 3 ~~(13)~~ **(15)** Provide financial assistance (including grants and loans)  
 4 to enable individuals and families to purchase or lease residential  
 5 units within the district. However, financial assistance may be  
 6 provided only to those individuals and families whose income is  
 7 at or below the county's median income for individuals and  
 8 families, respectively.  
 9 ~~(14)~~ **(16)** Provide financial assistance (including grants and loans)  
 10 to neighborhood development corporations to permit them to:  
 11 (A) provide financial assistance for the purposes described in  
 12 subdivision ~~(13)~~; **(15)**; or  
 13 (B) construct, rehabilitate, or repair commercial property  
 14 within the district.  
 15 ~~(15)~~ **(17)** Require as a condition of financial assistance to the  
 16 owner of a multiunit residential structure that any of the units  
 17 leased by the owner must be leased:  
 18 (A) for a period to be determined by the commission, which  
 19 may not be less than five (5) years;  
 20 (B) to families whose income does not exceed eighty percent  
 21 (80%) of the county's median income for families; and  
 22 (C) at an affordable rate.  
 23 Conditions imposed by the commission under this subdivision  
 24 remain in force throughout the period determined under clause  
 25 (A), even if the owner sells, leases, or conveys the property. The  
 26 subsequent owner or lessee is bound by the conditions for the  
 27 remainder of the period.  
 28 ~~(16)~~ **(18)** Provide programs in job training, job enrichment, and  
 29 basic skill development for residents of an enterprise zone.  
 30 ~~(17)~~ **(19)** Provide loans and grants for the purpose of stimulating  
 31 business activity in an enterprise zone or providing employment  
 32 for residents of an enterprise zone.  
 33 ~~(18)~~ **(20)** Contract for the construction, extension, or  
 34 improvement of:  
 35 (A) public ways, sidewalks, sewers, waterlines, parking  
 36 facilities, park or recreational areas, or other local public  
 37 improvements (as defined in IC 36-7-15.3-6) or structures that  
 38 are necessary for redevelopment of areas needing  
 39 redevelopment or economic development within the  
 40 redevelopment district; or  
 41 (B) any structure that enhances development or economic  
 42 development.

C  
O  
P  
Y



1 (b) In addition to its powers under subsection (a), the commission  
 2 may plan and undertake, alone or in cooperation with other agencies,  
 3 projects for the redevelopment of, rehabilitating, preventing the spread  
 4 of, or eliminating slums or areas needing redevelopment, both  
 5 residential and nonresidential, which projects may include any of the  
 6 following:

7 (1) The repair or rehabilitation of buildings or other  
 8 improvements by the commission, owners, or tenants.

9 (2) The acquisition of real property.

10 **(3) Either of the following with respect to environmental  
 11 contamination on real property:**

12 **(A) Investigation.**

13 **(B) Remediation.**

14 ~~(3)~~ **(4) The demolition and removal of buildings or improvements  
 15 on buildings acquired by the commission where necessary for  
 16 any of the following:**

17 **(A) To eliminate unhealthful, unsanitary, or unsafe conditions.**

18 **(B) To mitigate or eliminate environmental contamination.**

19 **(C) To lessen density.**

20 **(D) To reduce traffic hazards.**

21 **(E) To eliminate obsolete or other uses detrimental to public  
 22 welfare.**

23 **(F) To otherwise remove or prevent the conditions described  
 24 in IC 36-7-1-3. or**

25 **(G) To provide land for needed public facilities.**

26 ~~(4)~~ **(5) The preparation of sites and the construction of  
 27 improvements (such as public ways and utility connections) to  
 28 facilitate the sale or lease of property.**

29 ~~(5)~~ **(6) The construction of buildings or facilities for residential,  
 30 commercial, industrial, public, or other uses.**

31 ~~(6)~~ **(7) The disposition in accordance with this chapter, for uses  
 32 in accordance with the plans for the projects, of any property  
 33 acquired in connection with the projects.**

34 (c) The commission may use its powers under this chapter relative  
 35 to real property and interests in real property obtained by voluntary sale  
 36 or transfer, even though the real property and interests in real property  
 37 are not located in a redevelopment or urban renewal project area  
 38 established by the adoption and confirmation of a resolution under  
 39 sections ~~8(b)~~, **8(c)**, 9, 10, and 11 of this chapter. In acquiring real  
 40 property and interests in real property outside of a redevelopment or  
 41 urban renewal project area, the commission shall comply with section  
 42 12(b) through 12(e) of this chapter. The commission shall hold,

C  
O  
P  
Y



1 develop, use, and dispose of this real property and interests in real  
2 property substantially in accordance with section 15 of this chapter.

