

Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1288

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-28-7-5, AS AMENDED BY P.L.237-2017, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. (a) The skills enhancement fund is established within the state treasury to be used exclusively for the purposes of this chapter.

(b) The fund consists of:

- (1) appropriations from the general assembly; **and**
- (2) **money repaid to the corporation under section 7 of this chapter.**

(c) The corporation shall administer the fund. The following may be paid from money in the fund:

- (1) Expenses of administering the fund.
- (2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

SECTION 2. IC 5-28-7-7 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 7. (a) If the corporation determines that a business, school corporation, or charter school that has received public funds from a grant award under this chapter is not entitled to the public funds received from the grant award because of the business's, school corporation's, or charter school's noncompliance with the requirements of its grant agreement or any of the provisions of this chapter, the corporation shall, after giving notice to the business, school corporation, or charter school and an opportunity to explain the noncompliance, provide the business, school corporation, or charter school with a written demand for the return or repayment of an amount not to exceed the sum of all grants previously awarded to the business, school corporation, or charter school under this chapter, together with interest and penalties required or permitted by law or required by the agreement with the corporation.**

(b) Upon receipt of the corporation's written demand under subsection (a), the business, school corporation, or charter school shall return or repay the amount demanded by the corporation.

(c) If a business, school corporation, or charter school fails to repay the corporation as required under subsection (b), the corporation may notify the department of state revenue of the noncompliance and request that the department of state revenue exercise the department's authority under IC 6-8.1-9.5 to recover the sum of all grants previously awarded to the business, school corporation, or charter school under this chapter, together with any interest, penalties, and fees required or permitted by law or required by the agreement with the corporation.

(d) For purposes of this chapter, the corporation shall be considered a claimant agency under IC 6-8.1-9.5-1, and is authorized to participate in the refund set off program under IC 6-8.1-9.5.

SECTION 3. IC 5-28-15-5, AS AMENDED BY P.L.145-2016, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 5. (a) The board has the following powers, in addition to other powers that are contained in this chapter:**

- (1) Before July 1, 2018**, to review and approve or reject all applicants for enterprise zone designation, according to the criteria for designation that this chapter provides.
- (2) To waive or modify rules as provided in this chapter.**
- (3) To adopt rules for the disqualification of a zone business from eligibility for any or all incentives available to zone businesses,**



if that zone business does not do one (1) of the following:

- (A) If all its incentives, as contained in the summary required under section 7 of this chapter, exceed one thousand dollars (\$1,000) in any year, pay a registration fee to the corporation in an amount equal to one percent (1%) of all its incentives.
 - (B) Use all its incentives, except for the amount of the registration fee, for its property or employees in the zone.
 - (C) Remain open and operating as a zone business for twelve (12) months of the assessment year for which the incentive is claimed.
- (4) After a recommendation from a U.E.A., to modify an enterprise zone boundary if the board determines that the modification:
- (A) is in the best interests of the zone; and
 - (B) meets the threshold criteria and factors set forth in section 9 of this chapter.
- (5) To employ staff and contract for services.

(b) In addition to a registration fee paid under subsection (a)(3)(A), each zone business that receives an incentive described in section 3 of this chapter shall assist the zone U.E.A. in an amount determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist a U.E.A., the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body disqualifies a zone business under this subsection, the legislative body shall notify the corporation, the department of local government finance, and the department of state revenue in writing not more than thirty (30) days after the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is adopted.

(c) This section expires December 31, 2018.

SECTION 4. IC 5-28-15-5.5, AS ADDED BY P.L.204-2016, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5.5. (a) The corporation has the following powers, in addition to the other powers that are contained in this chapter:

- (1) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.
- (2) To disqualify a zone business from eligibility for any or all of the incentives available to zone businesses.
- (3) To receive funds from any source and expend the funds for the



administration and promotion of the enterprise zone program.

(4) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites.

(5) To enter into agreements under IC 6-3.1-11 with an applicant for a tax credit under that chapter.

(b) This section expires December 31, 2018.

SECTION 5. IC 5-28-15-5.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: **Sec. 5.7. (a) Beginning after December 31, 2018, a zone U.E.A. has the following powers, in addition to other powers that are contained in this chapter:**

(1) To request the waiver of a municipal ordinance or regulation as provided in section 14(c) of this chapter.

(2) To adopt guidelines for the disqualification of a zone business from eligibility for one (1) or more incentives available to zone businesses, if the zone business does not do one (1) of the following:

(A) Use all its incentives for its property or employees in the zone.

(B) Remain open and operating as a zone business for twelve (12) months of the year for which the incentive is claimed.

(3) To modify the boundary of the zone if the legislative body determines that the modification is in the best interests of the zone.

(4) To employ staff and contract for services to carry out this chapter.

(b) Each zone business that receives an incentive described in section 3 of this chapter shall assist the zone U.E.A. in an amount determined by the legislative body of the municipality in which the zone business is located. If a zone business does not assist the zone U.E.A. as required under this subsection, the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying the zone business from eligibility for all incentives available to the zone businesses. If all of a zone business's incentives exceed one thousand dollars (\$1,000) in a year, the legislative body of the municipality may, at the request of the zone U.E.A., impose an additional fee on a zone business to be paid to the zone U.E.A. in an amount equal to one percent (1%) of all its incentives to be used exclusively for the zone U.E.A.'s administrative expenses.

