



February 3, 1999

HOUSE BILL No. 1362

DIGEST OF HB 1362 (Updated February 2, 1999 10:14 am - DI 69)

Citations Affected: IC 34-48; IC 36-7.

Synopsis: Unsafe buildings and disposal of property. Allows a receiver in possession of property to sell the property. Provides that an order issued by an enforcement authority under the unsafe building law concerning repair and rehabilitation of an unsafe building to bring it into compliance with certain required standards for building condition or maintenance becomes final 10 days after notice is given unless a hearing is requested in writing by a person holding: (1) a fee interest; (2) life estate interest; or (3) an equitable interest of a contract purchaser in the unsafe premises. Provides for repair alternatives for unsafe buildings in a receivership. Exempts certain redevelopment property in blighted areas in Marion County from multiple appraisals. Makes certain other changes.

Effective: June 30, 1999; July 1, 1999.

Summers, Crawford, Behning

January 12, 1999, read first time and referred to Committee on Judiciary.
February 2, 1999, amended, reported — Do Pass.

HB 1362—LS 7568/DI 94+



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February 3, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

HOUSE BILL No. 1362

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

- 1 SECTION 1. IC 34-48-1-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. The receiver may,
3 under control of the court or the judge:
4 (1) bring and defend actions;
5 (2) take and keep possession of the property;
6 (3) receive rents; ~~and~~
7 (4) collect debts; ~~and~~
8 (5) **sell property;**
9 in the receiver's own name, and generally to do such acts respecting the
10 property as the court or judge may authorize.
11 SECTION 2. IC 36-7-9-5 IS AMENDED TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) The enforcement authority
13 may issue an order requiring action relative to any unsafe premises,
14 including:
15 (1) vacating of an unsafe building;
16 (2) sealing an unsafe building against intrusion by unauthorized
17 persons, in accordance with a uniform standard established by

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- 1 ordinance;
- 2 (3) extermination of vermin in and about the unsafe premises;
- 3 (4) removal of trash, debris, or fire hazardous material in and
- 4 about the unsafe premises;
- 5 (5) repair or rehabilitation of an unsafe building to bring it into
- 6 compliance with standards for building condition or maintenance
- 7 required for human habitation, occupancy, or use by a statute, a
- 8 rule adopted under IC 4-22-2, or an ordinance;
- 9 (6) removal of part of an unsafe building;
- 10 (7) removal of an unsafe building; and
- 11 (8) requiring, for an unsafe building that will be sealed for a
- 12 period of more than ninety (90) days:
- 13 (A) sealing against intrusion by unauthorized persons and the
- 14 effects of weather;
- 15 (B) exterior improvements to make the building compatible in
- 16 appearance with other buildings in the area; and
- 17 (C) continuing maintenance and upkeep of the building and
- 18 premises;
- 19 in accordance with standards established by ordinance.
- 20 Notice of the order must be given under section 25 of this chapter. The
- 21 ordered action must be reasonably related to the condition of the unsafe
- 22 premises and the nature and use of nearby properties. The order
- 23 supersedes any permit relating to building or land use, whether that
- 24 permit is obtained before or after the order is issued.
- 25 (b) The order must contain:
- 26 (1) the name of the person to whom the order is issued;
- 27 (2) the legal description or address of the unsafe premises that are
- 28 the subject of the order;
- 29 (3) the action that the order requires;
- 30 (4) the period of time in which the action is required to be
- 31 accomplished, measured from the time when the notice of the
- 32 order is given;
- 33 (5) if a hearing is required, a statement indicating the exact time
- 34 and place of the hearing, and stating that person to whom the
- 35 order was issued is entitled to appear at the hearing with or
- 36 without legal counsel, present evidence, cross-examine opposing
- 37 witnesses, and present arguments;
- 38 (6) if a hearing is not required, a statement that an order under
- 39 subsection (a)(2), (a)(3), ~~or~~ (a)(4), ~~or~~ (a)(5) becomes final ten
- 40 (10) days after notice is given, unless a hearing is requested in
- 41 writing by a person holding a fee interest, life estate interest, or
- 42 equitable interest of a contract purchaser in the unsafe premises,

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1 and the request is delivered to the enforcement authority before
2 the end of the ten (10) day period;

3 (7) a statement briefly indicating what action can be taken by the
4 enforcement authority if the order is not complied with;

5 (8) a statement indicating the obligation created by section 27 of
6 this chapter relating to notification of subsequent interest holders
7 and the enforcement authority; and

8 (9) the name, address, and telephone number of the enforcement
9 authority.