3 (d) As used in this section, "pedestrian skyway" means a pedestrian  
4 walkway within or outside of the public right-of-way and through and  
5 above public or private property and buildings, including all structural  
6 supports required to connect skyways to buildings or buildings under  
7 construction. Pedestrian skyways constructed, extended, or improved  
8 over or through public or private property constitute public property  
9 and public improvements, constitute a public use and purpose, and do  
10 not require vacation of any public way or other property.

11 (e) All powers that may be exercised under this chapter by the  
12 commission may also be exercised by the commission in carrying out  
13 its duties and purposes under IC 36-7-15.3.

14 SECTION 34. IC 36-7-15.1-14 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) The commission  
16 may proceed with the clearing and replanning of the area described in  
17 the resolution before the acquisition of all of that area. It may also  
18 proceed with **any of the following**:

19 (1) The repair and maintenance of buildings that have been  
20 acquired and are not to be cleared.

21 (2) **Investigation of environmental contamination.**

22 (3) **Remediation of environmental contamination.**

23 ~~This clearance, repair, and maintenance~~ **The commission** may be  
24 ~~carried~~ **carry out the activities under this subsection** by labor  
25 employed directly by the commission or by contract. Contracts for  
26 clearance may provide that the contractor is entitled to retain and  
27 dispose of salvaged material, as a part of the contract price or on the  
28 basis of stated prices for the amounts of the various materials actually  
29 salvaged.

30 (b) All contracts for material or labor under this section shall be let  
31 under IC 36-1.

32 (c) In the replanning and rezoning of the real property acquired, the  
33 opening, closing, relocation, and improvement of public ways, and the  
34 construction, relocation, or improvement of levees, sewers, and utility  
35 services, the commission shall proceed in the same manner as private  
36 owners of property. It may negotiate with the proper officers and  
37 agencies to secure the proper orders, approvals, and consents.

38 (d) The commission may pay any charges or assessments made on  
39 account of orders, approvals, consents, and construction work under  
40 this section, or may agree to pay these assessments in installments as  
41 provided by statute in the case of private owners. The commission may:

42 (1) by special waiver filed with the works board, waive the

C  
o  
p  
y



1 statutory procedure and notices required by law in order to create  
2 valid liens on private property; and  
3 (2) cause any assessments to be spread on a different basis than  
4 that provided by statute.

5 (e) None of the real property acquired under this chapter may be set  
6 aside and dedicated for public ways, sewers, levees, parks, or other  
7 public purposes until the commission has obtained the consent and  
8 approval of the department or agency under whose jurisdiction the  
9 property will be placed.

10 SECTION 35. IC 36-7-15.1-20, AS AMENDED BY P.L.185-2005,  
11 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2007]: Sec. 20. In addition to its authority under any other  
13 section of this chapter, the commission may plan and undertake urban  
14 renewal projects. For purposes of this chapter, an urban renewal project  
15 includes undertakings and activities for the elimination or the  
16 prevention of the development or spread of the conditions described in  
17 IC 36-7-1-3, and may involve any work or undertaking that is  
18 performed for those purposes constituting a redevelopment project, or  
19 any rehabilitation or conservation work, or any combination of such an  
20 undertaking or work, such as **the following:**

- 21 (1) Carrying out plans for a program of voluntary or compulsory
- 22 repair and rehabilitation of buildings or other improvements.
- 23 (2) Acquisition of real property and demolition, removal, or
- 24 rehabilitation of buildings and improvements on the property
- 25 when necessary to **do any of the following:**
  - 26 (A) Eliminate unhealthful, unsanitary, or unsafe conditions.
  - 27 (B) **Mitigate or eliminate environmental contamination.**
  - 28 (C) Lessen density.
  - 29 (D) Reduce traffic hazards.
  - 30 (E) Eliminate uses that are obsolete or otherwise detrimental
  - 31 to the public welfare.
  - 32 (F) Otherwise remove or prevent the spread of the conditions
  - 33 described in IC 36-7-1-3. ~~or~~
  - 34 (G) Provide land for needed public facilities.
- 35 (3) Installation, construction, or reconstruction of streets, utilities,
- 36 parks, playgrounds, and other improvements necessary for
- 37 carrying out the objectives of the urban renewal project. ~~and~~
- 38 (4) The disposition, for uses in accordance with the objectives of
- 39 the urban renewal project, of any property acquired in the area of
- 40 the project.

