
SENATE BILL No. 466

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-29-20; IC 32-29; IC 32-30; IC 36-1-6-1.5; IC 36-7.

Synopsis: Abandoned housing. Permits a tax sale certificate purchaser to enter onto abandoned property for which the purchaser owns a tax sale certificate to abate a nuisance or comply with unsafe building laws or certain ordinances. Requires a person who purchases property at a foreclosure sale to record the deed within 60 days. With respect to mortgaged real property that the mortgagor surrenders in writing to the court or to a mortgagee, provides that 30 days after the date on which the mortgagor surrenders real property the mortgagee is responsible for ensuring that the property does not violate local ordinances or nuisance, unsafe building, and vacant and abandoned structures statutes. Specifies that the mortgagee is personally liable for ensuring that the property complies with local ordinances or nuisance, unsafe building, and vacant and abandoned structures statutes, and provides that the mortgagee may be liable for additional civil penalties as determined by the appropriate local legislative body. Requires a mortgagee to whom property has been surrendered to record the mortgagee's interest in the property not later than 60 days after receipt. Provides that a mortgagee has the authority to enter onto real property in order to carry out its responsibilities.

Effective: July 1, 2011.

Paul

January 13, 2011, read first time and referred to Committee on Judiciary.

C
o
p
y



First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

C
o
p
y

SENATE BILL No. 466



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

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

- 1 SECTION 1. IC 6-1.1-29-20 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2011]: **Sec. 20. (a) Notwithstanding any other law, a tax sale**
- 4 **certificate purchaser has the right to enter onto property for which**
- 5 **the purchaser holds a tax sale certificate if:**
- 6 (1) **the property is vacant or abandoned, or contains a vacant**
- 7 **or abandoned structure;**
- 8 (2) **the purchaser enters onto the property for the purpose of:**
- 9 (A) **abating a nuisance under IC 32-30-6;**
- 10 (B) **abating an indecent nuisance under IC 32-30-7;**
- 11 (C) **abating a drug nuisance under IC 32-30-8;**
- 12 (D) **bringing the property into compliance with an**
- 13 **ordinance under IC 36-1-6;**
- 14 (E) **complying with IC 36-7-9; or**
- 15 (F) **abating unsafe conditions under IC 36-7-36;**
- 16 (3) **the purchaser sends written notice to the property owner**
- 17 **of the purchaser's intent to enter onto the property in**



1 accordance with this section; and
 2 (4) the property owner has not requested in writing that the
 3 purchaser not enter onto the property.
 4 (b) A tax sale certificate purchaser may exercise the right of
 5 entry described in subsection (a) even if:
 6 (1) the redemption period for the property has not expired; or
 7 (2) the purchaser has not yet received a tax deed.
 8 (c) If the property owner redeems the property, the property
 9 owner is personally liable to the purchaser for the fair market
 10 value of work performed by the purchaser to:
 11 (1) abate a nuisance under IC 32-30-6;
 12 (2) abate an indecent nuisance under IC 32-30-7;
 13 (3) abate a drug nuisance under IC 32-30-8;
 14 (4) bring the property into compliance with an ordinance
 15 under IC 36-1-6;
 16 (5) comply with IC 36-7-9; or
 17 (6) abate unsafe conditions under IC 36-7-36.
 18 SECTION 2. IC 32-29-7-10, AS AMENDED BY P.L.105-2009,
 19 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2011]: Sec. 10. (a) Immediately after a foreclosure sale under
 21 this chapter, the sheriff shall:
 22 (1) execute and deliver to the purchaser; and
 23 (2) except as provided in subsection (b), record with the recorder
 24 of the county in which the premises are located;
 25 a deed of conveyance for the premises, which must be valid to convey
 26 all the right, title, and interest held or claimed by all of the parties to
 27 the action and all persons claiming under them. The sheriff shall file a
 28 return with the clerk of the court.
 29 (b) The sheriff is not required to record the deed of conveyance for
 30 the premises under subsection (a)(2) if the mortgage involved in the
 31 foreclosure action resulting in the foreclosure sale under this chapter
 32 was insured by the United States Department of Housing and Urban
 33 Development.
 34 (c) **This section does not apply if the mortgage involved in the
 35 foreclosure action resulting in the foreclosure sale under this
 36 chapter was insured by the United States Department of Housing
 37 and Urban Development. Not later than sixty (60) days after the
 38 date on which a purchaser receives a deed of conveyance for the
 39 premises, the purchaser shall record the deed with the county
 40 recorder.**
 41 (d) A purchaser who fails to record a deed under subsection (c)
 42 may be liable for additional civil penalties if the county legislative

C
O
P
Y



1 body has established a civil penalty for failure to comply with
2 subsection (c). A civil penalty collected under this subsection shall
3 be deposited in the county general fund and shall be appropriated
4 to the county treasurer for purposes relating to abandoned
5 property.

