
HOUSE BILL No. 1293

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-11; IC 32-21-5-7; IC 32-28; IC 32-29; IC 32-30; IC 36-1-6-1.5; IC 36-7.

Synopsis: Local government property issues. Permits the waiver of the filing deadline for a property tax exemption application of a nonprofit corporation if the failure to file on time resulted from a personnel change. Allows a nonprofit corporation to amend an exemption application to include personal property or to correct a clerical error. Provides that an exempt property that is renovated does not lose its exemption during the renovation. With respect to mortgaged real property that the mortgagor surrenders in writing to the court or to a mortgagee, provides that 30 days from 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. Requires the Indiana real estate commission disclosure form to advise a purchaser of the purchaser's right to surrender the property to the mortgagee. Permits a homeowners association that has performed maintenance work on real estate in the association to file a homeowners association maintenance lien for the amount of work done, and specifies that a homeowners association maintenance lien

(Continued next page)

C
o
p
y

Effective: July 1, 2011.

Hinkle, Day

January 12, 2011, read first time and referred to Committee on Ways and Means.



has priority over any other lien. Authorizes a sheriff to affix a notice of sale to mortgaged property subject to sale if the sheriff is unable to determine the owner's residence. Requires a sheriff to file a deed with the recorder not later than 30 days after sale, and requires the recorder to record the deed not later than 30 days after the sheriff files the deed. Specifies that the sheriff must also file a deed if the property was insured by the United States Department of Housing and Urban Development. Permits, beginning July 1, 2012, a county legislative body to impose a \$5,000 civil penalty on a mortgagee that fails to record a deed within six months of acquiring the deed.

**C
o
p
y**



Introduced

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

HOUSE BILL No. 1293

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 6-1.1-11-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) The county
3 property tax assessment board of appeals, after careful examination,
4 shall approve or disapprove each exemption application and shall note
5 its action on the application.

6 **(b) This subsection applies only to an exemption application**
7 **filed after June 30, 2011, by a nonprofit corporation under section**
8 **3.5 of this chapter after the filing deadline prescribed in section 3**
9 **of this chapter for the assessment date in 2007 or a later year. The**
10 **county property tax assessment board of appeals may waive the**
11 **application filing deadline if the board determines that:**

12 (1) an official or employee of the applicant was responsible for
13 filing the application;
14 (2) the official's or employee's association with the applicant
15 was terminated before the filing deadline; and



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

- (3) after that termination and before the filing deadline:**
 - (A) the position of the official or employee remained vacant; or**
 - (B) the successor of that official or employee was not aware of the filing requirement.**

~~(b)~~ **(c)** If the county property tax assessment board of appeals approves the exemption, in whole or part:

- (1) the county assessor shall notify the county auditor of the approval; and
- (2) the county auditor shall note the board's action on the tax duplicate.

The county auditor's notation is notice to the county treasurer that the exempt property shall not be taxed for the current year unless otherwise ordered by the department of local government finance.

~~(c)~~ **(d)** If the exemption application is disapproved by the county property tax assessment board of appeals, the county assessor shall notify the applicant by mail. Within thirty (30) days after the notice is mailed, the owner may, in the manner prescribed in IC 6-1.1-15-3, petition the Indiana board to review the county property tax assessment board of appeals' determination. **If the exemption application of a nonprofit corporation subject to section 3.5 of this chapter is disapproved by the county property tax assessment board of appeals because the applicant failed to meet the filing deadline prescribed in section 3 of this chapter, the nonprofit corporation may, in the manner prescribed in IC 6-1.1-15-3, petition the Indiana board to waive the application filing deadline. The Indiana board may waive the application filing deadline only if the board determines that the applicant meets the grounds set forth in subsection (b)(1) through (b)(3). If the Indiana board waives the application filing deadline under this subsection:**

- (1) the board shall notify the county property tax assessment board of appeals of the waiver; and**
- (2) the county property tax assessment board of appeals shall review and act on the application as if the application had been timely filed.**

