
SENATE BILL No. 529

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1-11.

Synopsis: Sale of public buildings. Repeals a statute that permits governmental entities to transfer real property between the governmental entities without using a bidding process. Provides that a political subdivision may not transfer real property to another political subdivision without consideration.

Effective: July 1, 2009.

Stutzman

January 15, 2009, read first time and referred to Committee on Tax and Fiscal Policy.

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First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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SENATE BILL No. 529



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 36-1-11-1, AS AMENDED BY P.L.2-2006,
2 SECTION 188, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in
4 subsection (b), this chapter applies to the disposal of property by:
5 (1) political subdivisions; and
6 (2) their agencies.
7 (b) This chapter does not apply to the following:
8 (1) The disposal of property under an urban homesteading
9 program under IC 36-7-17.
10 (2) The lease of school buildings under IC 20-47.
11 (3) The sale of land to a lessor in a lease-purchase contract under
12 IC 36-1-10.
13 (4) The disposal of property by a redevelopment commission
14 established under IC 36-7.
15 (5) The leasing of property by a board of aviation commissioners
16 established under IC 8-22-2 or an airport authority established
17 under IC 8-22-3.



- 1 (6) The disposal of a municipally owned utility under IC 8-1.5.
- 2 (7) The sale or lease of property by a unit to an Indiana nonprofit
- 3 corporation organized for educational, literary, scientific,
- 4 religious, or charitable purposes that is exempt from federal
- 5 income taxation under Section 501 of the Internal Revenue Code
- 6 or the sale or reletting of that property by the nonprofit
- 7 corporation.
- 8 (8) The disposal of surplus property by a hospital established and
- 9 operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8,
- 10 IC 16-23-1, or IC 16-24-1.
- 11 (9) The sale or lease of property acquired under IC 36-7-13 for
- 12 industrial development.
- 13 (10) The sale, lease, or disposal of property by a local hospital
- 14 authority under IC 5-1-4.
- 15 (11) The sale or other disposition of property by a county or
- 16 municipality to finance housing under IC 5-20-2.
- 17 (12) The disposition of property by a soil and water conservation
- 18 district under IC 14-32.
- 19 (13) The disposal of surplus property by the health and hospital
- 20 corporation established and operated under IC 16-22-8.
- 21 (14) The disposal of personal property by a library board under
- 22 IC 36-12-3-5(c).
- 23 (15) The sale or disposal of property by the historic preservation
- 24 commission under IC 36-7-11.1.
- 25 (16) The disposal of an interest in property by a housing authority
- 26 under IC 36-7-18.
- 27 (17) The disposal of property under IC 36-9-37-26.
- 28 (18) The disposal of property used for park purposes under
- 29 IC 36-10-7-8.
- 30 (19) The disposal of textbooks that will no longer be used by
- 31 school corporations under IC 20-26-12.
- 32 (20) The disposal of residential structures or improvements by a
- 33 municipal corporation without consideration to
- 34 (A) a governmental entity; or
- 35 (B) a nonprofit corporation that is organized to expand the
- 36 supply or sustain the existing supply of good quality,
- 37 affordable housing for residents of Indiana having low or
- 38 moderate incomes.
- 39 (21) The disposal of historic property without consideration to a
- 40 nonprofit corporation whose charter or articles of incorporation
- 41 allows the corporation to take action for the preservation of
- 42 historic property. As used in this subdivision, "historic property"