6 SECTION 3. IC 32-29-12 IS ADDED TO THE INDIANA CODE
7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2011]:

9 **Chapter 12. Effect of Surrender in Bankruptcy**

10 **Sec. 1. (a) This chapter applies only to mortgaged real property**
11 **that the mortgagor surrenders in writing to the court or to a**
12 **mortgagee as a part of or while in bankruptcy proceedings.**

13 **(b) This chapter does not apply to mortgaged real property that**
14 **the mortgagor surrenders to the court or to a mortgagee as a part**
15 **of or while in bankruptcy proceedings while the real property is**
16 **occupied by the mortgagor or a tenant.**

17 **Sec. 2. (a) Thirty (30) days after the date on which a mortgagor**
18 **surrenders real property to which this chapter applies, the**
19 **mortgagee of the property is responsible for:**

- 20 (1) abating a nuisance under IC 32-30-6;
- 21 (2) abating an indecent nuisance under IC 32-30-7;
- 22 (3) abating a drug nuisance under IC 32-30-8;
- 23 (4) bringing the property into compliance with an ordinance
- 24 under IC 36-1-6;
- 25 (5) complying with IC 36-7-9; and
- 26 (6) abating unsafe conditions under IC 36-7-36.

27 **(b) If the real property has one (1) or more mortgagees, each**
28 **mortgagee is jointly and severally liable for abatement expenses.**

29 **(c) Liability for abatement expenses under this chapter is**
30 **personal liability.**

31 **(d) A mortgagee has the authority to enter onto real property**
32 **described in this chapter to carry out its responsibilities under this**
33 **section.**

34 **Sec. 3. A mortgagee shall properly record the mortgagee's**
35 **interest in the property with the county recorder not later than**
36 **sixty (60) days after the property is surrendered under this**
37 **chapter.**

38 **Sec. 4. (a) A mortgagee who fails to carry out the mortgagee's**
39 **responsibilities under this chapter may be liable for additional civil**
40 **penalties as determined by the:**

- 41 (1) legislative body of the unit having responsibility for
- 42 enforcing the items described in section 2 of this chapter, for

C
o
p
y



1 noncompliance with an item described in section 2 of this
 2 chapter; or
 3 (2) county legislative body for failure to record a deed as
 4 required by section 3 of this chapter. A civil penalty collected
 5 under this subdivision shall be deposited in the county general
 6 fund and shall be appropriated to the county treasurer for
 7 purposes relating to abandoned property.

8 (b) A mortgagee is personally liable for a civil penalty imposed
 9 under this section.

10 SECTION 4. IC 32-29-13 IS ADDED TO THE INDIANA CODE
 11 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2011]:

13 **Chapter 13. Surrender of Property to a Mortgagee**

14 **Sec. 1. (a) This chapter applies only to mortgaged real property**
 15 **that the mortgagor surrenders to a mortgagee in accordance with**
 16 **section 2 of this chapter.**

17 (b) This chapter does not apply to mortgaged real property:
 18 (1) that the mortgagor surrenders to the court or to a
 19 mortgagee as a part of or while in bankruptcy proceedings; or
 20 (2) while the real property is occupied by the mortgagor or a
 21 tenant.

22 **Sec. 2. A mortgagor may surrender mortgaged property to a**
 23 **mortgagor as follows:**

- 24 (1) The mortgagor transmits to the mortgagee by certified
 25 mail, return receipt requested:
 26 (A) written notice of the mortgagor's intent to surrender
 27 the mortgaged property; and
 28 (B) a valid quitclaim deed transferring the mortgaged
 29 property to the mortgagee.
 30 (2) The mortgagor transmits a copy of the notice of intent to
 31 surrender the property and a copy of the quitclaim deed to
 32 the county auditor.

33 **Sec. 3. (a) Thirty (30) days after the date on which a mortgagor**
 34 **surrenders real property to which this chapter applies in**
 35 **accordance with section 2 of this chapter, the mortgagee of the**
 36 **property is responsible for:**

- 37 (1) abating a nuisance under IC 32-30-6;
 38 (2) abating an indecent nuisance under IC 32-30-7;
 39 (3) abating a drug nuisance under IC 32-30-8;
 40 (4) bringing the property into compliance with an ordinance
 41 under IC 36-1-6;
 42 (5) complying with IC 36-7-9; and

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- (6) abating unsafe conditions under IC 36-7-36.
- (b) If the real property has one (1) or more mortgages, each mortgagee is jointly and severally liable for abatement expenses.
- (c) Liability for abatement expenses under this chapter is personal liability.
- (d) A mortgagee has the authority to enter onto real property described in this chapter to carry out its responsibilities under this section.