(c) If a legislative body disqualifies a zone business under



subsection (b), the legislative body shall notify the department of local government finance and the department of state revenue in writing not more than thirty (30) days after the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is adopted.

SECTION 6. IC 5-28-15-6, AS ADDED BY P.L.214-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6. (a) The enterprise zone fund is established within the state treasury.

(b) The fund consists of:

- (1) the revenue from the registration fee required under section 5 of this chapter; and
- (2) appropriations from the general assembly.

(c) The corporation shall administer the fund. The fund may be used to:

- (1) pay the expenses of administering the fund;
- (2) pay nonrecurring administrative expenses of the enterprise zone program;
- (3) provide grants to U.E.A.s for brownfield remediation in enterprise zones; and
- (4) pay administrative expenses of urban enterprise associations.

However, money in the fund may not be expended unless it has been appropriated by the general assembly and allotted by the budget agency.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the state general fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund. The corporation shall develop appropriate applications and may develop grant allocation guidelines, without complying with IC 4-22-2, for awarding grants under this subsection. The grant allocation guidelines must take into consideration the competitive impact of brownfield redevelopment plans on existing zone businesses.

(f) Any money remaining in the fund upon the expiration of this section shall be transferred to the economic development fund established under IC 5-28-8-5.

(g) This section expires December 31, 2018.

SECTION 7. IC 5-28-15-7, AS AMENDED BY P.L.145-2016,



SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) Subject to subsections (c) and (d), a zone business that claims any of the incentives available to zone businesses shall, before June 1 of each year:

- (1) submit to the corporation and to the zone U.E.A., on a form prescribed by the corporation, a verified summary concerning the amount of tax credits and exemptions claimed by the business in the preceding year; and
- (2) pay the amount specified in section 5(a)(3) of this chapter to the corporation.

(b) In order to determine the accuracy of the summary submitted under subsection (a), the corporation is entitled to obtain copies of a zone business's tax records directly from the department of state revenue, the department of local government finance, or a county official, notwithstanding any other law. A summary submitted to the corporation or a zone U.E.A., or a record obtained by the corporation under this section is confidential. A U.E.A. member, an agent of a U.E.A. member, or an employee of the corporation who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor.

(c) The corporation may grant one (1) extension of the time allowed to comply with subsection (a) under the provisions of this subsection. To qualify for an extension, a zone business must apply to the corporation before June 1. The application must be in the form specified by the corporation. The extension may not exceed forty-five (45) days under rules adopted by the board under IC 4-22-2.

(d) If a zone business that did not comply with subsection (a) before June 1 and did not file for an extension under subsection (c) before June 1 complies with subsection (a) before July 16, the amount of the tax credit and exemption incentives for the preceding year that were otherwise available to the zone business because the business was a zone business are waived, unless the zone business pays to the corporation a penalty of:

- (1) an amount not to exceed seven percent (7%), for the first instance of noncompliance; or
- (2) fifteen percent (15%), for the second instance of noncompliance and each subsequent instance;

of the amount of the tax credit and exemption incentives for the preceding year that were otherwise available to the zone business because the business was a zone business. A zone business that pays a penalty under this subsection for a year must pay the penalty to the corporation before July 16 of that year. The corporation shall deposit



any penalty payments received under this subsection in the enterprise zone fund.

(e) This subsection is in addition to any other sanction imposed by subsection (d) or any other law. If a zone business fails to comply with subsection (a) before July 16 and does not pay any penalty required under subsection (d) before July 16 of that year, the zone business is:

- (1) denied all the tax credit and exemption incentives available to a zone business because the business was a zone business for that year; and
- (2) disqualified from further participation in the enterprise zone program under this chapter until the zone business:
 - (A) petitions the board for readmission to the enterprise zone program under this chapter; and
 - (B) pays a civil penalty of one hundred dollars (\$100).

(f) This section expires December 31, 2018.

SECTION 8. IC 5-28-15-7.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 7.3. (a) A zone business that claims any of the incentives available to zone businesses shall, before June 1 of each year:**

- (1) submit to the zone U.E.A., on a form prescribed by the zone U.E.A., a verified summary concerning the amount of tax credits and exemptions claimed by the zone business in the preceding year; and**
- (2) pay the amount specified in section 5.7(b) of this chapter to the zone U.E.A.**

(b) A zone U.E.A. may as provided in this subsection grant one (1) extension of the time allowed to comply with subsection (a). To qualify for an extension, a zone business must apply to the zone U.E.A. before June 1. The application must be in the form specified by the zone U.E.A. The extension granted by the zone U.E.A. may not exceed forty-five (45) days.

(c) If a zone business fails to comply with the requirements of subsection (a) before June 1 (or before July 16 if an extension is granted under subsection (b)), the zone U.E.A. may:

- (1) deny all the tax credit and exemption incentives available to the zone business because the business was a zone business for that year; and**
- (2) disqualify the zone business from further participation in the enterprise zone program under this chapter until the zone business:**
 - (A) petitions the zone U.E.A. for readmission to the**



**enterprise zone program under this chapter; and
(B) pays the amount required under section 5.7(b) of this chapter.**

SECTION 9. IC 5-28-15-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: **Sec. 7.5. A summary submitted to the corporation or a zone U.E.A. under section 7 of this chapter (before its expiration on December 31, 2018), or a record obtained by the corporation under section 7 of this chapter (before its expiration on December 31, 2018) is confidential. A U.E.A. member, an agent of a U.E.A. member, or an employee of the corporation who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor.**

SECTION 10. IC 5-28-15-9, AS AMENDED BY P.L.145-2016, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 9. (a) The board may designate up to ten (10) enterprise zones, in addition to any enterprise zones the federal government may designate in Indiana. The board may by seven (7) affirmative votes increase the number of enterprise zones above ten (10), but it may not add more than two (2) new zones each year (excluding any zone that may be added by the board in a municipality in which a previously designated zone has expired) and may not add any new zones after December 31, 2015. There may not be more than one (1) enterprise zone in any municipality.**

(b) After approval by resolution of the legislative body, the executive of any municipality that is not an included town under IC 36-3-1-7 may submit one (1) application to the corporation to have one (1) part of the municipality designated as an enterprise zone. If an application is denied, the executive may submit a new application. The corporation shall provide application procedures.

