

HOUSE BILL No. 1174

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1-11-4.

Synopsis: Sale of real property by local government. Provides that a local government disposing agent may hire a broker to sell real property directly rather than using the bid process if: (1) the disposing agent publishes a notice of the determination to hire the broker; and (2) the property has been up for bid for at least 60 days before the broker is hired, and either no bids were received or the disposing agent has rejected all bids that were received.

Effective: July 1, 2011.

Burton

January 10, 2011, read first time and referred to Committee on Local Government.

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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.

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HOUSE BILL No. 1174



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 36-1-11-4, AS AMENDED BY P.L.27-2008,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: 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



1 to conduct a public auction. The advertising conducted by the
 2 auctioneer is in addition to any other notice required by law and shall
 3 include a detailed description of the property to be sold stating the key
 4 numbers, if any, of the tracts within that property. If the disposing agent
 5 determines that the best sale of the property can be made by letting the
 6 bidders determine certain conditions of the sale (such as required
 7 zoning or soil or drainage conditions) as a prerequisite to purchasing
 8 the property, the disposing agent may permit the bidders to specify
 9 those conditions. The notice must state the following:

10 (1) Bids will be received beginning on a specific date.

11 (2) The sale will continue from day to day for a period determined
 12 by the disposing agent of not more than sixty (60) days.

13 (3) The property may not be sold to a person who is ineligible
 14 under section 16 of this chapter.

15 (4) A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must
 16 identify each:

17 (A) beneficiary of the trust; and

18 (B) settlor empowered to revoke or modify the trust.

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

22 (e) The disposing agent may also engage an auctioneer licensed
 23 under IC 25-6.1 to conduct a sale by public auction. The auction may
 24 be conducted either at the time for beginning the sale in accordance
 25 with the public notice or after the beginning of the sale. The disposing
 26 agent shall give each bidder who has submitted a bid written notice of
 27 the time and place of the auction.

28 (f) The disposing agent may, before expiration of the time set out in
 29 the notice, sell the property to the highest and best bidder. The highest
 30 and best bidder must have complied with any requirement under
 31 subsection (c)(4). However, the disposing agent may sell the property
 32 for less than ninety percent (90%) of the appraised value of the tracts
 33 only after having an additional notice of the sale published in
 34 accordance with subsection (c). The disposing agent may reject all
 35 bids.

36 (g) If the disposing agent determines that, in the exercise of good
 37 business judgment, the disposing agent should hire a broker or
 38 auctioneer to sell the property, the disposing agent may do so and pay
 39 the broker or auctioneer a reasonable compensation out of the gross
 40 proceeds of the sale. ~~However, the disposing agent must still comply~~
 41 ~~with the procedural requirements of this section.~~ **A disposing agent**
 42 **may hire a broker to sell real property directly rather than using**

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1 **the bid process under subsections (c) through (f) if:**
2 **(1) the disposing agent publishes a notice of the determination**
3 **to hire the broker in accordance with IC 5-3-1; and**
4 **(2) the property has been up for bid for at least sixty (60) days**
5 **before the broker is hired, and either no bids were received or**
6 **the disposing agent has rejected all bids that were received.**
7 The disposing agent may hire one (1) of the appraisers as the broker or
8 auctioneer.

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