SECTION 2. IC 6-1.1-11-4, AS AMENDED BY P.L.182-2009(ss), SECTION 107, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) The exemption application referred to in section 3 of this chapter is not required if the exempt property is owned by the United States, the state, an agency of this state, or a political subdivision (as defined in IC 36-1-2-13). However, this subsection applies only when the property is used, and in the case

C
o
p
y



1 of real property occupied, by the owner.
 2 (b) The exemption application referred to in section 3 of this chapter
 3 is not required if the exempt property is a cemetery:
 4 (1) described by IC 6-1.1-2-7; or
 5 (2) maintained by a township executive under IC 23-14-68.
 6 (c) The exemption application referred to in section 3 of this chapter
 7 is not required if the exempt property is owned by the bureau of motor
 8 vehicles commission established under IC 9-15-1.
 9 (d) The exemption application referred to in section 3 or 3.5 of this
 10 chapter is not required if:
 11 (1) the exempt property is:
 12 (A) tangible property used for religious purposes described in
 13 IC 6-1.1-10-21;
 14 (B) tangible property owned by a church or religious society
 15 used for educational purposes described in IC 6-1.1-10-16; or
 16 (C) other tangible property owned, occupied, and used by a
 17 person for educational, literary, scientific, religious, or
 18 charitable purposes described in IC 6-1.1-10-16;
 19 (2) the exemption application referred to in section 3 or 3.5 of this
 20 chapter was filed properly at least once for a religious use under
 21 IC 6-1.1-10-21 or an educational, literary, scientific, religious, or
 22 charitable use under IC 6-1.1-10-16; and
 23 (3) the property continues to meet the requirements for an
 24 exemption under IC 6-1.1-10-16 or IC 6-1.1-10-21.
 25 **Subject to subsection (e)**, a change in ownership of property does not
 26 terminate an exemption of the property if after the change in ownership
 27 the property continues to meet the requirements for an exemption under
 28 IC 6-1.1-10-16 or IC 6-1.1-10-21. However, if title to any of the real
 29 property subject to the exemption changes or any of the tangible
 30 property subject to the exemption is used for a nonexempt purpose after
 31 the date of the last properly filed exemption application, the person that
 32 obtained the exemption or the current owner of the property shall notify
 33 the county assessor for the county where the tangible property is
 34 located of the change in the year that the change occurs. The notice
 35 must be in the form prescribed by the department of local government
 36 finance. If the county assessor discovers that title to property granted
 37 an exemption described in IC 6-1.1-10-16 or IC 6-1.1-10-21 has
 38 changed, the county assessor shall notify the persons entitled to a tax
 39 statement under IC 6-1.1-22-8.1 for the property of the change in title
 40 and indicate that the county auditor will suspend the exemption for the
 41 property until the persons provide the county assessor with an affidavit,
 42 signed under penalties of perjury, that identifies the new owners of the

COPY



1 property and indicates that the property continues to meet the
2 requirements for an exemption under IC 6-1.1-10-21 or IC 6-1.1-10-16.
3 Upon receipt of the affidavit, the county assessor shall reinstate the
4 exemption for the years for which the exemption was suspended and
5 each year thereafter that the property continues to meet the
6 requirements for an exemption under IC 6-1.1-10-21 or IC 6-1.1-10-16.

7 **(e) For purposes of subsection (d), property that:**

8 **(1) changes ownership;**

9 **(2) is renovated after the change of ownership; and**

10 **(3) meets the requirements for an exemption under**
11 **IC 6-1.1-10-16 or IC 6-1.1-10-21 after the renovation;**

12 **is considered during the renovation to meet those requirements.**

13 SECTION 3. IC 6-1.1-11-3.6 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2011]: **Sec. 3.6. (a) This section applies if a**
16 **nonprofit corporation:**

17 **(1) files with the county assessor an application for a property**
18 **tax exemption under this chapter for an assessment date for**
19 **real property; and**

20 **(2) not more than three (3) years after that assessment date**
21 **files with the county assessor an amended application to apply**
22 **also for an exemption for personal property.**

