
HOUSE BILL No. 1497

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-30-8.

Synopsis: Drug nuisances. Permits a court to void a land contract and order a contract purchaser to vacate the property being purchased on contract if a contract purchaser created a drug nuisance on the property.

Effective: July 1, 2011.

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January 20, 2011, read first time and referred to Committee on Judiciary.

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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. 1497



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

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

1 SECTION 1. IC 32-30-8-0.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]: **Sec. 0.5. As used in this chapter, "contract purchaser"**
4 **means a person who is purchasing property under a land contract**
5 **that is entered into or renewed after June 30, 2011.**

6 SECTION 2. IC 32-30-8-2, AS AMENDED BY P.L.87-2005,
7 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2011]: Sec. 2. (a) As used in this chapter, "property" means a
9 house, a building, a mobile home, or an apartment that is:

- 10 (1) leased; or
 - 11 (2) **being sold on land contract;**
- 12 for residential or commercial purposes.

- 13 (b) The term includes:
 - 14 (1) an entire building or complex of buildings; or
 - 15 (2) a mobile home community;
- 16 and all real property of any nature appurtenant to and used in
17 connection with the house, building, mobile home, or apartment,



1 including all individual rental units and common areas.

2 (c) The term does not include a hotel, motel, or other guest house,
3 part of which is rented to a transient guest.

4 SECTION 3. IC 32-30-8-5 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) A person
6 initiating an action under this chapter to abate a nuisance existing on
7 a property shall, at least forty-five (45) days before filing the action,
8 provide notice to:

- 9 (1) each tenant of the property; ~~and~~
- 10 **(2) a contract purchaser of the property; and**
- 11 ~~(2) (3)~~ **(3) the owner of record;**

12 that a nuisance exists on the property.

13 (b) The notice required under this section must specify the
14 following:

- 15 (1) The date and time the nuisance was first discovered.
- 16 (2) The location on the property where the nuisance is allegedly
17 occurring.

18 (c) The notice must be:

- 19 (1) hand delivered; or
- 20 (2) sent by certified mail;

21 to each tenant, **contract purchaser**, and the owner of record.

22 (d) A person initiating an action to abate a nuisance under this
23 chapter shall:

- 24 (1) when notice is provided under this section, produce all
25 evidence in the person's possession or control of the existence of
26 the nuisance; and
- 27 (2) if requested by the owner, assist the owner in the production
28 of witness and physical evidence.

29 SECTION 4. IC 32-30-8-8 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) If the defendant
31 has not been personally served with process despite the exercise of due
32 diligence, the person initiating an action under this chapter, not more
33 than twenty (20) days after the filing of a complaint and the filing of an
34 affidavit that personal service on the defendant cannot be had after due
35 diligence, may cause a copy of the complaint to be mailed to the
36 defendant by certified mail, restricted delivery, return receipt to the
37 clerk of court requested. Service is considered completed when the
38 following are filed with the court:

- 39 (1) Proof of the mailing.
- 40 (2) An affidavit that a copy of the complaint has been posted on
41 the property alleged to be a nuisance.

42 (b) This subsection does not apply to transient guests of a hotel,

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1 motel, or other guest house. All tenants, **contract purchasers**, or
2 residents of a property that is used in whole or in part as a business,
3 home, residence, or dwelling who may be affected by an order issued
4 under this chapter must be:

- 5 (1) provided reasonable notice as ordered by the court having
- 6 jurisdiction over the nuisance action; and
- 7 (2) afforded an opportunity to be heard at all proceedings in the
- 8 action.

9 (c) Notice of lis pendens shall be filed concurrently with the
10 initiation of an action under this chapter.

11 SECTION 5. IC 32-30-8-11 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. Notwithstanding
13 any other provision of law, and in addition to or as a component of a
14 remedy ordered under section 10 of this chapter, the court, after a
15 hearing, may:

- 16 (1) order a tenant that created a nuisance on the property leased
- 17 by the tenant to vacate the property ~~within~~ **not later than**
- 18 **seventy-two (72) hours after the issuance of the order; and**
- 19 **(2) if a contract purchaser created a nuisance on the property**
- 20 **being purchased by a land contract, void the land contract**
- 21 **and order the contract purchaser to vacate the property not**
- 22 **later than seventy-two (72) hours after the issuance of the**
- 23 **order.**

24 SECTION 6. IC 32-30-8-12 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) The court, after
26 a hearing under this chapter, may grant a judgment of restitution or the
27 possession of the property to the owner if:

- 28 (1) the owner and **the tenant or contract purchaser** are parties
- 29 to the action; and
- 30 (2) the tenant **or contract purchaser** has failed to obey an order
- 31 issued under section 10 or 11 of this chapter.
- 32 (b) If the court orders the owner to have possession of the property,
- 33 the court shall require the sheriff to execute the order of possession not
- 34 later than five (5) days after the order is issued.

35 (c) If the owner is awarded possession of the property, the owner
36 may seek an order from the court allowing removal of a tenant's **or**
37 **contract purchaser's** personal property under IC 32-31-4.

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