(c) **Before July 1, 2018**, the corporation shall evaluate an enterprise zone application if it finds that the following threshold criteria exist in a proposed zone:

(1) A poverty level in which twenty-five percent (25%) of the households in the zone are below the poverty level as established by the most recent United States census or an average rate of unemployment for the most recent eighteen (18) month period for which data is available that is at least one and one-half (1 1/2) times the average statewide rate of unemployment for the same eighteen (18) month period.

(2) A population of more than two thousand (2,000) but less than ten thousand five hundred (10,500).



(3) An area of more than three-fourths (3/4) of a square mile but less than four (4) square miles, with a continuous boundary (using natural, street, or highway barriers when possible) entirely within the applicant municipality. However, if the zone includes a parcel of property that:

(A) is owned by the municipality; and

(B) has an area of at least twenty-five (25) acres;

the area of the zone may be increased above the four (4) square mile limitation by an amount not to exceed the area of the municipally owned parcel.

(4) Property suitable for the development of a mix of commercial, industrial, and residential activities.

(5) The appointment of a U.E.A. that meets the requirements of section 13 of this chapter.

(6) A statement by the applicant indicating its willingness to provide certain specified economic development incentives.

(d) If an applicant has met the threshold criteria of subsection (c), the board shall evaluate the application, arrive at a decision based on the following factors, and either designate a zone or reject the application:

(1) Level of poverty, unemployment, and general distress of the area in comparison with other applicant and nonapplicant municipalities and the expression of need for an enterprise zone over and above the threshold criteria of subsection (c).

(2) Evidence of support for designation by residents, businesses, and private organizations in the proposed zone, and the demonstration of a willingness among those zone constituents to participate in zone area revitalization.

(3) Efforts by the applicant municipality to reduce the impediments to development in the zone area where necessary, including but not limited to the following:

(A) A procedure for streamlining local government regulations and permit procedures.

(B) Crime prevention activities involving zone residents.

(C) A plan for infrastructure improvements capable of supporting increased development activity.

(4) Significant efforts to encourage the reuse of existing zone structures in new development activities to preserve the existing character of the neighborhood, where appropriate.

(5) The proposed managerial structure of the zone and the capacity of the U.E.A. to carry out the goals and purposes of this chapter.



(e) This section expires December 31, 2018.

SECTION 11. IC 5-28-15-10, AS AMENDED BY P.L.238-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 10. (a) Subject to subsection (b), an enterprise zone expires ten (10) years after the day on which it is designated by the board.

(b) In the period beginning December 1, 2008, and ending December 31, 2014, an enterprise zone does not expire under this section if the fiscal body of the municipality in which the enterprise zone is located adopts a resolution renewing the enterprise zone for an additional five (5) years. An enterprise zone may be renewed under this subsection regardless of the number of times the enterprise zone has been renewed under subsections (d) and (e). A municipal fiscal body may adopt a renewal resolution and submit a copy of the resolution to the corporation:

- (1) before August 1, 2009, in the case of an enterprise zone that expired after November 30, 2008, or is scheduled to expire before September 1, 2009; or
- (2) at least thirty (30) days before the expiration date of the enterprise zone, in the case of an enterprise zone scheduled to expire after August 31, 2009.

If an enterprise zone is renewed under this subsection after having been renewed under subsection (e), the enterprise zone may not be renewed after the expiration of this final five (5) year period, except under subsection (c).

(c) An enterprise zone does not expire under this section if the fiscal body of the municipality in which the enterprise zone is located:

- (1) has adopted a resolution renewing the enterprise zone under subsection (b); and
- (2) adopts a resolution renewing the enterprise zone for an additional one (1) year period beginning on the date on which the enterprise zone would otherwise expire under the resolution adopted under subdivision (1).

An enterprise zone may be renewed for an additional one (1) year period under this subsection regardless of the number of times the enterprise zone has been renewed under subsections (d) and (e). A municipal fiscal body may adopt a renewal resolution and submit a copy of the resolution to the corporation at least thirty (30) days before the expiration date of the enterprise zone. If an enterprise zone is renewed for an additional one (1) year period under this subsection after having been renewed under subsection (e), the enterprise zone may not be renewed after the expiration of this final one (1) year



period.

(d) ~~The two (2) year period immediately before the day on which the enterprise zone expires is the phaseout period. During the phaseout period, Before July 1, 2018,~~ the board may review the success of the enterprise zone based on the following criteria and may, after review by the budget committee, renew the enterprise zone, including all provisions of this chapter, for five (5) years:

- (1) Increases in capital investment in the zone.
- (2) Retention of jobs and creation of jobs in the zone.
- (3) Increases in employment opportunities for residents of the zone.