23 **(b) The county assessor shall submit the amended exemption**
24 **application to the county property tax assessment board of appeals**
25 **for examination.**

26 **(c) The property tax assessment board of appeals shall consider**
27 **the exemption of the personal property in the same manner that**
28 **would have applied if the application for an exemption for personal**
29 **property had been included in the original exemption application.**

30 SECTION 4. IC 6-1.1-11-3.7 IS ADDED TO THE INDIANA
31 CODE AS A NEW SECTION TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2011]: **Sec. 3.7. (a) This section applies if a**
33 **nonprofit corporation:**

34 **(1) files with the county assessor an application for a property**
35 **tax exemption under this chapter for an assessment date; and**

36 **(2) not more than three (3) years after that assessment date**
37 **files with the county assessor an amended application to**
38 **correct a clerical error.**

39 **(b) The county assessor shall submit the amended exemption**
40 **application to the county property tax assessment board of appeals**
41 **for examination.**

42 **(c) If the property tax assessment board of appeals determines**

C
O
P
Y



1 **that a clerical error was made as claimed by the applicant, the**
2 **board shall consider the exemption in the same manner that would**
3 **have applied if the clerical error had not been made in the original**
4 **exemption application.**

5 SECTION 5. IC 32-21-5-7 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. The Indiana real
7 estate commission established by IC 25-34.1-2-1 shall adopt a specific
8 disclosure form that contains the following:

9 (1) Disclosure by the owner of the known condition of the
10 following:

- 11 (A) The foundation.
- 12 (B) The mechanical systems.
- 13 (C) The roof.
- 14 (D) The structure.
- 15 (E) The water and sewer systems.
- 16 (F) Additions that may require improvements to the sewage
17 disposal system.
- 18 (G) Other areas that the Indiana real estate commission
19 determines are appropriate.

20 (2) A notice to the prospective buyer that contains substantially
21 the following language:

22 "The prospective buyer and the owner may wish to obtain
23 professional advice or inspections of the property and provide for
24 appropriate provisions in a contract between them concerning any
25 advice, inspections, defects, or warranties obtained on the
26 property."

27 (3) A notice to the prospective buyer that contains substantially
28 the following language:

29 "The representations in this form are the representations of the
30 owner and are not the representations of the agent, if any. This
31 information is for disclosure only and is not intended to be a part
32 of any contract between the buyer and owner."

33 **(4) A notice to the prospective buyer that contains**
34 **substantially the following language:**

35 **"A person who purchases real property subject to a mortgage**
36 **has the right to surrender the property to the mortgagee as**
37 **part of a bankruptcy proceeding (under IC 32-29-12) or by**
38 **complying with the requirements of IC 32-29-13. The**
39 **surrender of a property to a mortgagee may obligate the**
40 **mortgagee to perform certain maintenance duties with**
41 **respect to the mortgaged property, but may not relieve the**
42 **owner of debts owed to the mortgagee."**

C
o
p
y



1 ~~(4)~~ **(5)** A disclosure by the owner that an airport is located within
2 a geographical distance from the property as determined by the
3 Indiana real estate commission. The commission may consider the
4 differences between an airport serving commercial airlines and an
5 airport that does not serve commercial airlines in determining the
6 distance to be disclosed.

7 SECTION 6. IC 32-28-3-5, AS AMENDED BY P.L.35-2010,
8 SECTION 207, IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) As used in this section,
10 "lender" refers to:

- 11 (1) an individual;
- 12 (2) a supervised financial organization (as defined in
- 13 IC 26-1-4-102.5);
- 14 (3) an insurance company or a pension fund; or
- 15 (4) any other entity that has the authority to make loans.

16 (b) The recorder shall record the statement and notice of intention
17 to hold a lien when presented under section 3 of this chapter in the
18 miscellaneous record book. The recorder shall charge a fee for
19 recording the statement and notice in accordance with IC 36-2-7-10.
20 When the statement and notice of intention to hold a lien is recorded,
21 the lien is created. The recorded lien relates back to the date the
22 mechanic or other person began to perform the labor or furnish the
23 materials or machinery. Except as provided in subsections (c) and (d),
24 a lien created under this chapter has priority over a lien created after it.