10 (c) The order must allow a sufficient time, of at least ten (10) days
11 from the time when notice of the order is given, to accomplish the
12 required action. If the order allows more than thirty (30) days to
13 accomplish the action, the order may require that a substantial
14 beginning be made in accomplishing the action within thirty (30) days.

15 (d) The order expires two (2) years from the day the notice of the
16 order is given, unless one (1) or more of the following events occurs
17 within that two (2) year period:

18 (1) A complaint requesting judicial review is filed under section
19 9 of this chapter.

20 (2) A contract for action required by the order is let at public bid
21 under section 11 of this chapter.

22 (3) A civil action is filed under section 17 of this chapter.

23 SECTION 3. IC 36-7-9-7 IS AMENDED TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) A hearing must be held
25 relative to each order of the enforcement authority, except for an order
26 issued under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), ~~or~~ **5(a)(5)** of this
27 chapter. An order issued under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4),
28 **5(a)(5)** of this chapter becomes final ten (10) days after notice is given,
29 unless a hearing is requested before the ten (10) day period ends by a
30 person holding a fee interest, life estate interest, or equitable interest of
31 a contract purchaser in the unsafe premises. The hearing shall be
32 conducted by the hearing authority.

33 (b) The hearing shall be held on a business day no earlier than ten
34 (10) days after notice of the order is given. The hearing authority may,
35 however, take action at the hearing, or before the hearing if a written
36 request is received by the enforcement authority not later than five (5)
37 days after notice is given, to continue the hearing to a business day not
38 later than fourteen (14) days after the hearing date shown on the order.
39 Unless the hearing authority takes action to have the continued hearing
40 held on a definite, specified date, notice of the continued hearing must
41 be given to the person to whom the order was issued at least five (5)
42 days before the continued hearing date, in the manner prescribed by



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1 section 25 of this chapter. If the order being considered at the
 2 continued hearing was served by publication, it is sufficient to give
 3 notice of the continued hearing by publication unless the enforcement
 4 authority has received information in writing that enables it to make
 5 service under section 25 of this chapter by a method other than
 6 publication.

7 (c) The person to whom the order was issued, any person having a
 8 substantial property interest in the unsafe premises that are the subject
 9 of the order, or any other person with an interest in the proceedings
 10 may appear in person or by counsel at the hearing. Each person
 11 appearing at the hearing is entitled to present evidence, cross-examine
 12 opposing witnesses, and present arguments.

13 (d) At the conclusion of any hearing at which a continuance is not
 14 granted, the hearing authority may make findings and take action to:

15 (1) affirm the order;

16 (2) rescind the order; or

17 (3) modify the order, but unless the person to whom the order was
 18 issued, or counsel for that person, is present at the hearing, the
 19 hearing authority may modify the order in only a manner that
 20 makes its terms less stringent.

21 In addition to affirming the order, in those cases in which the hearing
 22 authority finds that there has been a willful failure to comply with the
 23 order, the hearing authority may impose a civil penalty in an amount
 24 not to exceed one thousand dollars (\$1,000). The effective date of the
 25 civil penalty may be postponed for a reasonable period, after which the
 26 hearing authority may order the civil penalty reduced or stricken if the
 27 hearing authority is satisfied that all work necessary to fully comply
 28 with the order has been done. For purposes of an appeal under section
 29 8 of this chapter or enforcement of an order under section 17 of this
 30 chapter, action of the hearing authority is considered final upon the
 31 affirmation of the order, even though the hearing authority may retain
 32 jurisdiction for the ultimate determination of a fine.

33 (e) If, at a hearing, a person to whom an order has been issued
 34 requests an additional period to accomplish action required by the
 35 order, and shows good cause for this request to be granted, the hearing
 36 authority may grant the request. However, as a condition for allowing
 37 the additional period, the hearing authority may require that the person
 38 post a performance bond to be forfeited if the action required by the
 39 order is not completed within the additional period.

40 (f) The board or commission having control over the department
 41 shall, at a public hearing, after having given notice of the time and
 42 place of the hearing by publication in accordance with IC 5-3-1, adopt



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1 a schedule setting forth the maximum amount of performance bonds
 2 applicable to various types of ordered action. The hearing authority
 3 shall use this schedule to fix the amount of the performance bond
 4 required under subsection (e).

5 (g) The record of the findings made and action taken by the hearing
 6 authority at the hearing shall be available to the public upon request.
 7 However, neither the enforcement authority nor the hearing authority
 8 is required to give any person notice of the findings and action.

