

Adopted	Rejected
---------	----------

COMMITTEE REPORT

YES: 12
NO: 1

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:*

- 1 Page 1, between lines 10 and 11, begin a new paragraph and insert:
- 2 "SECTION 2. IC 36-7-9-5 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) The enforcement
- 4 authority may issue an order requiring action relative to any unsafe
- 5 premises, including:
- 6 (1) vacating of an unsafe building;
- 7 (2) sealing an unsafe building against intrusion by unauthorized
- 8 persons, in accordance with a uniform standard established by
- 9 ordinance;
- 10 (3) extermination of vermin in and about the unsafe premises;
- 11 (4) removal of trash, debris, or fire hazardous material in and
- 12 about the unsafe premises;
- 13 (5) repair or rehabilitation of an unsafe building to bring it into
- 14 compliance with standards for building condition or maintenance

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

- 1 (7) a statement briefly indicating what action can be taken by the
 2 enforcement authority if the order is not complied with;
 3 (8) a statement indicating the obligation created by section 27 of
 4 this chapter relating to notification of subsequent interest holders
 5 and the enforcement authority; and
 6 (9) the name, address, and telephone number of the enforcement
 7 authority.

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

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

- 16 (1) A complaint requesting judicial review is filed under section
 17 Adopted 2/2/1999Adopted 2/2/1999 9 of this chapter.
 18 (2) A contract for action required by the order is let at public bid
 19 under section 11 of this chapter.
 20 (3) A civil action is filed under section 17 of this chapter.

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

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

1 be given to the person to whom the order was issued at least five (5)
2 days before the continued hearing date, in the manner prescribed by
3 section 25 of this chapter. If the order being considered at the
4 continued hearing was served by publication, it is sufficient to give
5 notice of the continued hearing by publication unless the enforcement
6 authority has received information in writing that enables it to make
7 service under section 25 of this chapter by a method other than
8 publication.

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

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

17 (1) affirm the order;

18 (2) rescind the order; or

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

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

35 (e) If, at a hearing, a person to whom an order has been issued
36 requests an additional period to accomplish action required by the
37 order, and shows good cause for this request to be granted, the hearing
38 authority may grant the request. However, as a condition for allowing

1 the additional period, the hearing authority may require that the person
 2 post a performance bond to be forfeited if the action required by the
 3 order is not completed within the additional period.

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

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

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

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

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

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

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

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

33 (b) The enforcement authority may cause the action required by an
 34 order, other than an order under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or**
 35 **5(a)(5)** of this chapter, to be performed if:

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

- 1 order;
- 2 (2) the order has been affirmed or modified at the hearing in such
- 3 a manner that all persons having a substantial property interest in
- 4 the unsafe premises that are the subject of the order are currently
- 5 subject to an order requiring the accomplishment of substantially
- 6 identical action;
- 7 (3) the order, as affirmed or modified at the hearing, has not been
- 8 complied with; and
- 9 (4) the order is not being reviewed under section 8 of this chapter.

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

11 that was served by publication, it is sufficient to serve the statement

12 that the enforcement authority intends to perform the work by

13 publication, unless the authority has received information in writing

14 that enables it to make service under section 25 of this chapter by a

15 method other than publication."

16 Page 3, between lines 39 and 40, begin a new paragraph and insert:

17 "SECTION 6. IC 36-7-9-26 IS AMENDED TO READ AS

18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 26. (a) The

19 enforcement authority ~~shall~~ **may** record in the office of the county

20 recorder orders issued under section 5 or 6(a) of this chapter. **If the**

21 **enforcement authority records an order issued under section 5 or**

22 **6(a) of this chapter**, statements of rescission issued under section 6(b)

23 of this chapter, statements that public bids are to be let under section

24 11 of this chapter, and records of action in which ~~an~~ **the** order is

25 affirmed, modified, or rescinded taken by the hearing authority under

26 section 7 of this chapter **must also be recorded**. The recorder shall

27 charge the fee required under IC 36-2-7-10 for recording these items.

28 (b) A person who takes an interest in unsafe premises that are the

29 subject of ~~an~~ **a recorded** order takes that interest, whether or not a

30 hearing has been held, subject to the terms of the order **and other**

31 **documents recorded under subsection (a)** and in such a manner that

32 all of the requirements of sections 10, 11, and 17 through 22 of this

33 chapter relating to the issuance of orders, service of orders and

34 affirmation of orders are considered satisfied. If a hearing has been

35 held, the interest is taken subject to the terms of the order as modified

36 at the hearing, **other documents recorded under subsection (a)**, and

37 in such a manner that all of the requirements of sections 10, 11, and 17

38 through 22 of this chapter relating to the issuance of orders, service of

1 orders, and modification of orders at hearing are considered satisfied.

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

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

9 Page 5, delete lines 36 through 42.

10 Delete pages 6 through 7.

11 Page 8, delete lines 1 through 27.

12 Page 8, line 29, delete the effective date "[EFFECTIVE JULY 1,
13 1999]" and insert the effective date "[EFFECTIVE JUNE 30, 1999]".

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

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

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

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

21 Page 10, strike line 29.

22 Page 10, line 31, delete the effective date "[EFFECTIVE JULY 1,
23 1999]" and insert the effective date "[EFFECTIVE JUNE 30, 1999]".

24 Renumber all SECTIONS consecutively.
(Reference is to HB 1362 as introduced.)

and when so amended that said bill do pass.

Representative Villalpando