25 (c) The lien of a mechanic or materialman does not have priority
26 over:

- 27 **(1) the lien of another mechanic or materialman; or**
- 28 **(2) a homeowners association maintenance lien.**

29 (d) The mortgage of a lender has priority over all liens created under
30 this chapter that are recorded after the date the mortgage was recorded,
31 to the extent of the funds actually owed to the lender for the specific
32 project to which the lien rights relate. This subsection does not apply
33 to a lien that relates to a construction contract for the development,
34 construction, alteration, or repair of the following:

- 35 (1) A Class 2 structure (as defined in IC 22-12-1-5).
- 36 (2) An improvement on the same real estate auxiliary to a Class
- 37 2 structure (as defined in IC 22-12-1-5).
- 38 (3) Property that is:
 - 39 (A) owned, operated, managed, or controlled by:
 - 40 (i) a public utility (as defined in IC 8-1-2-1);
 - 41 (ii) a municipally owned utility (as defined in IC 8-1-2-1);
 - 42 (iii) a joint agency (as defined in IC 8-1-2.2-2);

C
o
p
y



- 1 (iv) a rural electric membership corporation formed under
 2 IC 8-1-13-4;
 3 (v) a rural telephone cooperative corporation formed under
 4 IC 8-1-17; or
 5 (vi) a not-for-profit utility (as defined in IC 8-1-2-125);
 6 regulated under IC 8; and
 7 (B) intended to be used and useful for the production,
 8 transmission, delivery, or furnishing of heat, light, water,
 9 telecommunications services, or power to the public.
- 10 SECTION 7. IC 32-28-14-5.5 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2011]: **Sec. 5.5. (a) This section applies only
 13 to a homeowners association to which a person who owns property
 14 is legally required to belong.**
- 15 (b) As used in this section, "maintenance" includes work
 16 performed to enable a parcel of real estate to comply with:
 17 (1) rules adopted by the homeowners association concerning
 18 the appearance or maintenance of real property; and
 19 (2) any other law concerning the appearance or maintenance
 20 of real estate that applies to the parcel of real estate.
- 21 (c) All sums assessed by a homeowners association but unpaid
 22 for the maintenance of a parcel of real estate in a subdivision
 23 constitute a homeowners association maintenance lien on the real
 24 estate effective as provided under subsection (d).
- 25 (d) A lien created under this chapter has priority over a lien
 26 created after it.
- 27 (e) A notice of lien may not be recorded under this section unless
 28 the notice of lien:
 29 (1) contains:
 30 (A) the name and address of the homeowners association;
 31 (B) the address and legal description of the property that
 32 is subject to the lien;
 33 (C) the name of the owner of the property that is subject to
 34 the lien;
 35 (D) a brief description of the maintenance work performed
 36 and the date on which the maintenance work was
 37 performed; and
 38 (E) the amount of the lien; and
 39 (2) is:
 40 (A) signed by an officer of the homeowners association;
 41 and
 42 (B) acknowledged as in the case of deeds.

C
O
P
Y



1 SECTION 8. IC 32-29-7-3, AS AMENDED BY P.L.68-2010,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 3. (a) In a proceeding for the foreclosure of a
4 mortgage executed on real estate, process may not issue for the
5 execution of a judgment or decree of sale for a period of three (3)
6 months after the filing of a complaint in the proceeding. However:

7 (1) the period is:

8 (A) twelve (12) months in a proceeding for the foreclosure of
9 a mortgage executed before January 1, 1958; and

10 (B) six (6) months in a proceeding for the foreclosure of a
11 mortgage executed after December 31, 1957, but before July
12 1, 1975; and

13 (2) if the court or an enforcement authority (as defined in
14 IC 36-7-9-2) finds that the mortgaged real estate is residential real
15 estate and has been abandoned, a judgment or decree of sale may
16 be executed on the date the judgment of foreclosure or decree of
17 sale is entered, regardless of the date the mortgage is executed.

