

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 2012 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1289

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-27-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) The committee placed in charge of the levee may **perform maintenance and** make all necessary repairs to the levee that are necessary to keep the levee in original condition. **However, the committee shall perform the maintenance of and repairs to the levee that are necessary to maintain federal certification of the levee. The committee shall notify the county executive not later than ten (10) days after a change in the status of a levee that no longer meets the requirements necessary to maintain federal certification.** If it becomes necessary for the safety of the levee to change the line and location of the levee at any point in making the repairs, the committee may make the change. However, the committee may not change or relocate the general line or location of the levee.

(b) The committee shall do the following:

- (1) Keep a record of the committee's proceedings.
- (2) Note in the record all expenses incurred in making the repairs.
- (3) File with the county auditor a statement showing the cost and expenses of making the repairs, specifying the amounts due each person.

(c) The auditor shall draw a warrant on the county treasurer in favor of each person for the amount due the person. The amounts shall be

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paid out of the county revenue but reimbursed to the county.

**(d) Notwithstanding any other law, the cost and expenses of performing maintenance on a levee under subsection (a) shall be apportioned and assessed in the same manner as repair costs and expenses to a levee.**

SECTION 2. IC 14-27-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. **(a)** To raise the necessary money to reimburse the county, the committee **in charge of a levee** shall apportion and assess the costs upon the land and corporations to be benefited by the repairs in proportion to the benefits **not more than ninety (90) days after filing the statement of costs and expenses for repairs under section 7(b)(3) of this chapter.** The costs may not exceed the benefits. However, if the repairs have been made necessary by the act or negligence of:

- (1) the owner or occupant of land; or
- (2) an employee or agent of the owner or occupant;

the cost of the repairs shall be assessed against that land alone.

**(b) If a committee in charge of a levee:**

**(1) before July 1, 2013, has filed the statement of costs and expenses for repairs under section 7(b)(3) of this chapter; and**

**(2) has not:**

**(A) reimbursed the county for the costs and expenses for repairs to the levee; or**

**(B) apportioned and assessed the costs upon the land and corporations benefited by the repairs as required in subsection (a);**

**the committee in charge of a levee shall, before September 29, 2013, apportion and assess the costs upon the land and corporations benefited by the repairs as required by subsection (a).**

SECTION 3. IC 14-27-3-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8.5. **(a) The county council and county executive shall each appoint an individual to serve as a voting member of the committee in charge of a levee.**

**(b) A member of a committee in charge of a levee appointed under this section serves at the pleasure of the appointing authority.**

SECTION 4. IC 14-28-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 19. Sections 20, 21, 22, 23, 24, and 25 of this chapter do not apply to any of the following:

- (1) An abode or a residence constructed on land that meets the following conditions:



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- (A) Is between the 791.0 mile marker and the 791.5 mile marker on the Ohio River.
- (B) Is adjacent to a recreational area.
- (C) Has been or may be filled to or above an elevation of three hundred seventy-eight (378) feet above sea level.
- (D) Is properly protected by riprap in a manner that minimizes the possibility of erosion by river currents.
- (2) An abode or a residence if the following conditions are met:
- (A) The abode or residence is rebuilt upon the area of the original foundation and is substantially the same configuration as the former abode or residence.
- (B) The abode or residence was unintentionally destroyed by a means other than floodwater.
- (C) The rebuilding of the abode or residence is begun within one (1) year and completed within two (2) years after the destruction of the former abode or residence.
- (D) The abode or residence is located in the floodway of a stream having a watershed upstream from the abode or residence of less than fifteen (15) square miles in area.
- (E) The lowest floor of the rebuilt abode or residence, including the basement, is at or above the one hundred (100) year frequency flood elevation if the abode or residence was totally destroyed.
- (F) A variance is obtained from the county or municipality for the lowest floor of the abode or residence to be below the one hundred (100) year frequency flood elevation if the damage to the former abode or residence is less than one hundred percent (100%).
- (G) An ordinance allowing the rebuilding of an abode or a residence is adopted by any of the following:
- (i) The legislative body of the city or town in which the abode or residence is located.
  - (ii) The legislative body of the county in which the abode or residence is located if the abode or residence is not located in a city or town.
- (3) A property that is to be rehabilitated and reused as an abode or residence if the following conditions are met:**
- (A) The property is located between the South Newton Bridge (Veterans Memorial Bridge) located at 85.30 miles from the mouth of the Patoka River and the bridge that is part of State Road 164 located at 85.90 miles from the mouth of the Patoka River.**

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- (B) The property is a former industrial site.**
- (C) The property is adjacent to a navigable waterway.**
- (D) The property is located adjacent to a riverwalk.**
- (E) The property is a property in need of revitalization.**
- (F) The property is vacant or in danger of becoming vacant.**
- (G) The lowest floor that is used as an abode or residence is at least two (2) feet above the one hundred (100) year frequency flood elevation.**

SECTION 5. [EFFECTIVE JULY 1, 2013] (a) As used in this SECTION, "legislative council" refers to the legislative council established by IC 2-5-1.1-1.

(b) As used in this SECTION, "study committee" means either of the following:

- (1) A statutory committee established under IC 2-5.**
- (2) An interim study committee.**

(c) The legislative council is urged to assign the topic of levee governance to a study committee during the 2013 legislative interim.

(d) If the topic described in subsection (c) is assigned to a study committee, the study committee shall issue a final report to the legislative council containing the study committee's findings and recommendations, including any recommended legislation concerning the topic, in an electronic format under IC 5-14-6 not later than November 1, 2013.

(e) This SECTION expires December 31, 2013.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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