9 (h) A civil penalty under subsection (d) may be collected in the
 10 same manner as costs under section 13 of this chapter. The amount of
 11 the civil penalty that is collected shall be deposited in the unsafe
 12 building fund.

13 SECTION 4. IC 36-7-9-10 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) The
 15 enforcement authority may cause the action required by an order issued
 16 under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter to
 17 be performed by a contractor if:

18 (1) the order has been served, in the manner prescribed by section
 19 25 of this chapter, on each person having a fee interest, life estate
 20 interest, or equitable interest of a contract purchaser in the unsafe
 21 premises that are the subject of the order;

22 (2) the order has not been complied with;

23 (3) a hearing was not requested under section 5(b)(6) of this
 24 chapter, or, if a hearing was requested, the order was affirmed at
 25 the hearing; and

26 (4) the order is not being reviewed under section 8 of this chapter.

27 (b) The enforcement authority may cause the action required by an
 28 order, other than an order under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or**
 29 **5(a)(5)** of this chapter, to be performed if:

30 (1) service of an order, in the manner prescribed by section 25 of
 31 this chapter, has been made on each person having a substantial
 32 property interest in the unsafe premises that are the subject of the
 33 order;

34 (2) the order has been affirmed or modified at the hearing in such
 35 a manner that all persons having a substantial property interest in
 36 the unsafe premises that are the subject of the order are currently
 37 subject to an order requiring the accomplishment of substantially
 38 identical action;

39 (3) the order, as affirmed or modified at the hearing, has not been
 40 complied with; and

41 (4) the order is not being reviewed under section 8 of this chapter.

42 (c) If action is being taken under this section on the basis of an order

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1 that was served by publication, it is sufficient to serve the statement
 2 that the enforcement authority intends to perform the work by
 3 publication, unless the authority has received information in writing
 4 that enables it to make service under section 25 of this chapter by a
 5 method other than publication.

6 SECTION 5. IC 36-7-9-20 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. (a) A court acting
 8 under section 17 of this chapter may appoint a receiver for the unsafe
 9 premises, subject to the following conditions:

10 (1) The purpose of the receivership must be to **sell or** take
 11 possession of the unsafe premises for a period sufficient to
 12 accomplish and pay for repairs and improvements.

13 (2) The receiver may be a not-for-profit corporation the primary
 14 purpose of which is the improvement of housing conditions in the
 15 county where the unsafe premises are located, or may be any
 16 other capable person residing in the county.

17 (3) Notwithstanding any prior assignments of the rents and other
 18 income of the unsafe premises, the receiver must collect and use
 19 that income to repair or remove the defects as required by the
 20 order, and may, upon approval by the court, make repairs and
 21 improvements in addition to those specified in the order or
 22 required by applicable statutes, ordinances, codes, or regulations.

23 (4) The receiver may make any contracts and do all things
 24 necessary to accomplish the repair and improvement of the unsafe
 25 premises.

26 **(5) A receiver appointed to sell an unsafe premises may sell
 27 the property:**

28 **(A) to the highest bidder at auction under the same notice
 29 and sale provisions applicable to a foreclosure sale of
 30 mechanic's liens or mortgages; or**

31 **(B) for fair market value if all persons having a substantial
 32 property interest in the unsafe premises agree to the
 33 amount and procedure.**

34 **The transferee in either a public or private sale must first
 35 demonstrate the necessary ability and experience to
 36 rehabilitate the premises within a reasonable time to the
 37 satisfaction of the receiver.**

38 ~~(5)~~ **(6)** The court may, after a hearing, authorize the receiver to
 39 obtain money needed to accomplish the repairs and improvement
 40 by the issuance and sale of notes or receiver's certificates to the
 41 receiver or any other person or party bearing interest fixed by the
 42 court. The notes or certificates are a first lien on the unsafe



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1 premises and the rents and income of the unsafe building. This
 2 lien is superior to all other assignments of rents, liens, mortgages,
 3 or other encumbrances on the property, except taxes, if, within
 4 sixty (60) days following the sale or transfer for value of the notes
 5 by the receiver, the holder of the notes files a notice containing
 6 the following information in the county recorder's office:

7 (A) The legal description of the tract of real property on which
 8 the unsafe building is located.

9 (B) The face amount and interest rate of the note or certificate.

10 (C) The date when the note or certificate was sold or
 11 transferred by the receiver.

12 (D) The date of maturity.