18 (b) A judgment and decree in a proceeding to foreclose a mortgage
19 that is entered by a court having jurisdiction may be filed with the clerk
20 in any county as provided in IC 33-32-3-2. After the period set forth in
21 subsection (a) expires, a person who may enforce the judgment and
22 decree may file a praecipe with the clerk in any county where the
23 judgment and decree is filed, and the clerk shall promptly issue and
24 certify to the sheriff of that county a copy of the judgment and decree
25 under the seal of the court. However, if:

26 (1) a praecipe is not filed with the clerk within one hundred eighty
27 (180) days after the later of the dates on which:

28 (A) the period specified in subsection (a) expires; or

29 (B) the judgment and decree is filed; and

30 (2) the sale is not:

31 (A) otherwise prohibited by law;

32 (B) subject to a voluntary statewide foreclosure moratorium;

33 or

34 (C) subject to a written agreement that:

35 (i) provides for a delay in the sale of the mortgaged real
36 estate; and

37 (ii) is executed by and between the owner of the mortgaged
38 real estate and a party entitled to enforce the judgment and
39 decree;

40 an enforcement authority that has issued an abatement order under
41 IC 36-7-36-9 with respect to the mortgaged real estate may file a
42 praecipe with the clerk in any county where the judgment and decree

C
o
p
y



1 is filed. If an enforcement authority files a praecipe under this
2 subsection, the clerk of the county in which the praecipe is filed shall
3 promptly issue and certify to the sheriff of that county a copy of the
4 judgment and decree under the seal of the court.

5 (c) Upon receiving a certified judgment under subsection (b), the
6 sheriff shall, subject to section 4 of this chapter, sell the mortgaged
7 premises or as much of the mortgaged premises as necessary to satisfy
8 the judgment, interest, and costs at public auction at the office of the
9 sheriff or at another location that is reasonably likely to attract higher
10 competitive bids. The sheriff shall schedule the date and time of the
11 sheriff's sale for:

12 (1) a date not later than one hundred twenty (120) days after the
13 date on which the judgment and decree under seal of the court are
14 certified to the sheriff by the clerk; and

15 (2) a time certain between the hours of 10 a.m. and 4 p.m. on any
16 day of the week except Sunday.

17 (d) Before selling mortgaged property, the sheriff must advertise the
18 sale by publication once each week for three (3) successive weeks in
19 a daily or weekly newspaper of general circulation. The sheriff shall
20 publish the advertisement in at least one (1) newspaper published and
21 circulated in each county where the real estate is situated. The first
22 publication shall be made at least thirty (30) days before the date of
23 sale. At the time of placing the first advertisement by publication, the
24 sheriff shall also serve a copy of the written or printed notice of sale
25 upon each owner of the real estate. Service of the written notice shall
26 be made as provided in the Indiana Rules of Trial Procedure governing
27 service of process upon a person. **If the sheriff is unable to determine
28 the residence of the owner, the sheriff may securely affix a copy of
29 the notice to the mortgaged property, and send a copy of the notice
30 by first class mail to the same address.** The sheriff shall charge a fee
31 of ten dollars (\$10) to one (1) owner and three dollars (\$3) to each
32 additional owner for service of written notice under this subsection.
33 The fee is:

34 (1) a cost of the proceeding;

35 (2) to be collected as other costs of the proceeding are collected;
36 and

37 (3) to be deposited in the county general fund for appropriation
38 for operating expenses of the sheriff's department.

39 (e) The sheriff also shall post written or printed notices of the sale
40 at the door of the courthouse of each county in which the real estate is
41 located.

42 (f) If the sheriff is unable to procure the publication of a notice

C
o
p
y



1 within the county, the sheriff may dispense with publication. The
2 sheriff shall state that the sheriff was not able to procure the
3 publication and explain the reason why publication was not possible.

4 (g) Notices under subsections (d) and (e) must contain a statement,
5 for informational purposes only, of the location of each property by
6 street address, if any, or other common description of the property other
7 than legal description. A misstatement in the informational statement
8 under this subsection does not invalidate an otherwise valid sale.