(e) If an enterprise zone is renewed under subsection (d) ~~the two (2) year period immediately before the day on which the enterprise zone expires is another phaseout period. During the phaseout period, before July 1, 2018,~~ the board may review the success of the enterprise zone based on the criteria set forth in subsection (d) and, after review by the budget committee, may again renew the enterprise zone, including all provisions of this chapter, for a final period of five (5) years. The zone may not be renewed after the expiration of this final five (5) year period.

(f) Notwithstanding subsection (c), an enterprise zone that was not renewed under subsection (d) or (e) between January 1, 2017, and June 30, 2018, may be renewed for an additional five (5) year period if the fiscal body of the municipality in which the enterprise zone is located adopts a resolution to renew the enterprise zone for an additional five (5) year period. The enterprise zone may not be renewed after the expiration of this final five (5) year period.

SECTION 12. IC 5-28-15-11, AS AMENDED BY P.L.145-2016, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 11. (a) Notwithstanding any other provision of this chapter, one (1) or more units (as defined in IC 36-1-2-23) may declare all or any part of a military base or another military installation that is inactive, closed, or scheduled for closure as an enterprise zone. The declaration shall be made by a resolution of the legislative body of the unit that contains the geographic area being declared an enterprise zone. The legislative body must include in the resolution that a U.E.A. is created or designate another entity to function as the U.E.A. under this chapter. The resolution must also be approved by the executive of the unit.

(b) If the resolution is approved, the executive shall file the resolution and the executive's approval with the corporation. If an entity other than a U.E.A. is designated to function as a U.E.A., the



entity's acceptance must be filed with the corporation along with the resolution. The enterprise zone designation is effective on the first day of the month following the day the resolution is filed with the corporation.

(c) Establishment of an enterprise zone under this section is not subject to the limit of two (2) new enterprise zones each year under section 9(a) of this chapter.

SECTION 13. IC 5-28-15-12, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 12. (a) The board may not approve the enlargement of an enterprise zone's geographic boundaries unless the area to be enlarged meets the criteria of economic distress set forth in section 9(c)(1) of this chapter.

(b) This section expires December 31, 2018.

SECTION 14. IC 5-28-15-13, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 13. (a) There is established ~~in each applicant for designation as an enterprise zone and~~ in each enterprise zone an urban enterprise association (U.E.A.). The twelve (12) members of the U.E.A. shall be chosen as follows:

- (1) The governor shall appoint the following:
 - (A) One (1) state legislator whose district includes all or part of the enterprise zone.
 - (B) One (1) representative of the corporation, who is not a voting member of the U.E.A.
- (2) The executive of the municipality in which the zone is located shall appoint the following:
 - (A) One (1) representative of the plan commission having jurisdiction over the zone, if any exists.
 - (B) One (1) representative of the municipality's department that performs planning or economic development functions.
 - (C) Two (2) representatives of businesses located in the zone, one (1) of whom shall be from a manufacturing concern, if any exists in the zone.
 - (D) One (1) resident of the zone.
 - (E) One (1) representative of organized labor from the building trades that represent construction workers.
- (3) The legislative body of the municipality in which the zone is located shall appoint, by majority vote, the following:
 - (A) One (1) member of the municipality's legislative body whose district includes all or part of the zone.
 - (B) One (1) representative of a business located in the zone.



(C) Two (2) residents of the zone, who must not be members of the same political party.

(b) Members of the U.E.A. serve four (4) year terms. The appointing authority shall fill any vacancy for the balance of the vacated term.

(c) Members may be dismissed only by the appointing authority and only for just cause.

(d) The members shall elect a chairperson, a vice chairperson, and a secretary by majority vote. This election shall be held every two (2) years in the same month as the first meeting or whenever a vacancy occurs. The U.E.A. shall meet at least once every three (3) months. The secretary shall notify members of meetings at least two (2) weeks in advance of meetings. The secretary shall provide a list of members to each member and shall notify members of any changes in membership.

~~(e) If an applicant for designation as an enterprise zone does not receive that designation, the U.E.A. in that municipality is dissolved when the application is rejected.~~

SECTION 15. IC 5-28-15-14, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 14. (a) A U.E.A. shall do the following:

- (1) Coordinate zone development activities.
- (2) Serve as a catalyst for zone development.
- (3) Promote the zone to outside groups and individuals.
- (4) Establish a formal line of communication with residents and businesses in the zone.
- (5) Act as a liaison between residents, businesses, the municipality, and the board for any development activity that may affect the zone or zone residents.

(b) A U.E.A. may do the following:

- (1) Initiate and coordinate any community development activities that aid in the employment of zone residents, improve the physical environment, or encourage the turnover or retention of capital in the zone. These additional activities include but are not limited to recommending to the municipality the manner and purpose of expenditure of funds generated under IC 36-7-14-39(g) or IC 36-7-15.1-26(g).

~~(2) Recommend that the board modify a zone boundary or disqualify a zone business from eligibility for one (1) or more benefits or incentives available to zone businesses.~~

~~(3)~~ (2) Incorporate as a nonprofit corporation. Such a corporation may continue after the expiration of the zone in accordance with the general principles established by this chapter. A U.E.A. that incorporates as a nonprofit corporation under this subdivision



may purchase or receive real property from a redevelopment commission under IC 36-7-14-22.2 or IC 36-7-15.1-15.2.