13 ~~(6)~~ (7) Upon payment to the holder of a receiver's note or
 14 certificate of the face amount and interest, and upon filing in the
 15 recorder's office of a sworn statement of payment, the lien of that
 16 note or certificate is released. Upon a default in payment on a
 17 receiver's note or certificate, the lien may be enforced by
 18 proceedings to foreclose in the manner prescribed for mechanic's
 19 liens or mortgages. However, the foreclosure proceedings must be
 20 commenced within two (2) years after the date of default.

21 ~~(7)~~ (8) The receiver is entitled to the same fees, commissions, and
 22 necessary expenses as receivers in actions to foreclose mortgages.
 23 The fees, commissions, and expenses shall be paid out of the rents
 24 and incomes of the property in receivership.

25 (b) The issuance of an order concerning unsafe premises is not a
 26 prerequisite to the appointment of a receiver nor does such an order
 27 prevent the appointment of a receiver.

28 (c) If the enforcement authority or the enforcement authority's
 29 designee requests the appointment of a receiver, all persons having a
 30 substantial property interest in the unsafe premises shall be made party
 31 defendants.

32 **(d) A court, when granting powers and duties to a receiver, shall**
 33 **consider:**

- 34 **(1) the occupancy of the unsafe premises;**
 35 **(2) the overall condition of the property;**
 36 **(3) the hazard to public health, safety, and welfare;**
 37 **(4) the number of persons having a substantial property**
 38 **interest in the unsafe premises; and**
 39 **(5) other factors the court considers relevant.**

40 **(e) Instead of appointing a receiver to sell or rehabilitate an**
 41 **unsafe premises, the court may permit an owner, a mortgagee, or**
 42 **a person with substantial interest in the unsafe premises to**

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1 rehabilitate the premises, if the owner, mortgagee, or person with
2 substantial interest:

- 3 (1) demonstrates ability to complete the rehabilitation within
4 a reasonable time;
5 (2) agrees to comply within a specified schedule for
6 rehabilitation; and
7 (3) posts a bond as security for performance of the required
8 work in compliance with the specified schedule in subdivision
9 (2).

10 SECTION 6. IC 36-7-9-26 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 26. (a) The
12 enforcement authority ~~shall~~ may record in the office of the county
13 recorder orders issued under section 5 or 6(a) of this chapter. **If the**
14 **enforcement authority records an order issued under section 5 or**
15 **6(a) of this chapter**, statements of rescission issued under section 6(b)
16 of this chapter, statements that public bids are to be let under section
17 11 of this chapter, and records of action in which ~~an~~ the order is
18 affirmed, modified, or rescinded taken by the hearing authority under
19 section 7 of this chapter **must also be recorded**. The recorder shall
20 charge the fee required under IC 36-2-7-10 for recording these items.

21 (b) A person who takes an interest in unsafe premises that are the
22 subject of ~~an~~ a **recorded** order takes that interest, whether or not a
23 hearing has been held, subject to the terms of the order **and other**
24 **documents recorded under subsection (a)** and in such a manner that
25 all of the requirements of sections 10, 11, and 17 through 22 of this
26 chapter relating to the issuance of orders, service of orders and
27 affirmation of orders are considered satisfied. If a hearing has been
28 held, the interest is taken subject to the terms of the order as modified
29 at the hearing, **other documents recorded under subsection (a)**, and
30 in such a manner that all of the requirements of sections 10, 11, and 17
31 through 22 of this chapter relating to the issuance of orders, service of
32 orders, and modification of orders at hearing are considered satisfied.

33 (c) A person who takes an interest in unsafe premises that are the
34 subject of a **recorded** statement that public bids are to be let takes the
35 interest subject to the terms of the statement and in such a manner that
36 the notice of the statement required by section 11 of this chapter is
37 considered given to the person.

38 SECTION 7. IC 36-7-15.1-12 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. (a) If no appeal is
40 taken, or if an appeal is taken but is unsuccessful, the commission shall
41 proceed with the proposed project, to the extent that money is available
42 for that purpose.



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1 (b) The commission shall first approve and adopt a list of the real
 2 property and interests in real property to be acquired, and the price to
 3 be offered to the owner of each parcel or interests. The prices to be
 4 offered may not exceed the average of two (2) independent appraisals
 5 of fair market value procured by the commission, except that appraisals
 6 are not required in transactions with other governmental agencies.
 7 However, if the real property is **determined by a qualified employee**
 8 **of the department to be:**

9 (1) **one (1) acre or less in size and the fair market value of the**
 10 **real property is less than five thousand dollars (\$5,000), a**
 11 **qualified employee of the department may make the**
 12 **appraisal; or**

13 (2) less than five (5) acres in size and the fair market value of the
 14 real property or interest has been appraised by one (1)
 15 independent appraiser at less than ten thousand dollars (\$10,000)
 16 the second appraisal may be made by a qualified employee of the
 17 department.

