Reprinted
April 5, 2013

ENGROSSED
SENATE BILL No. 433

DIGEST OF SB 433 (Updated April 4, 2013 1:40 pm - DI 75)

Citations Affected: IC 6-1.1; IC 32-30; IC 34-30; IC 35-43; IC 36-7.

Synopsis: Abandoned property; property safety. Establishes a procedure to permit a county executive to dispose of certain properties that did not sell at the tax sale to a person able to repair and maintain the properties. Provides that before the county executive may transfer properties that did not sell at a tax sale to a nonprofit corporation, an abutting property owner, or a person satisfactorily able to repair and maintain the property, a person with a substantial interest in the property must be given an opportunity to redeem the property. Removes a requirement that the county executive's sale of a certain contiguous vacant parcel to an adjoining property owner may be conducted only if construction of a residential dwelling is permitted on the vacant parcel. Requires certain notices concerning demolition and

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Effective: July 1, 2013.

Paul, Merritt, Breaux, Leising, Broden

(HOUSE SPONSORS — HAMM, SAUNDERS, MOED, FORESTAL, PRICE)

January 10, 2013, read first time and referred to Committee on Local Government.
January 24, 2013, amended, reported favorably — Do Pass.
February 4, 2013, read second time, amended, ordered engrossed.
February 5, 2013, engrossed.
February 12, 2013, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 26, 2013, read first time and referred to Committee on Local Government.
April 2, 2013, amended, reported — Do Pass.
April 4, 2013, read second time, amended, ordered engrossed.

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removal under the unsafe building law be served on each person with a known or recorded substantial property interest. Requires a county executive, in preparing the list of tax delinquent properties that must be submitted annually to the county auditor, to include on the list any real property that the executive of a city or town located in the county has determined to be abandoned and has identified as such to the county executive. Requires the county auditor of a county not having a consolidated city to prepare a list of tracts or items of real property within each city or town located in the county for which the fall installment of the most recent previous year's taxes is delinquent and to give a copy of the list to the appropriate city or town or post the list on the county's web site. Requires a county executive to give notice to the executive of a city or town in which is located real property that is subject to sale or transfer under the statute governing sale or transfer of properties with delinquent taxes or assessments so that the city or town may accept transfer of the property. Amends a statute authorizing the judicial determination that real property subject to a mortgage is abandoned so as to authorize the judicial determination under that statute that real property not subject to a mortgage is abandoned. Authorizes a municipality or county to bring an action to collect unpaid expenses relating to the abatement of high weeds and grass. (Under current law, the municipality or county may obtain only a lien on the property containing the high weeds and grass.) Provides that a creditor is a person immune from civil liability for entering abandoned real property to perform certain actions to clean up the real property. Provides that removal or painting over graffiti is an action that is immunized. Provides that a person who enters or refuses to leave vacant or abandoned property after having been barred from the property by a court order or a law enforcement officer commits criminal trespass. Provides that for purposes of the statute relating to removal of weeds from properties, notice may be given by first class mail rather than by certified mail. Makes certain technical changes.

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Reprinted
April 5, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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ENGROSSED
SENATE BILL No. 433

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

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

SECTION 1. IC 6-1.1-24-1, AS AMENDED BY P.L.120-2012, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) On or after January 1 of each calendar year in which a tax sale will be held in a county and not later than fifty-one (51) days after the first tax payment due date in that calendar year, the county treasurer (or county executive, in the case of property described in subdivision (2)) shall certify to the county auditor a list of real property on which any of the following exist:

(1) In the case of real property other than real property described in subdivision (2), any property taxes or special assessments certified to the county auditor for collection by the county treasurer from the prior year's spring installment or before are delinquent as determined under IC 6-1.1-37-10 and the delinquent property tax or special assessments due exceed twenty-five dollars ($25).