(c) The U.E.A. may request, by majority vote, that the legislative body of the municipality in which the zone is located modify or waive any municipal ordinance or regulation that is in effect in the zone. The legislative body may, by ordinance, waive or modify the operation of the ordinance or regulation, if the ordinance or regulation does not affect health (including environmental health), safety, civil rights, or employment rights.

~~(d) The U.E.A. may request, by majority vote, that the board waive or modify any state rule that is in effect in the zone. The board shall review the request and may approve, modify, or reject the request. Approval or modification by the board shall take place after review by the appropriate state agency. A modification may include but is not limited to establishing different compliance or reporting requirements, timetables, or exemptions in the zone for a business or an individual, to the extent that the modification does not adversely affect health (including environment health), safety, employment rights, or civil rights. An approval or a modification of a state rule by the board takes effect upon the approval of the governor. In no case are the provisions of IC 22-2-2 and IC 22-7-1-2 mitigated by this chapter.~~

SECTION 16. IC 5-28-15-15, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 15. (a) Any business that substantially reduces or ceases an operation located in Indiana and outside an enterprise zone (referred to as a nonzone operation) in order to relocate in an Indiana enterprise zone is disqualified from benefits or incentives available to zone businesses. Determinations under this section shall be made by a hearing panel composed of the chairperson of the board or the chairperson's designee, the commissioner of the department of state revenue or the commissioner's designee, and the commissioner of the department of local government finance or the commissioner's designee. The panel, after an evidentiary hearing held subsequent to the relocation of the business, shall submit a recommended order to the board for its adoption. The recommended order shall be based on the following criteria and subsection (b):

- (1) A site specific economic activity, including sales, leasing, service, manufacturing, production, storage of inventory, or any activity involving permanent full-time or part-time employees shall be considered a business operation.
- (2) With respect to a nonzone operation, any of the following that occurs during the twelve (12) months before the completion of the



physical relocation of all or part of the activity described in subdivision (1) from the nonzone operation to the enterprise zone as compared with the twelve (12) months before that twelve (12) months shall be considered a substantial reduction:

(A) A reduction in the average number of full-time or part-time employees of the lesser of:

- (i) one hundred (100) employees; or
- (ii) twenty-five percent (25%) of all employees.

(B) A twenty-five percent (25%) reduction in the average number of goods manufactured or produced.

(C) A twenty-five percent (25%) reduction in the average value of services provided.

(D) A ten percent (10%) reduction in the average value of stored inventory.

(E) A twenty-five percent (25%) reduction in the average amount of gross income.

(b) Notwithstanding subsection (a), a business that would otherwise be disqualified under subsection (a) is eligible for benefits and incentives available to zone businesses if each of the following conditions is met:

(1) The business relocates its nonzone operation for any of the following reasons:

(A) The lease on property necessary for the nonzone operation has been involuntarily lost through no fault of the business.

(B) The space available at the location of the nonzone operation cannot accommodate planned expansion needed by the business.

(C) The building for the nonzone operation has been certified as uninhabitable by a state or local building authority.

(D) The building for the nonzone operation has been totally destroyed through no fault of the business.

(E) The renovation and construction costs at the location of the nonzone operation are more than one and one-half (1 1/2) times the costs of purchase, renovation, and construction of a facility in the zone, as certified by three (3) independent estimates.

A business is eligible for benefits and incentives under clause (C) or (D) only if renovation and construction costs at the location of the nonzone operation are more than one and one-half (1 1/2) times the cost of purchase, renovation, and construction of a facility in the zone. These costs must be certified by three (3) independent estimates.



(2) The business has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the nonzone operation without the consent of the employees.

(c) The hearing panel shall cause to be delivered to the business and to any person who testified before the panel in favor of disqualification of the business a copy of the panel's recommended order. The business and these persons shall be considered parties for purposes of this section.

(d) A party who wishes to oppose the board's adoption of the recommended order of the hearing panel shall, not later than ten (10) days after the party's receipt of the recommended order, file written objections with the board. If the objections are filed, the board shall set the objections for oral argument and give notice to the parties. A party at its own expense may cause to be filed with the board a transcript of the oral testimony or any other part of the record of the proceedings. The oral argument shall be on the record filed with the board. The board may hear additional evidence or remand the action to the hearing panel with instructions appropriate to the expeditious and proper disposition of the action. The board may adopt the recommendations of the hearing panel, may amend or modify the recommendations, or may make an order or determination as is proper on the record.

(e) If no objections are filed, the board may adopt the recommended order without oral argument. If the board does not adopt the proposed findings of fact and recommended order, the parties shall be notified and the action shall be set for oral argument as provided in subsection (d).

(f) The final determination made by the board shall be made by a majority of the quorum needed for board meetings.

(g) This section expires December 31, 2018.

SECTION 17. IC 5-28-29-9, AS ADDED BY P.L.162-2007, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9. As used in this chapter, "lender" means:

- (1) a financial institution (as defined in IC 5-13-4-10); or
- (2) **alternatively, during the period beginning after June 30, 2018, and ending before July 1, 2021:**
 - (A) a credit corporation (as defined in IC 23-6-4-1);
 - (B) an entity that:
 - (i) extends more than seventy-five percent (75%) of all eligible loans made in the previous twelve (12) month period to minority owned businesses (as defined in IC 5-28-20-4); and



(ii) is approved by the corporation as a lender in accordance with the policy guidelines adopted by the board of the corporation; or

(C) a qualified "eligible intermediary" participating in the federal Small Business Administration Microloan Program pursuant to 15 U.S.C. 636(m), as amended from time to time, and who is approved by the corporation as a lender in accordance with the policy guidelines adopted by the board of the corporation;

that has entered into an agreement with the corporation to participate in the program.