18 The prices indicated on the list may not be exceeded unless specifically
 19 authorized by the commission under section 7 of this chapter or ordered
 20 by a court in condemnation proceedings. The commission may except
 21 from acquisition any real property in the area if it finds that such an
 22 acquisition is not necessary under the redevelopment plan. Appraisals
 23 made under this section are for the information of the commission and
 24 are not open for public inspection.

25 (c) Negotiations for the purchase of property may be carried on
 26 directly by the commission, by its employees, or by expert negotiators
 27 employed for that purpose. The commission shall adopt a standard
 28 form of option for use in negotiations, but no option, contract, or
 29 understanding relative to the purchase of real property is binding on the
 30 commission until approved and accepted by the commission in writing.
 31 The commission may authorize the payment of a nominal fee to bind
 32 an option, and as a part of the consideration for conveyance may agree
 33 to pay the expense incident to the conveyance and determination of the
 34 title of the property. Payment for the property purchased shall be made
 35 when and as directed by the commission, but only on delivery of proper
 36 instruments conveying the title or interest of the owner to "City of
 37 _____ for the use and benefit of its Department of Metropolitan
 38 Development".

39 (d) Notwithstanding subsections (a) through (c), the commission
 40 may, before the time referred to in this section, accept gifts of property
 41 needed for the redevelopment of blighted, deteriorated, or deteriorating
 42 areas. The commission may, before the time referred to in this section,

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1 take options on or contract for the acquisition of property needed for
2 the redevelopment of blighted, deteriorated, or deteriorating areas if the
3 options and contracts are not binding on the commission or the
4 redevelopment district until the time referred to in this section and until
5 money is available to pay the consideration set out in the options or
6 contracts.

7 (e) Section 15(a) through 15(h) of this chapter does not apply to
8 exchanges of real property (or interests in real property) in connection
9 with the acquisition of real property (or interests in real property) under
10 this section. In acquiring real property (or interests in real property)
11 under this section the commission may, as an alternative to offering
12 payment of money as specified in subsection (b), offer for the real
13 property (or interest in real property) that the commission desires to
14 acquire:

- 15 (1) exchange of real property or interests in real property owned
- 16 by the redevelopment district;
- 17 (2) exchange of real property or interests in real property owned
- 18 by the redevelopment district, along with the payment of money
- 19 by the commission; or
- 20 (3) exchange of real property or interests in real property owned
- 21 by the redevelopment district along with the payment of money by
- 22 the owner of the real property or interests in real property that the
- 23 commission desires to acquire.

24 The commission shall have the fair market value of the real property or
25 interests in real property owned by the redevelopment district appraised
26 as specified in section 15(b) of this chapter. The appraisers may not
27 also appraise the value of the real property or interests in real property
28 to be acquired by the redevelopment district. The commission shall
29 establish the nature of the offer to the owner based on the difference
30 between the average of the two (2) appraisals of the fair market value
31 of the real property or interests in real property to be acquired by the
32 commission and the average of the appraisals of fair market value of
33 the real property or interests in real property to be exchanged by the
34 commission.

35 SECTION 8. IC 36-7-15.1-15.1 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JUNE 30, 1999]: Sec. 15.1. (a) As used in
37 this section, "qualifying corporation" refers to a nonprofit corporation
38 or neighborhood development corporation that meets the requirements
39 of subsection (b)(1) and the criteria established by the county fiscal
40 body under subsection (i).

41 (b) The commission may sell or grant at no cost title to real property
42 to a nonprofit corporation or neighborhood development corporation

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1 for the purpose of providing low or moderate income housing or other
 2 development that will benefit or serve low or moderate income families
 3 if the following requirements are met:

4 (1) The nonprofit corporation or neighborhood development
 5 corporation has, as a major corporate purpose and function, the
 6 provision of housing for low and moderate income families within
 7 the geographic area in which the parcel of property is located.

8 (2) The qualifying corporation agrees to cause development that
 9 will serve or benefit low or moderate income families on the
 10 parcel of property within a specified period, which may not
 11 exceed five (5) years from the date of the sale or grant.

12 (3) The qualifying corporation, if the qualifying corporation is a
 13 neighborhood development corporation, agrees that the qualifying
 14 corporation and each applicant, recipient, contractor, or
 15 subcontractor undertaking work in connection with the real
 16 property will:

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

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

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

24 (4) The county fiscal body has determined that the corporation
 25 meets the criteria established under subsection (i).

