

IC 14-28-5

Chapter 5. Flood Control Revolving Fund

IC 14-28-5-1

"Flood control program" defined

Sec. 1. As used in this chapter, "flood control program" includes the following:

- (1) The removal of obstructions and accumulated debris from channels of streams.
- (2) The clearing and straightening of channels of streams.
- (3) The creating of new and enlarged channels of streams, wherever required.
- (4) The building or repairing of dikes, levees, or other flood protective works.
- (5) The construction of bank protection works for streams.
- (6) The establishment of floodways.

As added by P.L.1-1995, SEC.21.

IC 14-28-5-2

"Fund" defined

Sec. 2. As used in this chapter, "fund" refers to the flood control revolving fund created by this chapter.

As added by P.L.1-1995, SEC.21.

IC 14-28-5-3

"Governing board" defined

Sec. 3. As used in this chapter, "governing board" means the following:

- (1) The legislative body of a county, city, or town.
- (2) A board created by law to administer the affairs of a special taxing district.

As added by P.L.1-1995, SEC.21.

IC 14-28-5-4

"Local unit" defined

Sec. 4. As used in this chapter, "local unit" means county, city, town, or special taxing district created by law.

As added by P.L.1-1995, SEC.21.

IC 14-28-5-5

Creation of fund

Sec. 5. (a) The flood control revolving fund is created. Loans may be made from the fund to local units in accordance with this chapter and the rules adopted under this chapter.

(b) Money in the fund does not revert to the state general fund. The fund is a revolving fund to be used exclusively for the purposes of this chapter.

As added by P.L.1-1995, SEC.21.

IC 14-28-5-6

Administration of fund and chapter

Sec. 6. The administrative control of the fund and the responsibility for the administration of this chapter are vested in the commission. The commission may do the following:

- (1) Adopt rules under IC 4-22-2 that are considered necessary by the commission for the proper administration of the fund and this chapter.
- (2) Subject to the approval of the budget committee, employ the personnel that are necessary for the efficient administration of this chapter.

As added by P.L.1-1995, SEC.21. Amended by P.L.53-2008, SEC.3.

IC 14-28-5-7

Loans to local units; uses and limits

Sec. 7. (a) The commission may make an approved loan from the fund to a local unit. The money loaned is to be used by the local unit for the purpose of instituting, accomplishing, and administering an approved flood control program.

- (b) The total amount outstanding under loans made under:
- (1) this chapter; and
 - (2) IC 13-2-23 (before its repeal);

to one (1) local unit may not exceed three hundred thousand dollars (\$300,000).

As added by P.L.1-1995, SEC.21. Amended by P.L.53-2008, SEC.4.

IC 14-28-5-8

Conditions for local unit to administer flood control program

Sec. 8. A local unit may institute, accomplish, and administer a flood control program if the following conditions are met:

- (1) The program is authorized and approved by ordinance or resolution enacted by the governing board of the local unit.
- (2) The flood control program has been approved by the commission.

As added by P.L.1-1995, SEC.21. Amended by P.L.53-2008, SEC.5.

IC 14-28-5-9

Loans to local units; conditions

Sec. 9. The commission shall authorize the making of a loan to a local unit under this chapter only when the following conditions exist:

- (1) An application for the loan has been submitted by the local unit in a verified petition to the commission in the manner and form that the commission directs. The application must state the following:
 - (A) The need for the flood control program and the need for money for instituting, accomplishing, and administering the program.
 - (B) A detailed description of the program.
 - (C) An engineering estimate of the cost of the proposed program acceptable to the commission.

- (D) The amount of money considered to be needed.
- (E) Other information that is requested by the commission.
- (2) There is a need, as determined by the commission, for the proposed flood control program for the purpose of protecting the health, safety, and general welfare of the inhabitants of the local unit.
- (3) The proposed flood control program has been approved by the commission, if before granting the approval, the commission determines the following:
 - (A) That the program:
 - (i) is based upon sound engineering principles;
 - (ii) is in the interest of flood control; and
 - (iii) will accomplish the objectives of flood control.
 - (B) That for flood control programs involving the reconstruction or repair of existing flood control works that:
 - (i) in the judgment of the commission, constitutes an unreasonable obstruction or impediment to the proper discharge of flood flows; or
 - (ii) by virtue of their nature, location, or design, are subject to frequent damage or destruction;approval is limited to the work that is necessary to afford emergency protection against actual or threatened damage to life and property.
- (4) The local unit agrees and furnishes assurance, satisfactory to the commission, that the local unit will operate and maintain the flood control program, after completion, in a satisfactory manner.