41 SECTION 36. IC 36-7-15.1-22, AS AMENDED BY P.L.185-2005,  
42 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

C  
o  
p  
y



1 JULY 1, 2007]: Sec. 22. (a) In connection with the planning and  
2 undertaking of an urban renewal plan or urban renewal project, the  
3 commission and all public and private officers, agencies, and bodies  
4 have all the rights, powers, privileges, duties, and immunities that they  
5 have with respect to a redevelopment plan or redevelopment project,  
6 as if all of the provisions of this chapter applicable to a redevelopment  
7 plan or redevelopment project were applicable to an urban renewal  
8 plan or urban renewal project.

- 9 (b) In addition to its other powers, the commission may also:
  - 10 (1) make plans for carrying out a program of voluntary repair and
  - 11 rehabilitation of buildings and improvements;
  - 12 (2) make plans for the enforcement of laws and regulations
  - 13 relating to the use of land and the use and occupancy of buildings
  - 14 and improvements, and to the compulsory repair, rehabilitation,
  - 15 demolition, or removal of buildings and improvements;
  - 16 (3) make preliminary plans outlining urban renewal activities for
  - 17 neighborhoods to embrace two (2) or more urban renewal areas;
  - 18 (4) make preliminary surveys, **including environmental**
  - 19 **assessments**, to determine if the undertaking and carrying out of
  - 20 an urban renewal project are feasible;
  - 21 (5) make plans for the relocation of persons (including families,
  - 22 business concerns, and others) displaced by an urban renewal
  - 23 project;
  - 24 (6) make relocation payments in accordance with eligibility
  - 25 requirements of IC 8-23-17 or the Uniform Relocation Assistance
  - 26 and Real Property Acquisitions Policy Act of 1970 (42 U.S.C.
  - 27 4621 et seq.) to or with respect to persons (including families,
  - 28 business concerns, and others) displaced by an urban renewal
  - 29 project, for moving expenses and losses of property for which
  - 30 reimbursement or compensation is not otherwise made, including
  - 31 the making of payments financed by the federal government; and
  - 32 (7) develop, test, and report methods and techniques, and carry
  - 33 out demonstrations and other activities, for the prevention and the
  - 34 elimination of the conditions described in IC 36-7-1-3 in urban
  - 35 areas.

36 SECTION 37. IC 36-7-15.1-23 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) Any:

- 38 (1) political subdivision; or
- 39 (2) other governmental entity;
- 40 (3) **public instrumentality created by state law; or**
- 41 (4) **public body created by state law;**
- 42 may, in the area in which it is authorized to act, do all things necessary

C  
O  
P  
Y



1 to aid and cooperate in the planning and undertaking of an urban  
2 renewal project, including furnishing the financial and other assistance  
3 that it is authorized by this chapter to furnish for or in connection with  
4 a redevelopment plan or redevelopment project.

5 (b) The commission may delegate to:

- 6 (1) an executive department of the consolidated city or county; ~~or~~
- 7 ~~to~~
- 8 (2) another governmental entity;
- 9 (3) **a public instrumentality created by state law; or**
- 10 (4) **a public body created by state law;**

11 any of the powers or functions of the commission with respect to the  
12 planning or undertaking of an urban renewal project in the area in  
13 which that department or entity is authorized to act. The department,  
14 ~~or~~ entity, **public instrumentality, or public body** may then carry out  
15 or perform those powers or functions for the commission.

16 (c) A unit, ~~or other~~ **another** governmental entity, **a public**  
17 **instrumentality created by state law, or a public body created by**  
18 **state law** may enter into agreements with the commission or any other  
19 entity respecting action to be taken under this chapter, including the  
20 furnishing of funds or other assistance in connection with an urban  
21 renewal plan or urban renewal project. These agreements may extend  
22 over any period, notwithstanding any other law.