26 (5) The qualifying corporation agrees to rehabilitate or otherwise
 27 develop the property in a manner that is similar to and consistent
 28 with the use of the other properties in the area served by the
 29 qualifying corporation.

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

33 (d) Before offering any parcel of property for sale or grant, the fair
 34 market value of the parcel of property must be determined. ~~by an~~
 35 ~~appraiser, who may be an~~ **The fair market value may be determined**
 36 **by an appraisal made by a qualified** employee of the department.
 37 However, if **the qualified employee of the department determines**
 38 **that:**

39 (1) **the property:**

40 (A) **is less than five (5) acres in size; and**

41 (B) **has a fair market value that is less than ten thousand**
 42 **dollars (\$10,000); or**



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1 (2) the commission has obtained the parcel in the manner
2 described in subsection (c);
3 an appraisal is not required. An appraisal under this subsection is solely
4 for the information of the commission and is not available for public
5 inspection.

6 (e) The commission must decide whether the commission will sell
7 or grant the parcel of real property at a public meeting. In making this
8 decision, the commission shall give substantial weight to the extent to
9 which and the terms under which the qualifying corporation will cause
10 development to serve or benefit families of low or moderate income. If
11 more than one (1) qualifying corporation is interested in acquiring a
12 parcel of real property, the commission shall conduct a hearing at
13 which a representative of each corporation may state the reasons why
14 the commission should sell or grant the parcel to that corporation.

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

22 (g) If the county agrees to transfer a parcel of real property to the
23 commission to be sold or granted under this section, the commission
24 may conduct a hearing to sell or grant the parcel to a qualifying
25 corporation even though the parcel has not yet been transferred to the
26 commission. After the hearing, the commission may adopt a resolution
27 directing the department to take appropriate steps necessary to acquire
28 the parcel from the county and to transfer the parcel to the qualifying
29 corporation.

30 (h) A conveyance of property to a qualifying corporation under this
31 section shall be made in accordance with section 15(i) of this chapter.

32 (i) The county fiscal body shall establish criteria for determining the
33 eligibility of nonprofit corporations and neighborhood development
34 corporations for sales or grants of real property under this section. A
35 nonprofit corporation or neighborhood development corporation may
36 apply to the county fiscal body for a determination concerning the
37 corporation's compliance with the criteria established under this
38 subsection.

39 (j) ~~This section expires July 1, 1999.~~

40 SECTION 9. IC 36-7-15.1-22.5 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JUNE 30, 1999]: Sec. 22.5. (a) The
42 commission may acquire a parcel of real property by the exercise of

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eminent domain when the following conditions exist:

(1) The real property is an unsafe premises (as defined in IC 36-7-9) and is subject to an order issued under IC 36-7-9 or a notice of violation issued by the county's health and hospital corporation under its powers under IC 16-22-8.

(2) The real property is not being used as a residence or for a business enterprise.

(3) The real property is capable of being developed or rehabilitated to provide affordable housing for low or moderate income families or to provide other development that will benefit or serve low or moderate income families.

(4) The blighted condition of the real property has a negative impact on the use or value of the neighboring properties or other properties in the community.

(b) The commission or its designated hearing examiner shall conduct a public meeting to determine whether the conditions set forth in subsection (a) exist relative to a parcel of real property. Each person holding a fee or life estate interest of record in the property must be given notice by first class mail of the time and date of the hearing at least ten (10) days before the hearing, and is entitled to present evidence and make arguments at the hearing.

(c) Whenever the commission considers it necessary to acquire real property under this section, it shall adopt a resolution setting out its determination to exercise that power and directing its attorney to file a petition in the name of the city on behalf of the department in the circuit or superior court in the county.

(d) Eminent domain proceedings under this section are governed by IC 32-11.

(e) The commission shall use real property acquired under this section for one (1) of the following purposes:

(1) Sale in an urban homestead program under IC 36-7-17.

(2) Sale to a family whose income is at or below the county's median income for families.