SECTION 18. IC 5-28-29-17, AS ADDED BY P.L.162-2007, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 17. (a) The following types of loans are eligible loans under the program:

- (1) Loans for industrial or commercial purposes.
- (2) Loans to refinance loans made for the purposes in subdivision (1).
- (3) Loans for line of credit agreements established between the lender and borrower that are used for the purposes in subdivision (1).

(b) Eligible loans must meet the following criteria:

- (1) The lender has not made the loan to enroll in the program prior debt that is not covered under the program and that is or was owed by the borrower to the lender.
- (2) The proceeds of the loan will not be used for that part of a project or development devoted to housing.
- (3) The proceeds of the loan will not be used to finance passive real estate ownership.
- (4) The proceeds of the loan will be used to finance a project or enterprise that is located in Indiana and that will foster economic development in Indiana.

(c) An eligible loan may provide for an interest rate, fees, and other terms and conditions agreed to by the lender and borrower. If the loan amount to be borrowed is determined by a commitment agreement that establishes a line of credit, the amount of the loan is the maximum amount available to the borrower under the agreement.

(d) Notwithstanding any other provision of this chapter, a loan:

(1) originated by an entity:

(A) that is a qualified "eligible intermediary" participating in the federal Small Business Administration Microloan Program pursuant to 15 U.S.C. 636(m), as amended from



time to time; and

(B) who is approved as a lender in accordance with the policy guidelines adopted by the board of the corporation; and

(2) with a principal loan amount that exceeds fifty thousand dollars (\$50,000);

is not an eligible loan under the program.

SECTION 19. IC 5-28-29-25, AS ADDED BY P.L.162-2007, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 25. The lender shall determine the premium charges payable to the reserve fund by the lender and the borrower in connection with a loan filed for enrollment. The premium paid by the borrower may not be less than one ~~and one-half~~ percent (~~1.5%~~) (**1%**) or greater than three and one-half percent (3.5%) of the amount of the loan. The premium paid by the lender must be equal to the amount of the premium paid by the borrower. The lender may recover the cost of the lender's premium payment from the borrower in any manner on which the lender and borrower agree. When enrolling a loan, the corporation must transfer into the reserve fund from the account premium amounts determined as follows:

(1) If the amount of a loan, plus the amount of loans previously enrolled by the lender, is less than two million dollars (\$2,000,000), the premium amount transferred must be equal to one hundred fifty percent (150%) of the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.

(2) If, before the enrollment of the loan, the amount of loans previously enrolled by the lender is equal to or greater than two million dollars (\$2,000,000), the premium amount transferred must be equal to the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.

(3) If the total amount of all loans previously enrolled by the lender is less than two million dollars (\$2,000,000), but the enrollment of a loan will cause the total amount of all enrolled loans made by the lender to exceed two million dollars (\$2,000,000), the corporation shall transfer into the reserve fund an amount equal to a percentage of the combined premiums paid into the reserve fund by the lender and the borrower. The percentage is determined as follows:

STEP ONE: Multiply by one hundred fifty (150) that part of the loan that when added to the total amount of all loans previously enrolled by the lender totals two million dollars



(\$2,000,000).

STEP TWO: Multiply the remaining balance of the loan by one hundred (100).

STEP THREE: Add the STEP ONE product to the STEP TWO product.

STEP FOUR: Divide the STEP THREE sum by the total amount of the loan.

The corporation may transfer two (2) times the amount determined under this section to the reserve fund if the borrower is a ~~disadvantaged business enterprise (as defined in IC 5-16-6.5-1)~~; **small disadvantaged business under 13 CFR 124.1002**. The corporation may transfer three (3) times the amount determined under this section to the reserve fund if the borrower is a high growth company with high skilled jobs (as defined in IC 5-28-30-4). The corporation may transfer to the reserve fund three (3) times the amount determined under this section if the borrower is a child care facility. Unless money is paid out of the reserve fund according to the specific terms of this chapter, all money paid into the reserve account by the lender must remain in that account.

SECTION 20. IC 6-3.1-7-2, AS AMENDED BY P.L.4-2005, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 2. (a) A taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year if the taxpayer:

- (1) receives interest on a qualified loan in that taxable year;
- ~~(2) pays the registration fee charged to zone businesses under IC 5-28-15-5;~~
- ~~(3) (2) provides the assistance to urban enterprise associations required from zone businesses under IC 5-28-15-5(b); IC 5-28-15-5.7(b); and~~
- ~~(4) (3) complies with any requirements adopted by the board of the Indiana economic development corporation under IC 5-28-15 for taxpayers claiming the credit under this chapter.~~

However, if a taxpayer is located outside of an enterprise zone, subdivision ~~(4) (3)~~ does not require the taxpayer to reinvest its incentives under this section within the enterprise zone, except as provided in ~~subdivisions subdivision (2). and (3)~~:

(b) The amount of the credit to which a taxpayer is entitled under this section is five percent (5%) multiplied by the amount of interest received by the taxpayer during the taxable year from qualified loans.

(c) If a pass through entity is entitled to a credit under subsection (a) but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, beneficiary, or



member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, beneficiary, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, beneficiary, or member of a pass through entity is entitled. However, a pass through entity and an individual who is a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified expenditure.