As added by P.L.1-1995, SEC.21. Amended by P.L.53-2008, SEC.6.

IC 14-28-5-10

Local unit participation in flood control program; costs

- Sec. 10. (a) The local unit may:
- (1) do work; and
 - (2) provide labor, equipment, and materials from any source at the local unit's disposal;
- for the flood control program.
- (b) The commission may do the following:
- (1) Evaluate the participation of the local unit in the accomplishment of the project.
 - (2) Compute the participation as a part or all of the share of cost that the local unit is required to pay toward the total cost of the project for which the loan from the fund is obtained.
- (c) Participation authorized under this section must be under the direction of the governing board.
- (d) If cash amounts are included in the local unit's share of total cost, the amounts shall be provided in the usual and accepted manner for the financing of the affairs of the local unit.
- (e) Costs of engineering and legal services to the borrower may be regarded as a part of the total cost of the project.

As added by P.L.1-1995, SEC.21. Amended by P.L.53-2008, SEC.7.

IC 14-28-5-11

Loans to local units; priority ratings

Sec. 11. (a) The commission shall determine and ascribe to each applicant for a loan a priority rating. The rating must be based primarily on the need of the local unit for the proposed flood control program as the need is related to the needs of other applicants for loans. Except as provided in subsection (b):

- (1) the local units having the highest priority rating shall be given first consideration in making loans under this chapter; and
- (2) loans shall be made in descending order as shown by the priority ratings.

(b) If an emergency demands immediate relief from actual or threatened flood damage, the application made by a local unit for a loan may be considered regardless of a previous priority rating ascribed to the applicant.

As added by P.L.1-1995, SEC.21. Amended by P.L.53-2008, SEC.8.

IC 14-28-5-12

Loans to local units; terms; repayment

Sec. 12. (a) A loan made under this chapter or under IC 13-2-23 (before its repeal):

- (1) may be made for a period not to exceed ten (10) years; and
- (2) bears interest at the rate of three percent (3%) a year.

(b) A local unit receiving a loan under this chapter shall agree to repay the loan in equal annual installments, including interest on the unpaid balance of the loan. The repayments, including interest, become part of the fund and do not revert to the state general fund. However, if a local unit levies a tax as provided in this chapter, the first installment of the loan becomes due and payable out of money first received from the levying and the collection of a tax authorized under this chapter. A borrower may prepay a loan in full or in part without interest penalty.

As added by P.L.1-1995, SEC.21.

IC 14-28-5-13

Loans to local units; levy of property taxes to repay

Sec. 13. A local unit receiving a loan under:

- (1) this chapter; or
- (2) IC 13-2-23 (before its repeal);

may levy an annual tax on personal and real property located within the geographical limits of the local unit for flood control purposes. The tax is in addition to any other tax authorized by law to be levied for flood control purposes. The tax shall be levied at the rate that will produce sufficient revenue to pay the annual installment and interest on a loan made under this chapter or under IC 13-2-23 (before its repeal). The tax at the rate authorized in this section is in addition to the maximum annual rates prescribed by law.

As added by P.L.1-1995, SEC.21.

IC 14-28-5-14

Loans to local units; default or delinquency

Sec. 14. If a local unit fails to make a payment to the fund or any other payment required by this chapter or under IC 13-2-23 (before its repeal) or is in any way indebted to the fund for an amount incurred or accrued, the state may recover the amount through any of the following:

(1) The state may, through the attorney general and on behalf of the commission, file a suit in the circuit or a superior court with jurisdiction in the county in which the local unit is located to recover the amount that the local unit owes the fund.

(2) The auditor of state may, after a sixty (60) day written notice to the local unit, withhold the payment and distribution of state money that the defaulting local unit is entitled to receive under Indiana law.

(3) For a special taxing district, upon certification by the auditor of state after a sixty (60) day written notice to the special taxing district, the auditor of each county containing land within the special taxing district shall withhold collected tax money for the special taxing district and remit the withheld tax money to the auditor of state. The auditor of state shall make a payment to the fund in the name of the special taxing district. Upon elimination of the delinquency payment, the auditor of state shall certify the fact to the auditors of the counties involved and any additional withheld tax money shall be released to the special taxing district.

As added by P.L.1-1995, SEC.21. Amended by P.L.53-2008, SEC.9.

IC 14-28-5-15

Appropriations from state general fund

Sec. 15. There is appropriated annually to the commission from the state general fund from money not otherwise appropriated an amount sufficient to administer this chapter, subject to the approval of the budget committee.

As added by P.L.1-1995, SEC.21.