(3) Sale or grant to a neighborhood development corporation or other nonprofit corporation, with a condition in the granting clause of the deed requiring the nonprofit organization to lease or sell the property to a family whose income is at or below the county's median income for families or to cause development that will serve or benefit families whose income is at or below the county's median income for families. However, a nonprofit organization is eligible for a sale or grant under this subdivision only if the county fiscal body has determined that the nonprofit

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1 organization meets the criteria established under subsection (f).
2 (4) Any other purpose appropriate under this chapter so long as
3 it will serve or benefit families whose income is at or below the
4 county's median income for families.
5 (f) The county fiscal body shall establish criteria for determining the
6 eligibility of neighborhood development corporations and other
7 nonprofit corporations for sales and grants of real property under
8 subsection (e)(3). A neighborhood development corporation or other
9 nonprofit corporation may apply to the county fiscal body for a
10 determination concerning the corporation's compliance with the criteria
11 established under this subsection.
12 (g) A neighborhood development corporation or nonprofit
13 corporation that receives property under this section must agree to
14 rehabilitate or otherwise develop the property in a manner that is
15 similar to and consistent with the use of the other properties in the area
16 served by the corporation.
17 ~~(h) This section expires July 1, 1999.~~

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1362, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 2. IC 36-7-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) The enforcement authority may issue an order requiring action relative to any unsafe premises, including:

- (1) vacating of an unsafe building;
- (2) sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;
- (3) extermination of vermin in and about the unsafe premises;
- (4) removal of trash, debris, or fire hazardous material in and about the unsafe premises;
- (5) repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under IC 4-22-2, or an ordinance;
- (6) removal of part of an unsafe building;
- (7) removal of an unsafe building; and
- (8) requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:
 - (A) sealing against intrusion by unauthorized persons and the effects of weather;
 - (B) exterior improvements to make the building compatible in appearance with other buildings in the area; and
 - (C) continuing maintenance and upkeep of the building and premises;

in accordance with standards established by ordinance.

Notice of the order must be given under section 25 of this chapter. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(b) The order must contain:

- (1) the name of the person to whom the order is issued;
- (2) the legal description or address of the unsafe premises that are the subject of the order;
- (3) the action that the order requires;

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(4) the period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;

(5) if a hearing is required, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;

(6) if a hearing is not required, a statement that an order under subsection (a)(2), (a)(3), ~~or~~ (a)(4), ~~or~~ **(a)(5)** becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten (10) day period;

(7) a statement briefly indicating what action can be taken by the enforcement authority if the order is not complied with;

(8) a statement indicating the obligation created by section 27 of this chapter relating to notification of subsequent interest holders and the enforcement authority; and

(9) the name, address, and telephone number of the enforcement authority.

(c) The order must allow a sufficient time, of at least ten (10) days from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within thirty (30) days.

(d) The order expires two (2) years from the day the notice of the order is given, unless one (1) or more of the following events occurs within that two (2) year period:

(1) A complaint requesting judicial review is filed under section 9 of this chapter.

(2) A contract for action required by the order is let at public bid under section 11 of this chapter.

(3) A civil action is filed under section 17 of this chapter.

SECTION 3. IC 36-7-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) A hearing must be held relative to each order of the enforcement authority, except for an order issued under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), ~~or~~ **5(a)(5)** of this chapter. An order issued under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **5(a)(5)** of this chapter becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a



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person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. The hearing shall be conducted by the hearing authority.

(b) The hearing shall be held on a business day no earlier than ten (10) days after notice of the order is given. The hearing authority may, however, take action at the hearing, or before the hearing if a written request is received by the enforcement authority not later than five (5) days after notice is given, to continue the hearing to a business day not later than fourteen (14) days after the hearing date shown on the order. Unless the hearing authority takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing must be given to the person to whom the order was issued at least five (5) days before the continued hearing date, in the manner prescribed by section 25 of this chapter. If the order being considered at the continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the enforcement authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

(c) The person to whom the order was issued, any person having a substantial property interest in the unsafe premises that are the subject of the order, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments.

(d) At the conclusion of any hearing at which a continuance is not granted, the hearing authority may make findings and take action to:

- (1) affirm the order;
- (2) rescind the order; or
- (3) modify the order, but unless the person to whom the order was issued, or counsel for that person, is present at the hearing, the hearing authority may modify the order in only a manner that makes its terms less stringent.

In addition to affirming the order, in those cases in which the hearing authority finds that there has been a willful failure to comply with the order, the hearing authority may impose a civil penalty in an amount not to exceed one thousand dollars (\$1,000). The effective date of the civil penalty may be postponed for a reasonable period, after which the hearing authority may order the civil penalty reduced or stricken if the hearing authority is satisfied that all work necessary to fully comply with the order has been done. For purposes of an appeal under section 8 of this chapter or enforcement of an order under section 17 of this



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chapter, action of the hearing authority is considered final upon the affirmation of the order, even though the hearing authority may retain jurisdiction for the ultimate determination of a fine.