23 SECTION 38. IC 36-7-15.1-41 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 41. (a) A political  
25 subdivision, ~~or other~~ **another** governmental entity, **a public**  
26 **instrumentality created by state law, or a public body created by**  
27 **state law** may, in the area in which it is authorized to act, do all things  
28 necessary to aid and cooperate in the planning and undertaking of a  
29 redevelopment or economic development project, including furnishing  
30 the financial and other assistance that it is authorized by this chapter to  
31 furnish for or in connection with a redevelopment plan or  
32 redevelopment project.

33 (b) A unit, ~~or other~~ **another** governmental entity, **a public**  
34 **instrumentality created by state law, or a public body created by**  
35 **state law** may enter into agreements with the commission or any other  
36 entity respecting action to be taken under this chapter, including the  
37 furnishing of funds or other assistance in connection with a  
38 redevelopment or economic development plan or project. These  
39 agreements may extend over any period, notwithstanding any other  
40 law.

C  
O  
P  
Y



## COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 433, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 9, between lines 37 and 38, begin a new paragraph and insert:  
**"(b) The authority may do the following under this chapter:"**.

Page 9, line 38, delete "(13)" and insert "**(1)**".

Page 9, line 41, delete "(14)" and insert "**(2)**".

Page 10, line 4, delete "(b)" and insert "**(c)**".

Page 10, line 9, delete "(a)(13)." and insert "**(b)(1)**".

Page 10, line 10, delete "(c)" and insert "**(d)**".

Page 10, line 12, delete "(a)(14)" and insert "**(b)(2)**".

Page 10, line 15, delete "(d)" and insert "**(e)**".

Page 10, line 15, delete "(c)," and insert "**(d)**".

Page 10, line 17, delete "(e)" and insert "**(f)**".

Page 10, line 21, delete "(a)(14)." and insert "**(b)(2)**".

Page 13, delete lines 20 through 24, begin a new paragraph and insert:

"SECTION 10. IC 13-23-13-16 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. A political subdivision or unit of federal or state**".

Page 13, line 34, before "unless" insert "**without being considered as contributing to the existing release or threatened release of a regulated substance on, in, or at the brownfield**".

Page 18, line 32, delete ",".

Page 18, line 32, strike "whether or not".

Page 18, line 33, strike "acquired,".

Page 18, line 33, delete "." and insert "**, regardless of whether the real or personal property is acquired by the unit.**".

Page 18, line 34, delete "or" and insert "**and**".

Page 19, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 17. IC 36-7-1-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18.5. "Remediation" has the meaning set forth in IC 13-11-2-186.**".

Page 20, delete lines 30 through 32, begin a new line block indented and insert:

**"(5) Enter on or into, inspect, investigate, and assess real**

C  
o  
p  
y



**property and structures acquired or to be acquired for redevelopment purposes to determine the existence, source, nature, and extent of any environmental contamination, including the following:**

**(A) Hazardous substances.**

**(B) Petroleum.**

**(C) Other pollutants.**

**(6) Remediate environmental contamination, including the following, found on any real property or structures acquired for redevelopment purposes:"**

- Page 20, line 36, delete "(6)" and insert "(7)".
- Page 20, line 38, delete "(7)" and insert "(8)".
- Page 20, line 40, delete "(8)" and insert "(9)".
- Page 21, line 2, delete "(9)" and insert "(10)".
- Page 21, line 9, delete "(10)" and insert "(11)".
- Page 21, line 11, delete "(11)" and insert "(12)".
- Page 21, line 14, delete "(12)" and insert "(13)".
- Page 21, line 17, delete "(13)" and insert "(14)".
- Page 21, line 19, delete "(14)" and insert "(15)".
- Page 21, line 23, delete "(15)" and insert "(16)".
- Page 21, line 25, delete "(16)" and insert "(17)".
- Page 21, line 29, delete "(17)" and insert "(18)".
- Page 21, line 30, delete "(14)." and insert "(15)".
- Page 21, line 31, delete "(18)" and insert "(19)".
- Page 21, line 33, delete "(19)" and insert "(20)".
- Page 21, line 36, delete "(20)" and insert "(21)".
- Page 21, line 38, delete "(21)" and insert "(22)".
- Page 22, line 3, delete "(22)" and insert "(23)".
- Page 22, line 5, delete "(23)" and insert "(24)".
- Page 22, line 9, delete "(24)" and insert "(25)".
- Page 22, line 15, delete "(25)" and insert "(26)".
- Page 22, line 18, delete "(24);" and insert "(25);".
- Page 22, line 21, delete "(26)" and insert "(27)".
- Page 22, line 30, delete "(a)(26)" and insert "(a)(27)".
- Page 22, line 31, delete "(a)(26)(A)," and insert "(a)(27)(A),".
- Page 23, line 9, delete "12.2(a)(7),".
- Page 23, line 9, strike "12.2(a)(21),".
- Page 23, line 9, delete "or" and insert "12.2(a)(7),".
- Page 23, line 10, after "12.2(a)(22)" insert ", or 12.2(a)(23)".
- Page 23, line 25, delete "12.2(a)(6)" and insert "12.2(a)(7)".
- Page 26, line 20, after "To" insert "mitigate or".
- Page 27, line 34, delete "," and insert ";".