9 (h) The sheriff may charge an administrative fee of not more than
10 two hundred dollars (\$200) with respect to a proceeding referred to in
11 subsection (b) for actual costs directly attributable to the administration
12 of the sale under subsection (c). The fee is:

13 (1) payable by the person seeking to enforce the judgment and
14 decree; and

15 (2) due at the time of filing of the praecipe;
16 under subsection (b).

17 SECTION 9. IC 32-29-7-10, AS AMENDED BY P.L.105-2009,
18 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2011]: Sec. 10. (a) ~~Immediately~~ After a foreclosure sale under
20 this chapter, the sheriff shall:

- 21 (1) **immediately** execute and deliver to the purchaser; and
- 22 (2) except as provided in subsection (b), **not later than thirty**
23 **(30) days after the sale**, record with the recorder of the county in
24 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 **(b) The county recorder shall ensure that the deed filed by the**
35 **sheriff under subsection (a)(2) is properly recorded not later than**
36 **thirty (30) days after the sheriff files the deed.**

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

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

41 **Sec. 1. (a) This chapter applies only to mortgaged real property**
42 **that the mortgagor surrenders in writing to the court or to a**

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

mortgagee as a part of or while in bankruptcy proceedings.

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

Sec. 2. (a) Thirty (30) days after the date on which a mortgagor surrenders real property to which this chapter applies to a mortgagee, or after the date on which court approves a plan in which a mortgagor surrenders real property to which this chapter applies, whichever occurs first, the mortgagee of the property is responsible for:

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

(b) If the real property has one (1) or more mortgagees, 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 in order to carry out its responsibilities under this section.

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

Sec. 4. (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 2 of this chapter, for noncompliance with an item described in section 2 of this chapter; or
- (2) county legislative body for failure to record a deed as required by section 3 of this chapter.

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

SECTION 11. IC 32-29-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE

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

JULY 1, 2011]:

Chapter 13. Surrender of Property to a Mortgagee

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

(b) This chapter does not apply to mortgaged real property:

- (1) that the mortgagor surrenders to the court or to a mortgagee as a part of or while in bankruptcy proceedings; or**
- (2) while the real property is occupied by the mortgagor or a tenant.**

Sec. 2. A mortgagor may surrender mortgaged property to a mortgagee as follows:

(1) The mortgagor transmits to the mortgagee by certified mail, return receipt requested:

- (A) written notice of the mortgagor's intent to surrender the mortgaged property; and**
- (B) a valid quitclaim deed transferring the mortgaged property to the mortgagee.**

(2) The mortgagor transmits a copy of the notice of intent to surrender the property and a copy of the quitclaim deed to the county auditor.

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

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

(b) If the real property has one (1) or more mortgagees, 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 in order 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.

**C
O
P
Y**



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

4 **(1) legislative body of the unit having responsibility for**
5 **enforcing the items described in section 3 of this chapter, for**
6 **noncompliance with an item described in section 3 of this**
7 **chapter; or**

8 **(2) county legislative body for failure to record a deed as**
9 **required by section 4 of this chapter.**

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

12 SECTION 12. IC 32-29-14 IS ADDED TO THE INDIANA CODE
13 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2011]:

15 **Chapter 14. Duty to Record Deeds**

16 **Sec. 1. (a) This section applies only to a deed possessed by a**
17 **mortgagee that came into the mortgagee's possession before**
18 **January 1, 2012.**

19 **(b) The legislative body of a county may adopt an ordinance**
20 **imposing a civil penalty of not more than five thousand dollars**
21 **(\$5,000) on a mortgagee in possession of an unrecorded deed after**
22 **June 30, 2012, if the mortgagee came into possession of the deed**
23 **before January 1, 2012.**

24 **Sec. 2. (a) This section applies only to a deed possessed by a**
25 **mortgagee that came into the mortgagee's possession on or after**
26 **January 1, 2012.**