(e) If, at a hearing, a person to whom an order has been issued requests an additional period to accomplish action required by the order, and shows good cause for this request to be granted, the hearing authority may grant the request. However, as a condition for allowing the additional period, the hearing authority may require that the person post a performance bond to be forfeited if the action required by the order is not completed within the additional period.

(f) The board or commission having control over the department shall, at a public hearing, after having given notice of the time and place of the hearing by publication in accordance with IC 5-3-1, adopt a schedule setting forth the maximum amount of performance bonds applicable to various types of ordered action. The hearing authority shall use this schedule to fix the amount of the performance bond required under subsection (e).

(g) The record of the findings made and action taken by the hearing authority at the hearing shall be available to the public upon request. However, neither the enforcement authority nor the hearing authority is required to give any person notice of the findings and action.

(h) A civil penalty under subsection (d) may be collected in the same manner as costs under section 13 of this chapter. The amount of the civil penalty that is collected shall be deposited in the unsafe building fund.

SECTION 4. IC 36-7-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) The enforcement authority may cause the action required by an order issued under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter to be performed by a contractor if:

- (1) the order has been served, in the manner prescribed by section 25 of this chapter, on each person having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises that are the subject of the order;
- (2) the order has not been complied with;
- (3) a hearing was not requested under section 5(b)(6) of this chapter, or, if a hearing was requested, the order was affirmed at the hearing; and
- (4) the order is not being reviewed under section 8 of this chapter.

(b) The enforcement authority may cause the action required by an order, other than an order under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter, to be performed if:

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(1) service of an order, in the manner prescribed by section 25 of this chapter, has been made on each person having a substantial property interest in the unsafe premises that are the subject of the order;

(2) the order has been affirmed or modified at the hearing in such a manner that all persons having a substantial property interest in the unsafe premises that are the subject of the order are currently subject to an order requiring the accomplishment of substantially identical action;

(3) the order, as affirmed or modified at the hearing, has not been complied with; and

(4) the order is not being reviewed under section 8 of this chapter.

(c) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement that the enforcement authority intends to perform the work by publication, unless the authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication."

Page 3, between lines 39 and 40, begin a new paragraph and insert: "SECTION 6. IC 36-7-9-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 26. (a) The enforcement authority ~~shall~~ **may** record in the office of the county recorder orders issued under section 5 or 6(a) of this chapter. **If the enforcement authority records an order issued under section 5 or 6(a) of this chapter**, statements of rescission issued under section 6(b) of this chapter, statements that public bids are to be let under section 11 of this chapter, and records of action in which ~~an~~ **the** order is affirmed, modified, or rescinded taken by the hearing authority under section 7 of this chapter **must also be recorded**. The recorder shall charge the fee required under IC 36-2-7-10 for recording these items.

(b) A person who takes an interest in unsafe premises that are the subject of ~~an~~ **a recorded** order takes that interest, whether or not a hearing has been held, subject to the terms of the order **and other documents recorded under subsection (a)** and in such a manner that all of the requirements of sections 10, 11, and 17 through 22 of this chapter relating to the issuance of orders, service of orders and affirmation of orders are considered satisfied. If a hearing has been held, the interest is taken subject to the terms of the order as modified at the hearing, **other documents recorded under subsection (a)**, and in such a manner that all of the requirements of sections 10, 11, and 17 through 22 of this chapter relating to the issuance of orders, service of orders, and modification of orders at hearing are considered satisfied.



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(c) A person who takes an interest in unsafe premises that are the subject of a **recorded** statement that public bids are to be let takes the interest subject to the terms of the statement and in such a manner that the notice of the statement required by section 11 of this chapter is considered given to the person."

Page 4, line 9, delete ":" and insert "**determined by a qualified employee of the department to be:**"

Page 5, delete lines 36 through 42.

Delete pages 6 through 7.

Page 8, delete lines 1 through 27.

Page 8, line 29, delete the effective date "[EFFECTIVE JULY 1, 1999]" and insert the effective date "[EFFECTIVE JUNE 30, 1999]".

Page 9, line 27, after "determined" insert ".".

Page 9, line 27, strike "by an".

Page 9, line 28, strike "appraiser, who may be an" and insert "**The fair market value may be determined by an appraisal made by a qualified**".

Page 9, line 28, delete ":" and insert "**the qualified employee of the department determines that:**".

Page 10, strike line 29.

Page 10, line 31, delete the effective date "[EFFECTIVE JULY 1, 1999]" and insert the effective date "[EFFECTIVE JUNE 30, 1999]".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1362 as introduced.)

VILLALPANDO, Chair

Committee Vote: yeas 12, nays 1.

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