**C  
o  
p  
y**



Page 30, delete lines 5 through 7, begin a new line block indented and insert:

**"(5) Enter on or into, inspect, investigate, and assess real property and structures acquired or to be acquired for redevelopment purposes to determine the existence, source, nature, and extent of any environmental contamination, including the following:**

**(A) Hazardous substances.**

**(B) Petroleum.**

**(C) Other pollutants.**

**(6) Remediate environmental contamination, including the following, found on any real property or structures acquired for redevelopment purposes:"**

Page 30, line 11, delete "(6)" and insert "(7)".

Page 30, line 13, delete "(7)" and insert "(8)".

Page 30, line 17, delete "(8)" and insert "(9)".

Page 30, line 24, delete "(9)" and insert "(10)".

Page 30, line 27, delete "(10)" and insert "(11)".

Page 30, line 31, delete "(11)" and insert "(12)".

Page 30, line 33, delete "(12)" and insert "(13)".

Page 30, line 35, delete "(13)" and insert "(14)".

Page 30, line 39, delete "(14)" and insert "(15)".

Page 31, line 3, delete "(15)" and insert "(16)".

Page 31, line 6, delete "(14);" and insert "(15);".

Page 31, line 9, delete "(16)" and insert "(17)".

Page 31, line 22, delete "(17)" and insert "(18)".

Page 31, line 24, delete "(18)" and insert "(19)".

Page 31, line 27, delete "(19)" and insert "(20)".

Page 32, line 12, after "To" insert "**mitigate or**".

Page 34, line 21, delete "Eliminate" and insert "**Mitigate or eliminate**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 433 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 8, Nays 0.

C  
o  
p  
y



## SENATE MOTION

Madam President: I move that Senate Bill 433 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 13-11-2-77 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 77. (a) "Facility", for purposes of IC 13-15-1-3, means a structure or an area of land used for the disposal, treatment, storage, recovery, processing, or transferring of solid waste, hazardous waste, or atomic radiation. The term includes the following:

- (1) A hazardous waste facility.
- (2) An incinerator.
- (3) A solid waste landfill.
- (4) A transfer station.

(b) "Facility", for purposes of IC 13-17-7, means a single structure, piece of equipment, installation, or operation that:

- (1) emits; or
- (2) has the potential to emit;

a regulated air pollutant.

(c) "Facility", for purposes of IC 13-18-5, means a building, a structure, equipment, or other stationary item that is located on:

- (1) a single site; or
- (2) contiguous or adjacent sites that are owned by, operated by, or under common control of the same person.

(d) "Facility", for purposes of IC 13-21, means a facility, a plant, a works, a system, a building, a structure, an improvement, machinery, equipment, a fixture, or other real or personal property of any nature that is to be used, occupied, or employed for the collection, storage, separation, processing, recovery, treatment, marketing, transfer, or disposal of solid waste.

(e) "Facility", for purposes of IC 13-25-2, means all buildings, equipment, structures, and other stationary items that are:

- (1) located on a single site or on contiguous or adjacent sites; and
- (2) owned or operated by:
  - (A) the same person; or
  - (B) any person that controls, is controlled by, or is under common control with the same person.

For purposes of IC 13-25-2-6, the term includes motor vehicles, rolling stock, and aircraft.