Sec. 4. A mortgagee shall properly record the quitclaim deed received under section 2 of this chapter with the county recorder not later than sixty (60) days after receipt of the quitclaim deed.

Sec. 5. (a) A mortgagee who fails to carry out the mortgagee's responsibilities under this chapter may be liable for additional civil penalties as determined by the:

- (1) legislative body of the unit having responsibility for enforcing the items described in section 3 of this chapter, for noncompliance with an item described in section 3 of this chapter; or
- (2) county legislative body for failure to record a deed as required by section 4 of this chapter. A civil penalty collected under this subdivision shall be deposited in the county general fund and shall be appropriated to the county treasurer for purposes relating to abandoned property.

(b) A mortgagee is personally liable for a civil penalty imposed under this section.

SECTION 5. IC 32-30-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. The following are guilty of maintaining an indecent nuisance and may be enjoined from maintaining the indecent nuisance under this chapter:

- (1) A person who uses, occupies, establishes, maintains, or conducts an indecent nuisance.
- (2) The owner (including a mortgagee responsible for the property under IC 32-29-12-2 or IC 32-29-13-3), agent, or lessee of any interest in an indecent nuisance.
- (3) A person employed in an indecent nuisance.

SECTION 6. IC 32-30-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) A person initiating an action under this chapter to abate a nuisance existing on a property shall, at least forty-five (45) days before filing the action, provide notice to:

- (1) each tenant of the property; and
- (2) the owner of record, including a mortgagee responsible for

C
O
P
Y



1 **the property under IC 32-29-12-2 or IC 32-29-13-3;**
 2 that a nuisance exists on the property.
 3 (b) The notice required under this section must specify the
 4 following:
 5 (1) The date and time the nuisance was first discovered.
 6 (2) The location on the property where the nuisance is allegedly
 7 occurring.
 8 (c) The notice must be:
 9 (1) hand delivered; or
 10 (2) sent by certified mail;
 11 to each tenant and the owner of record.
 12 (d) A person initiating an action to abate a nuisance under this
 13 chapter shall:
 14 (1) when notice is provided under this section, produce all
 15 evidence in the person's possession or control of the existence of
 16 the nuisance; and
 17 (2) if requested by the owner, assist the owner in the production
 18 of witness and physical evidence.
 19 SECTION 7. IC 36-1-6-1.5 IS ADDED TO THE INDIANA CODE
 20 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 21 1, 2011]: **Sec. 1.5. As used in this chapter, "owner" includes a**
 22 **mortgagee responsible for the property under IC 32-29-12-2 or**
 23 **IC 32-29-13-3.**
 24 SECTION 8. IC 36-7-9-2, AS AMENDED BY P.L.73-2010,
 25 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2011]: Sec. 2. As used in this chapter:
 27 "Community organization" means a citizen's group, neighborhood
 28 association, neighborhood development corporation, or similar
 29 organization that:
 30 (1) has specific geographic boundaries defined in its bylaws or
 31 articles of incorporation and contains at least forty (40)
 32 households within those boundaries;
 33 (2) is a nonprofit corporation that is representative of at least
 34 twenty-five (25) households or twenty percent (20%) of the
 35 households in the community, whichever is less;
 36 (3) is operated primarily for the promotion of social welfare and
 37 general neighborhood improvement and enhancement;
 38 (4) has been incorporated for at least two (2) years; and
 39 (5) is exempt from taxation under Section 501(c)(3) or 501(c)(4)
 40 of the Internal Revenue Code.
 41 "Continuous enforcement order" means an order that:
 42 (1) is issued for compliance or abatement and that remains in full

C
o
p
y



1 force and effect on a property without further requirements to
2 seek additional:

- 3 (A) compliance and abatement authority; or
4 (B) orders for the same or similar violations;
5 (2) authorizes specific ongoing compliance and enforcement
6 activities if a property requires reinspection or additional periodic
7 abatement;
8 (3) can be enforced, including assessment of fees and costs,
9 without the need for additional notice or hearing; and
10 (4) authorizes the enforcement authority to assess and collect
11 ongoing costs for continuous enforcement order activities from
12 any party that is subject to the enforcement authority's order.

13 "Department" refers to the executive department authorized by
14 ordinance to administer this chapter. In a consolidated city, this
15 department is the department of metropolitan development, subject to
16 IC 36-3-4-23.

17 "Enforcement authority" refers to the chief administrative officer of
18 the department, except in a consolidated city. In a consolidated city, the
19 division of development services is the enforcement authority, subject
20 to IC 36-3-4-23.

