

PROPOSED AMENDMENT

HB 1417 # 3

DIGEST

Limitations. Removes provisions concerning what is not a public nuisance and what does not establish a public nuisance cause of action. Provides that the limitations shall not affect a local administrative code or ordinance, unless the local administrative code or ordinance provides for a civil cause of action and is in conflict with certain provisions. Provides that the award of attorney's fees, costs, and expenses may not total more than \$100,000 (rather than \$5,000) if a recipient does not accept a qualified settlement offer and the final judgment is less favorable to the recipient than the terms of the qualified settlement offer.

1 Page 2, delete lines 24 through 32, begin a new paragraph and
2 insert:

3 **"Sec. 2. For purposes of this chapter, an action or condition that**
4 **is otherwise permitted by:**
5 **(1) a local ordinance;**
6 **(2) state or federal law; or**
7 **(3) a court order;**
8 **is not a public nuisance."**.

9 Page 2, line 34, delete "unlawful condition is occurring" and insert
10 **"public nuisance is located".**

11 Page 2, between lines 38 and 39, begin a new paragraph and insert:
12 **"(c) A governmental entity may only recover damages that are**
13 **reasonably necessary to abate the public nuisance."**.

14 Page 2, line 39, delete "(c)" and insert "(d)".

15 Page 2, line 39, delete "economic," and insert **"money damages"**.

16 Page 2, line 40, delete "noneconomic, or exemplary damages or
17 costs".

18 Page 2, delete line 42.

19 Page 3, delete lines 1 through 11, begin a new paragraph and insert:
20 **"Sec. 4. (a) Only one (1) public nuisance action may be brought**
21 **against a defendant based on the same or substantially similar set**
22 **of facts.**

23 **(b) A defendant may move to dismiss a second or subsequent**

1 **public nuisance under subsection (a) if it is based on the same or**
2 **substantially similar set of facts.".**

3 Page 3, line 12, delete "(b)" and insert "(c)".

4 Page 3, line 12, after "may" insert "only".

5 Page 3, line 12, after "following" insert "damages".

6 Page 3, delete lines 17 through 29.

7 Page 3, between lines 33 and 34, begin a new paragraph and insert:

8 **"Sec. 6. (a) Except as provided in subsection (b), this chapter**
9 **shall not affect a local administrative code or ordinance, unless the**
10 **local administrative code or ordinance:**

11 **(1) provides for a civil cause of action; and**

12 **(2) is in conflict with the provisions of this chapter.**

13 **(b) Nothing in this chapter supersedes applicable building codes,**
14 **fire codes, or public health and safety laws."**

15 Page 3, line 34, delete "Sec. 6." and insert "Sec. 7.".

16 Page 4, between lines 17 and 18, begin a new paragraph and insert:

17 "SECTION 8. IC 34-50-1-6, AS AMENDED BY P.L.117-2024,
18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2026]: Sec. 6. (a) If:

20 (1) a recipient does not accept a qualified settlement offer; and
21 (2) the final judgment is less favorable to the recipient than the
22 terms of the qualified settlement offer;

23 the court shall award attorney's fees, costs, and expenses to the offeror
24 upon the offeror's motion.

25 (b) An award of attorney's fees, costs, and expenses under this
26 section must consist of attorney's fees at a rate of not more than two
27 hundred fifty dollars (\$250) per hour and other costs and expenses
28 incurred by the offeror after the date of the qualified settlement offer.
29 However, the award of attorney's fees, costs, and expenses may not
30 total more than ~~five thousand dollars (\$5,000)~~ **one hundred thousand**
31 **dollars (\$100,000).**

32 (c) A motion for an award of attorney's fees, costs, and expenses
33 under this section must be filed not more than thirty (30) days after
34 entry of judgment. The motion must be accompanied by an affidavit of
35 the offeror or the offeror's attorney establishing the amount of the
36 attorney's fees and other costs and expenses incurred by the offeror
37 after the date of the qualified settlement offer. The affidavit constitutes
38 prima facie proof of the reasonableness of the amount.

39 (d) Where appropriate, the court may order a judgment entered
40 against the offeror and in favor of the recipient reduced by the amount

1 of attorney's fees, costs, and expenses awarded to the offeror under this
2 section (or IC 34-4-44.6-8 before its repeal).".

3 Renumber all SECTIONS consecutively.
(Reference is to HB 1417 as introduced.)