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1 means property that is:
 2 (A) listed on the National Register of Historic Places; or
 3 (B) eligible for listing on the National Register of Historic
 4 Places, as determined by the division of historic preservation
 5 and archeology of the department of natural resources.
 6 (22) The disposal of real property without consideration to
 7 ~~(A) a governmental agency; or~~
 8 ~~(B) a nonprofit corporation that exists for the primary purpose~~
 9 ~~of enhancing the environment;~~
 10 when the property is to be used for compliance with a permit or
 11 an order issued by a federal or state regulatory agency to mitigate
 12 an adverse environmental impact.
 13 (23) The disposal of property to a person under an agreement
 14 between the person and a political subdivision or an agency of a
 15 political subdivision under IC 5-23.
 16 (24) The disposal of residential real property pursuant to a federal
 17 aviation regulation (14 CFR 150) Airport Noise Compatibility
 18 Planning Program as approved by the Federal Aviation
 19 Administration.
 20 SECTION 2. IC 36-1-11-3, AS AMENDED BY P.L.27-2008,
 21 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2009]: Sec. 3. (a) This section does not apply to the disposal
 23 of real property under section 5, 5.5, ~~or 5.9 or 8~~ of this chapter.
 24 (b) Disposal of real property under this chapter is subject to the
 25 approval of:
 26 (1) the executive of the political subdivision or agency; or
 27 (2) the fiscal body of the political subdivision or agency, if there
 28 is no executive.
 29 The executive or fiscal body may not approve a disposal of property
 30 without conducting a public hearing after giving notice under IC 5-3-1.
 31 However, in a municipality the executive shall designate a board or
 32 commission of the municipality to give notice, conduct the hearing, and
 33 notify the executive of its recommendation.
 34 (c) Except as provided in section 3.2 of this chapter, in addition, the
 35 fiscal body of a unit must approve:
 36 (1) every sale of real property having an appraised value of fifty
 37 thousand dollars (\$50,000) or more;
 38 (2) every lease of real property for which the total annual rental
 39 payments will be twenty-five thousand dollars (\$25,000) or more;
 40 and
 41 (3) every transfer of real property under section 14 or 15 of this
 42 chapter.

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1 SECTION 3. IC 36-1-11-4, AS AMENDED BY P.L.27-2008,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 4. (a) A disposing agent who wants to sell or
4 transfer real property must comply with this section, except as
5 permitted by section 4.1, 4.2, 5, 5.5, 5.7, 5.9, 8, 14, or 15 of this
6 chapter.

7 (b) The disposing agent shall first have the property appraised by
8 two (2) appraisers. The appraisers must be:

- 9 (1) professionally engaged in making appraisals;
- 10 (2) licensed under IC 25-34.1; or
- 11 (3) employees of the political subdivision familiar with the value
12 of the property.

13 The appraisers shall make a joint appraisal of the property.

14 (c) After the property is appraised, the disposing agent shall publish
15 a notice in accordance with IC 5-3-1 setting forth the terms and
16 conditions of the sale and, when subsection (e) is employed, may
17 engage an auctioneer licensed under IC 25-6.1 to advertise the sale and
18 to conduct a public auction. The advertising conducted by the
19 auctioneer is in addition to any other notice required by law and shall
20 include a detailed description of the property to be sold stating the key
21 numbers, if any, of the tracts within that property. If the disposing agent
22 determines that the best sale of the property can be made by letting the
23 bidders determine certain conditions of the sale (such as required
24 zoning or soil or drainage conditions) as a prerequisite to purchasing
25 the property, the disposing agent may permit the bidders to specify
26 those conditions. The notice must state the following:

- 27 (1) Bids will be received beginning on a specific date.
- 28 (2) The sale will continue from day to day for a period determined
29 by the disposing agent of not more than sixty (60) days.
- 30 (3) The property may not be sold to a person who is ineligible
31 under section 16 of this chapter.
- 32 (4) A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must
33 identify each:
34 (A) beneficiary of the trust; and
35 (B) settlor empowered to revoke or modify the trust.

36 (d) A bid must be open to public inspection. A bidder may raise the
37 bidder's bid, and subject to subsection (e), that raise takes effect after
38 the board has given written notice of that raise to the other bidders.

39 (e) The disposing agent may also engage an auctioneer licensed
40 under IC 25-6.1 to conduct a sale by public auction. The auction may
41 be conducted either at the time for beginning the sale in accordance
42 with the public notice or after the beginning of the sale. The disposing

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1 agent shall give each bidder who has submitted a bid written notice of
2 the time and place of the auction.