27 **(b) After June 30, 2012, the legislative body of a county may**
28 **adopt an ordinance imposing a civil penalty of not more than five**
29 **thousand dollars (\$5,000) on a mortgagee that fails to properly**
30 **record a deed within six (6) months of obtaining the deed.**

31 **(c) The six (6) month period begins to run on the actual date**
32 **that the mortgagee acquired the deed.**

33 **Sec. 3. The civil penalty described in sections 1 and 2 of this**
34 **chapter applies to each unrecorded deed.**

35 SECTION 13. IC 32-30-7-6 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 6. The following are**
37 **guilty of maintaining an indecent nuisance and may be enjoined from**
38 **maintaining the indecent nuisance under this chapter:**

39 **(1) A person who uses, occupies, establishes, maintains, or**
40 **conducts an indecent nuisance.**

41 **(2) The owner (including a mortgagee responsible for the**
42 **property under IC 32-29-12-2 or IC 32-29-13-3), agent, or**

C
o
p
y



1 lessee of any interest in an indecent nuisance.
 2 (3) A person employed in an indecent nuisance.
 3 SECTION 14. IC 32-30-8-5 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) A person
 5 initiating an action under this chapter to abate a nuisance existing on
 6 a property shall, at least forty-five (45) days before filing the action,
 7 provide notice to:
 8 (1) each tenant of the property; and
 9 (2) the owner of record, **including a mortgagee responsible for**
 10 **the property under IC 32-29-12-2 or IC 32-29-13-3;**
 11 that a nuisance exists on the property.
 12 (b) The notice required under this section must specify the
 13 following:
 14 (1) The date and time the nuisance was first discovered.
 15 (2) The location on the property where the nuisance is allegedly
 16 occurring.
 17 (c) The notice must be:
 18 (1) hand delivered; or
 19 (2) sent by certified mail;
 20 to each tenant and the owner of record.
 21 (d) A person initiating an action to abate a nuisance under this
 22 chapter shall:
 23 (1) when notice is provided under this section, produce all
 24 evidence in the person's possession or control of the existence of
 25 the nuisance; and
 26 (2) if requested by the owner, assist the owner in the production
 27 of witness and physical evidence.
 28 SECTION 15. IC 36-1-6-1.5 IS ADDED TO THE INDIANA CODE
 29 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 30 **1, 2011]: Sec. 1.5. As used in this chapter, "owner" includes a**
 31 **mortgagee responsible for the property under IC 32-29-12-2 or**
 32 **IC 32-29-13-3.**
 33 SECTION 16. IC 36-7-9-2, AS AMENDED BY P.L.73-2010,
 34 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2011]: Sec. 2. As used in this chapter:
 36 "Community organization" means a citizen's group, neighborhood
 37 association, neighborhood development corporation, or similar
 38 organization that:
 39 (1) has specific geographic boundaries defined in its bylaws or
 40 articles of incorporation and contains at least forty (40)
 41 households within those boundaries;
 42 (2) is a nonprofit corporation that is representative of at least

C
o
p
y



1 twenty-five (25) households or twenty percent (20%) of the
 2 households in the community, whichever is less;
 3 (3) is operated primarily for the promotion of social welfare and
 4 general neighborhood improvement and enhancement;
 5 (4) has been incorporated for at least two (2) years; and
 6 (5) is exempt from taxation under Section 501(c)(3) or 501(c)(4)
 7 of the Internal Revenue Code.

8 "Continuous enforcement order" means an order that:
 9 (1) is issued for compliance or abatement and that remains in full
 10 force and effect on a property without further requirements to
 11 seek additional:

- 12 (A) compliance and abatement authority; or
- 13 (B) orders for the same or similar violations;
- 14 (2) authorizes specific ongoing compliance and enforcement
 15 activities if a property requires reinspection or additional periodic
 16 abatement;
- 17 (3) can be enforced, including assessment of fees and costs,
 18 without the need for additional notice or hearing; and
- 19 (4) authorizes the enforcement authority to assess and collect
 20 ongoing costs for continuous enforcement order activities from
 21 any party that is subject to the enforcement authority's order.