21 "Hearing authority" refers to a person or persons designated as such
22 by the executive of a city or county, or by the legislative body of a
23 town. However, in a consolidated city, the director of the department
24 or a person designated by the director is the hearing authority. An
25 employee of the enforcement authority may not be designated as the
26 hearing authority.

27 "Known or recorded fee interest, life estate interest, or equitable
28 interest of a contract purchaser" means any fee interest, life estate
29 interest, or equitable interest of a contract purchaser held by a person
30 whose identity and address may be determined from:

- 31 (1) an instrument recorded in the recorder's office of the county
32 where the unsafe premises is located;
33 (2) written information or actual knowledge received by the
34 department (or, in the case of a consolidated city, the enforcement
35 authority); or
36 (3) a review of department (or, in the case of a consolidated city,
37 the enforcement authority) records that is sufficient to identify
38 information that is reasonably ascertainable.

39 "Known or recorded substantial property interest" means any right
40 in real property, including a fee interest, a life estate interest, a future
41 interest, a mortgage interest, a lien as evidenced by a certificate of sale
42 issued under IC 6-1.1-24, or an equitable interest of a contract

C
O
P
Y



- 1 purchaser, that:
- 2 (1) may be affected in a substantial way by actions authorized by
- 3 this chapter; and
- 4 (2) is held by a person whose identity and address may be
- 5 determined from:
- 6 (A) an instrument recorded in:
- 7 (i) the recorder's office of the county where the unsafe
- 8 premises is located; or
- 9 (ii) the office of the county auditor of the county where the
- 10 unsafe premises are located in the case of a lien evidenced
- 11 by a certificate of sale issued under IC 6-1.1-24;
- 12 (B) written information or actual knowledge received by the
- 13 department (or, in the case of a consolidated city, the
- 14 enforcement authority); or
- 15 (C) a review of department (or, in the case of a consolidated
- 16 city, the enforcement authority) records that is sufficient to
- 17 identify information that is reasonably ascertainable.

18 **"Owner" includes a mortgagee responsible for the property**
 19 **under IC 32-29-12-2 or IC 32-29-13-3.**

20 "Substantial property interest" means any right in real property that
 21 may be affected in a substantial way by actions authorized by this
 22 chapter, including a fee interest, a life estate interest, a future interest,
 23 a mortgage interest, or an equitable interest of a contract purchaser.

24 SECTION 9. IC 36-7-36-1, AS ADDED BY P.L.88-2009,
 25 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2011]: Sec. 1. As used in this chapter, "abandoned structure"
 27 means any of the following:

- 28 (1) Commercial real property or a vacant structure on commercial
- 29 real property that is used or was previously used for industrial or
- 30 commercial purposes, and:
- 31 (A) that the owner of the property or structure has declared in
- 32 writing to be abandoned; or
- 33 (B) for which the owner of the property or structure has been
- 34 given a written order by an enforcement authority to
- 35 rehabilitate or demolish, and the owner:
- 36 (i) has not applied for a permit to rehabilitate or demolish
- 37 the property or structure; or
- 38 (ii) applied for and was granted a permit, but rehabilitation
- 39 or demolition work has not commenced on the property or
- 40 structure within thirty (30) days after the date the permit was
- 41 granted.
- 42 (2) Real property that has not been used for a legal purpose for at

C
o
p
y



- 1 least six (6) consecutive months and:
- 2 (A) in the judgment of an enforcement authority, is in need of
- 3 completion, rehabilitation, or repair, and completion,
- 4 rehabilitation, or repair work has not taken place on the
- 5 property for at least six (6) consecutive months;
- 6 (B) on which at least one (1) installment of property taxes is
- 7 delinquent; or
- 8 (C) that has been declared a public nuisance by a hearing
- 9 authority.
- 10 (3) Real property that has been declared in writing to be
- 11 abandoned by the owner, including an estate or a trust that
- 12 possesses the property.
- 13 (4) Vacant real property on which a municipal lien has remained
- 14 unpaid for at least one (1) year.
- 15 **(5) Mortgaged real property that has been surrendered in**
- 16 **bankruptcy as described in IC 32-29-12-1 and that is not**
- 17 **occupied by the mortgagor or a tenant.**
- 18 SECTION 10. IC 36-7-36-4, AS ADDED BY P.L.88-2009,
- 19 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 20 JULY 1, 2011]: Sec. 4. As used in this chapter, "owner" means a
- 21 person that holds a substantial interest in property in the form of a
- 22 known or recorded fee interest, life estate, or equitable interest as a
- 23 contract purchaser. **The term includes a mortgagee responsible for**
- 24 **the property under IC 32-29-12-2 or IC 32-29-13-3.**

C
o
p
y