3 (f) The disposing agent may, before expiration of the time set out in
4 the notice, sell the property to the highest and best bidder. The highest
5 and best bidder must have complied with any requirement under
6 subsection (c)(4). However, the disposing agent may sell the property
7 for less than ninety percent (90%) of the appraised value of the tracts
8 only after having an additional notice of the sale published in
9 accordance with subsection (c). The disposing agent may reject all
10 bids.

11 (g) If the disposing agent determines that, in the exercise of good
12 business judgment, the disposing agent should hire a broker or
13 auctioneer to sell the property, the disposing agent may do so and pay
14 the broker or auctioneer a reasonable compensation out of the gross
15 proceeds of the sale. However, the disposing agent must still comply
16 with the procedural requirements of this section. The disposing agent
17 may hire one (1) of the appraisers as the broker or auctioneer.

18 SECTION 4. IC 36-1-11-5.9, AS ADDED BY P.L.27-2008,
19 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2009]: Sec. 5.9. (a) As used in this section, "abutting
21 landowner" has the meaning set forth in section 5(a) of this chapter.

22 (b) As used in this section, "real property acquired by tax default"
23 means the following:

24 (1) real property for which a county holds a tax deed issued under
25 IC 6-1.1-25.

26 (2) Real property acquired by a political subdivision from a
27 county under section 8 of this chapter if at the time of transfer the
28 county held a tax deed issued under IC 6-1.1-25 for the real
29 property.

30 (c) Notwithstanding sections 4, 4.1, 4.2, and 5 of this chapter, and
31 subject to the procedures described in subsections (d) and (e), a
32 disposing agent of a political subdivision may sell or transfer real
33 property acquired by tax default without consideration or for a nominal
34 consideration to an abutting landowner.

35 (d) A disposing agent who desires to transfer real property acquired
36 by tax default to an abutting landowner shall send notice by certified
37 mail to all abutting landowners. The notice must identify the tracts
38 intended for sale by legal description and, if possible, by key number
39 and street address. The notice must also include a statement that:

40 (1) the disposing agent is authorized to transfer the property for
41 no consideration or for nominal consideration;

42 (2) the property may not be sold to a person who is ineligible

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- 1 under section 16 of this chapter; and
- 2 (3) an offer to purchase the property submitted by a trust (as
- 3 defined in IC 30-4-1-1(a)) must identify each:
- 4 (A) beneficiary of the trust; and
- 5 (B) settlor empowered to revoke or modify the trust.

6 (e) Not earlier than fourteen (14) days after a disposing agent sends
 7 the notice described in subsection (d) to the abutting landowners of a
 8 tract, the disposing agent shall conduct the negotiation and sale of the
 9 tract under this section as follows:

- 10 (1) If only one (1) eligible abutting landowner makes an offer to
- 11 purchase the tract, then subject to section 16 of this chapter and
- 12 without appraisal or further notice, the disposing agent shall offer
- 13 to negotiate for the sale of the tract with that abutting landowner.
- 14 (2) If more than one (1) eligible abutting landowner submits an
- 15 offer to purchase the tract, the other eligible abutting landowners
- 16 who submit offers shall be informed of the highest offer received
- 17 and be given an opportunity to submit one (1) additional offer.
- 18 The tract shall be sold to the eligible abutting landowner who
- 19 submits the highest offer for the tract and who complies with any
- 20 requirement under subsection (d)(3).

21 SECTION 5. IC 36-1-11-7 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) A disposing agent
 23 who exchanges property must proceed under this section. ~~except as~~
 24 ~~permitted by section 8 of this chapter.~~

- 25 (b) An exchange may be made with a person who is:
- 26 (1) not a governmental entity; and
- 27 (2) eligible under section 16 of this chapter;
- 28 only after advertisement following as nearly as practical the procedure
- 29 prescribed by section 4 of this chapter, with the property the disposing
- 30 agent conveys to be partial or full payment for the property the
- 31 disposing agent receives.

32 SECTION 6. IC 36-1-11-8 IS REPEALED [EFFECTIVE JULY 1,
 33 2009].

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