SECTION 21. IC 6-8.1-9-14 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. 14. (a) Except as provided in subsection (n), the department shall establish, administer, and make available a centralized debt collection program for use by state agencies to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness owed to or being collected by state agencies. The department's collection facilities shall be available for use by other state agencies only when resources are available to the department.

(b) The commissioner shall prescribe the appropriate form and manner in which collection information is to be submitted to the department.

(c) The debt must be delinquent and not subject to litigation, claim, appeal, or review under the appropriate remedies of a state agency.

(d) The department has the authority to collect for the state or claimant agency (as defined in IC 6-8.1-9.5-1) delinquent accounts, charges, fees, loans, taxes, or other indebtedness due:

- (1) the state;
- (2) a claimant agency that has a formal agreement with the department for central debt collection; or
- (3) a claimant agency described in IC 6-8.1-9.5-1(1)(B) that has an interlocal agreement with a clearinghouse that:
 - (A) is established under IC 6-8.1-9.5-3.5; and
 - (B) has a formal agreement with the department for central debt collection.

(e) The formal agreement must provide that the information provided to the department be sufficient to establish the obligation in court and to render the agreement as a legal judgment on behalf of the state. After transferring a file for collection to the department for collection, the claimant agency shall terminate all collection procedures and be available to provide assistance to the department. Upon receipt



of a file for collection; the department shall comply with all applicable state and federal laws governing collection of the debt.

(f) The department may use a claimant agency's statutory authority to collect the claimant agency's delinquent accounts; charges; fees; loans; taxes; or other indebtedness owed to the claimant agency.

(g) The department's right to credit against taxes due may not be impaired by any right granted the department or other state agency under this section.

(h) The department of state revenue may charge a debtor a fee not to exceed fifteen percent (15%) of any funds the department collects for a claimant agency. Notwithstanding any law concerning delinquent accounts; charges; fees; loans; taxes; or other indebtedness; the fifteen percent (15%) fee shall be added to the amount due to the state or claimant agency when the collection is made.

(i) Fees collected under subsection (h) shall be retained by the department after the debt is collected for the claimant agency and are appropriated to the department for use by the department in administering this section.

(j) The department shall transfer any funds collected from a debtor to the claimant agency within thirty (30) days after the end of the month in which the funds were collected.

(k) When a claimant agency requests collection by the department, the claimant agency shall provide the department with:

- (1) the full name;
- (2) the Social Security number or federal identification number; or both;
- (3) the last known mailing address; and
- (4) additional information that the department may request;

concerning the debtor.

(l) The department shall establish a minimum amount that the department will attempt to collect for the claimant agency.

(m) The commissioner shall report, not later than March 1 for the previous calendar year, to the governor, the budget director, and the legislative council concerning the implementation of the centralized debt collection program, the number of debts; the dollar amounts of debts collected; and an estimate of the future costs and benefits that may be associated with the collection program. A report to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(n) The department may not assess a fee to a state agency or a custodial parent for seeking a set off to a state or federal income tax refund for past due child support.



SECTION 22. IC 6-8.1-9.5-12, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2018 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 12. Priority in multiple claims to refunds allowed to be set off under this chapter shall be in the following order:

- (1) Department of state revenue.
- (2) Child support bureau.
- (3) Department of workforce development.
- (4) Family and social services administration for claims concerning the Temporary Assistance for Needy Families (TANF) program. ~~(TANF)~~.
- (5) Family and social services administration for claims concerning the federal Supplemental Nutrition Assistance Program (SNAP).
- (6) Family and social services administration for claims concerning the Child Care and Development Fund (CCDF).
- (7) Approved postsecondary educational institutions (as defined in IC 21-7-13-6).
- (8) Office of judicial administration for claims concerning the judicial technology and automation project fund.
- (9) A claimant agency described in section 1(1)(A) of this chapter:
 - (A) that is not listed in subdivisions (1) through (8); and
 - (B) that enters into a formal agreement with the department ~~under IC 6-8.1-9-14(d)~~ after December 31, 2017.

The priority of multiple claims of claimant agencies in this ~~subsection~~ **subdivision** must be in the order in time that a claimant agency entered into a formal agreement with the department.

- (10) United States Internal Revenue Service.
- (11) A claimant agency described in section 1(1)(A) of this chapter that is not identified in the order priority under subdivisions (1) through (9). The priority of multiple claims of claimant agencies in this ~~subsection~~ **subdivision** must be in the order in time that a claimant agency has filed a written notice with the department of its intention to effect collection through a set off under this chapter.
- (12) A claimant agency described in section 1(1)(B) of this chapter. The priority of multiple claims of claimant agencies in this ~~subsection~~ **subdivision** must be in the order in time that the clearinghouse representing the claimant agency files an application on behalf of the claimant agency to effect collection



through a set off under this chapter.

SECTION 23. IC 35-52-5-10, AS ADDED BY P.L.169-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 10. ~~IC 5-28-15-7~~ **IC 5-28-15-7.5** defines a crime concerning enterprise zones.