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

26 "Enforcement authority" refers to the chief administrative officer of
 27 the department, except in a consolidated city. In a consolidated city, the
 28 division of development services is the enforcement authority, subject
 29 to IC 36-3-4-23.

30 "Hearing authority" refers to a person or persons designated as such
 31 by the executive of a city or county, or by the legislative body of a
 32 town. However, in a consolidated city, the director of the department
 33 or a person designated by the director is the hearing authority. An
 34 employee of the enforcement authority may not be designated as the
 35 hearing authority.

36 "Known or recorded fee interest, life estate interest, or equitable
 37 interest of a contract purchaser" means any fee interest, life estate
 38 interest, or equitable interest of a contract purchaser held by a person
 39 whose identity and address may be determined from:

- 40 (1) an instrument recorded in the recorder's office of the county
 41 where the unsafe premises is located;
- 42 (2) written information or actual knowledge received by the

C
O
P
Y



1 department (or, in the case of a consolidated city, the enforcement
 2 authority); or
 3 (3) a review of department (or, in the case of a consolidated city,
 4 the enforcement authority) records that is sufficient to identify
 5 information that is reasonably ascertainable.

6 "Known or recorded substantial property interest" means any right
 7 in real property, including a fee interest, a life estate interest, a future
 8 interest, a mortgage interest, a lien as evidenced by a certificate of sale
 9 issued under IC 6-1.1-24, or an equitable interest of a contract
 10 purchaser, that:

11 (1) may be affected in a substantial way by actions authorized by
 12 this chapter; and

13 (2) is held by a person whose identity and address may be
 14 determined from:

- 15 (A) an instrument recorded in:
 - 16 (i) the recorder's office of the county where the unsafe
 17 premises is located; or
 - 18 (ii) the office of the county auditor of the county where the
 19 unsafe premises are located in the case of a lien evidenced
 20 by a certificate of sale issued under IC 6-1.1-24;

21 (B) written information or actual knowledge received by the
 22 department (or, in the case of a consolidated city, the
 23 enforcement authority); or

24 (C) a review of department (or, in the case of a consolidated
 25 city, the enforcement authority) records that is sufficient to
 26 identify information that is reasonably ascertainable.

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

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

33 SECTION 17. IC 36-7-36-1, AS ADDED BY P.L.88-2009,
 34 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2011]: Sec. 1. As used in this chapter, "abandoned structure"
 36 means any of the following:

37 (1) Commercial real property or a vacant structure on commercial
 38 real property that is used or was previously used for industrial or
 39 commercial purposes, and:

40 (A) that the owner of the property or structure has declared in
 41 writing to be abandoned; or

42 (B) for which the owner of the property or structure has been

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

given a written order by an enforcement authority to rehabilitate or demolish, and the owner:

(i) has not applied for a permit to rehabilitate or demolish the property or structure; or

(ii) applied for and was granted a permit, but rehabilitation or demolition work has not commenced on the property or structure within thirty (30) days after the date the permit was granted.

(2) Real property that has not been used for a legal purpose for at least six (6) consecutive months and:

(A) in the judgment of an enforcement authority, is in need of completion, rehabilitation, or repair, and completion, rehabilitation, or repair work has not taken place on the property for at least six (6) consecutive months;

(B) on which at least one (1) installment of property taxes is delinquent; or

(C) that has been declared a public nuisance by a hearing authority.

(3) Real property that has been declared in writing to be abandoned by the owner, including an estate or a trust that possesses the property.

(4) Vacant real property on which a municipal lien has remained unpaid for at least one (1) year.

(5) Mortgaged real property that has been surrendered in bankruptcy as described in IC 32-29-12-1 and that is not occupied by the mortgagor or a tenant.

SECTION 18. IC 36-7-36-4, AS ADDED BY P.L.88-2009, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. As used in this chapter, "owner" means a person that holds a substantial interest in property in the form of a known or recorded fee interest, life estate, or equitable interest as a contract purchaser. **The term includes a mortgagee responsible for the property under IC 32-29-12-2 or IC 32-29-13-3.**

C
o
p
y