**(f) "Facility", for purposes of IC 13-25-4, has the meaning set forth in 42 U.S.C. 9601(9).**

SB 433—LS 7377/DI 52+



C  
O  
P  
Y

(f) (g) "Facility", for purposes of IC 13-29-1, means a parcel of land or site, together with the structures, equipment, and improvements on or appurtenant to the land or site, which is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste.

SECTION 2. IC 13-11-2-142.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 142.3. "Nonprofit corporation", for purposes of this chapter and IC 13-25-4-8, refers to a nonprofit corporation:**

- (1) that is exempt from income taxation under 26 U.S.C. 501;**
- (2) for which the primary purpose, as identified in the corporation's articles of incorporation, is to assist and support a political subdivision in a matter of public concern; and**
- (3) that has no member affiliated with any other person that is potentially liable for response costs at a facility through any of the following:**

- (A) A direct or an indirect familial relationship.**
- (B) A contractual, corporate, or financial relationship other than a contractual, corporate, or financial relationship that is created:
 
  - (i) by the instruments by which title to the facility is conveyed or financed; or**
  - (ii) by a contract for the sale of goods or services.****
- (C) The result of a reorganization of a business entity that was potentially liable for response costs at the facility."**

Page 2, line 42, delete "(viii)" and insert "(vii)".

Page 3, line 2, delete "(ix)" and insert "(viii)".

Page 3, line 7, delete "(x)" and insert "(ix)".

Page 3, line 11, delete "(xi)" and insert "(x)".

Page 3, line 15, delete "petroleum." and insert "**petroleum,**".

Page 3, line 29, after "(b)" insert ",".

Page 3, line 29, strike "and".

Page 3, line 29, delete "(c)" and insert "(c), **and (d)**".

Page 5, between lines 27 and 28, begin a new paragraph and insert:

**"(d) "Owner", for purposes of IC 13-23, does not include a nonprofit corporation that acquired ownership or control of an underground storage tank to assist and support a political subdivision's revitalization and reuse of a brownfield for non-commercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to**

C  
O  
P  
Y



**IC 13-23 in the same manner and to the same extent as any other nongovernmental entity under IC 13-23."**

Page 7, between lines 19 and 20, begin a new paragraph and insert:

**"(e) The term does not include a nonprofit corporation that acquired ownership or control of a facility to assist and support a political subdivision's revitalization and reuse of a brownfield for non-commercial purposes, including conservation, preservation, and recreation, unless the nonprofit corporation causes or contributes to the release or threatened release of a regulated substance, in which case the nonprofit corporation is subject to IC 13-24-1 in the same manner and to the same extent as any other nongovernmental entity under IC 13-24-1.**

SECTION 6. IC 13-11-2-183 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 183. "Regulated substance", for purposes of **this chapter and IC 13-23**, includes the following:

(1) Any substance defined in section 98 of this chapter as a hazardous substance, but excluding any substance regulated as a hazardous waste under:

(A) Subtitle C of the federal Solid Waste Disposal Act, as amended (42 U.S.C. 6921 through 6939(a)); or

(B) IC 13-22-2-3.

(2) Petroleum.

(3) Any other substance designated by rules adopted by the solid waste management board under IC 13-23-1-2."

Page 10, line 28, delete "including" and insert "**including**".

Page 13, line 23, after "16." insert "**(a)**".

Page 14, line 38, strike "in the property".

Page 15, between lines 38 and 39, begin a new paragraph and insert:

**"(h) Except as provided in subsection (i), a nonprofit corporation is not liable to the state under this section for costs or damages associated with the presence of a hazardous substance on, in, or at a property in which the nonprofit corporation acquired an interest to assist and support a political subdivision's revitalization and reuse of a brownfield for non-commercial purposes, including conservation, preservation, and recreation.**

**(i) Notwithstanding subsection (h), a nonprofit corporation that causes or contributes to a release or threatened release of a hazardous substance on, in, or at a property remains subject to this section:**

**(1) in the same manner; and**

**(2) to the same extent;**



**C  
O  
P  
Y**

**as any other nongovernmental entity under this section."**

Page 15, line 39, delete "(h)" and insert "**(j)**".

Page 16, line 9, delete "(i)" and insert "**(k)**".

Page 16, line 9, delete "(h)" and insert "**(j)**".

Renumber all SECTIONS consecutively.

(Reference is to SB 433 as printed January 24, 2007.)

TALLIAN

**C  
o  
p  
y**