SECTION 24. IC 36-7-14-22.2, AS AMENDED BY P.L.4-2005, SECTION 134, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 22.2. (a) The commission may sell or grant, at no cost, title to real property to an urban enterprise association for the purpose of developing the real property if the following requirements are met:

- (1) The urban enterprise association has incorporated as a nonprofit corporation under ~~IC 5-28-15-14(b)(3)~~. **IC 5-28-15-14(b)(2)**.
- (2) The parcel of property to be sold or granted is located entirely within the enterprise zone for which the urban enterprise association was created under IC 5-28-15-13.
- (3) The urban enterprise association agrees to cause development on the parcel of property within a specified period that may not exceed five (5) years from the date of the sale or grant.
- (4) The urban enterprise association agrees to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the enterprise zone.

(b) The commission may sell or grant, at no cost, title to real property to a community development corporation (as defined in IC 4-4-28-2) for the purpose of providing low or moderate income housing or other development that will benefit or serve low or moderate income families if the following requirements are met:

- (1) The community development corporation has as a major corporate purpose and function the provision of housing for low and moderate income families within the geographic area in which the parcel of real property is located.
- (2) The community development corporation agrees to cause development that will serve or benefit low or moderate income families on the parcel of real property within a specified period, which may not exceed five (5) years from the date of the sale or grant.
- (3) The community development corporation agrees that the community development corporation and each applicant, recipient, contractor, or subcontractor undertaking work in connection with the real property will:



(A) use lower income project area residents as trainees and as employees; and

(B) contract for work with business concerns located in the project area or owned in substantial part by persons residing in the project area;

to the greatest extent feasible, as determined under the standards specified in 24 CFR 135.

(4) The community development corporation agrees to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the community development corporation.

(c) To carry out the purposes of this section, the commission may secure from the county under IC 6-1.1-25-9(e) parcels of property acquired by the county under IC 6-1.1-24 and IC 6-1.1-25.

(d) Before offering any parcel of property for sale or grant, the fair market value of the parcel of property must be determined by an appraiser, who may be an employee of the department. However, if the commission has obtained the parcel in the manner described in subsection (c), an appraisal is not required. An appraisal under this subsection is solely for the information of the commission and is not available for public inspection.

(e) The commission must decide at a public meeting whether the commission will sell or grant the parcel of real property. In making this decision, the commission shall give substantial weight to the extent to which and the terms under which the urban enterprise association or community development corporation will cause development on the property.

(f) Before conducting a meeting under subsection (g), the commission shall publish a notice in accordance with IC 5-3-1 indicating that at a designated time the commission will consider selling or granting the parcel of real property under this section. The notice must state the general location of the property, including the street address, if any, or a common description of the property other than the legal description.

(g) If the county agrees to transfer a parcel of real property to the commission to be sold or granted under this section, the commission may conduct a meeting to sell or grant the parcel to an urban enterprise zone or to a community development corporation even though the parcel has not yet been transferred to the commission. After the hearing, the commission may adopt a resolution directing the department to take appropriate steps necessary to acquire the parcel from the county and to transfer the parcel to the urban enterprise



association or to the community development corporation.

(h) A conveyance of property under this section shall be made in accordance with section 22(i) of this chapter.

(i) An urban enterprise association that purchases or receives real property under this section shall report the terms of the conveyance to the board of the Indiana economic development corporation not later than thirty (30) days after the date the conveyance of the property is made.

SECTION 25. IC 36-7-15.1-15.2, AS AMENDED BY P.L.4-2005, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 15.2. (a) The commission may sell or grant, at no cost, title to real property to an urban enterprise association for the purpose of developing the real property if the following requirements are met:

(1) The urban enterprise association has incorporated as a nonprofit corporation under ~~IC 5-28-15-14(b)(3)~~. **IC 5-28-15-14(b)(2)**.

(2) The parcel of property to be sold or granted is located entirely within the enterprise zone for which the urban enterprise association was created under IC 5-28-15-13.

(3) The urban enterprise association agrees to cause development on the parcel of property within a specified period that may not exceed five (5) years from the date of the sale or grant.

(4) The urban enterprise association agrees to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the enterprise zone.

(b) To carry out the purposes of this section, the commission may secure from the county under IC 6-1.1-25-9(e) parcels of property acquired by the county under IC 6-1.1-24 and IC 6-1.1-25.

(c) Before offering any parcel of property for sale or grant, the fair market value of the parcel of property must be determined by an appraiser, who may be an employee of the department. However, if the commission has obtained the parcel in the manner described in subsection (b), an appraisal is not required. An appraisal under this subsection is solely for the information of the commission and is not available for public inspection.

(d) The commission must decide at a public meeting whether the commission will sell or grant the parcel of real property. In making this decision, the commission shall give substantial weight to the extent to which and the terms under which the urban enterprise association will cause development on the property.



(e) Before conducting a meeting under subsection (d), the commission shall publish a notice in accordance with IC 5-3-1 indicating that at a designated time the commission will consider selling or granting the parcel of real property under this section. The notice must state the general location of the property, including the street address, if any, or a common description of the property other than the legal description.

(f) If the county agrees to transfer a parcel of real property to the commission to be sold or granted under this section, the commission may conduct a meeting to sell or grant the parcel to an urban enterprise zone even though the parcel has not yet been transferred to the commission. After the hearing, the commission may adopt a resolution directing the department to take appropriate steps necessary to acquire the parcel from the county and to transfer the parcel to the urban enterprise association.

(g) A conveyance of property to an urban enterprise association under this section shall be made in accordance with section 15(i) of this chapter.

(h) An urban enterprise association that purchases or receives real property under this section shall report the terms of the conveyance to the board of the Indiana economic development corporation not later than thirty (30) days after the date the conveyance of the property is made.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1288 — Concur