(2) In the case of real property for which a county executive has certified to the county auditor that the real property is:

(A) vacant; or
(B) abandoned;
any property taxes or special assessments from the prior year's fall installment or before that are delinquent as determined under IC 6-1.1-37-10. The county executive must make a certification under this subdivision not later than sixty-one (61) days before the earliest date on which application for judgment and order for sale may be made. **The executive of a city or town may provide to the county executive of the county in which the city or town is located a list of real property that the city or town has determined to be vacant or abandoned. The county executive shall include real property included on the list provided by a city or town executive on the list certified by the county executive to the county auditor under this subsection.**
(3) Any unpaid costs are due under section 2(b) of this chapter from a prior tax sale.

(b) The county auditor shall maintain a list of all real property eligible for sale. Except as provided in section 1.2 or another provision of this chapter, the taxpayer's property shall remain on the list. The list must:
(1) describe the real property by parcel number and common address, if any;
(2) for a tract or item of real property with a single owner, indicate the name of the owner; and
(3) for a tract or item with multiple owners, indicate the name of at least one (1) of the owners.

(c) Except as otherwise provided in this chapter, the real property so listed is eligible for sale in the manner prescribed in this chapter.

(d) Not later than fifteen (15) days after the date of the county treasurer's certification under subsection (a), the county auditor shall mail by certified mail a copy of the list described in subsection (b) to each mortgagee who requests from the county auditor by certified mail a copy of the list. Failure of the county auditor to mail the list under this subsection does not invalidate an otherwise valid sale.

SECTION 2. IC 6-1.1-24-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4.5. (a) The county auditor shall also provide those agencies under IC 36-7-17, in that county, with a list of tracts or items of real property on which one (1) or more installments of taxes is delinquent by June 15 of the year following the date the delinquency occurred.

(b) This subsection applies to a county having a consolidated city. The county auditor shall prepare a list of tracts or items of real

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properties for which at least one (1) installment of taxes is delinquent at least ten (10) months. The auditor shall submit a copy of this list to the metropolitan development commission ~~no~~ **not** later than one hundred six (106) days ~~prior to~~ **before** the date on which application for judgment and order for sale is made.

(c) This subsection applies to a county not having a consolidated city. The county auditor shall prepare a list of tracts or items of real property located in the county for which the fall installment of taxes for the most recent previous year is delinquent. The auditor shall submit a copy of the list prepared under this subsection to each city or town within the county or make the list available on the county's Internet web site not later than one hundred six (106) days before the date on which application for judgment and order for sale is made.

SECTION 3. IC 6-1.1-24-6, AS AMENDED BY P.L.56-2012, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) When a tract or an item of real property is offered for sale under this chapter and an amount is not received equal to or in excess of the minimum sale price prescribed in section 5 of this chapter, the county executive acquires a lien in the amount of the minimum sale price. This lien attaches on the day after the last date on which the tract or item was offered for sale.

(b) When a county executive acquires a lien under this section, the county auditor shall issue a tax sale certificate to the county executive in the manner provided in section 9 of this chapter. The county auditor shall date the certificate the day that the county executive acquires the lien. When a county executive acquires a certificate under this section, the county executive has the same rights as a purchaser.

(c) When a lien is acquired by a county executive under this section, no money shall be paid by the county executive. However, each of the taxing units having an interest in the taxes on the tract shall be charged with the full amount of all delinquent taxes due them.

(d) This subsection applies after June 30, 2013. Whenever a county executive acquires a lien under this section, the county auditor shall provide a list of the liens held by the county to the executive of a city or town who requests the list or post the list on the county's Internet web site not later than thirty (30) days after the tax sale.

~~(d)~~ **(e)** This section shall apply to any tract or an item of real property offered for sale under this chapter in 2006, and an amount was not received equal to or in excess of the minimum sale price prescribed in section 5 of this chapter, if the county executive finds that the tract

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or item of real property meets the definition of a brownfield as set forth in IC 13-11-2-19.3.

SECTION 4. IC 6-1.1-24-6.1, AS AMENDED BY P.L.56-2012, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6.1. (a) The county executive may do the following:

(1) By resolution, identify properties:

(A) that are described in section 6.7(a) **or 6.9(a)** of this chapter; and

(B) concerning which the county executive desires to offer to the public the certificates of sale acquired by the county executive under section 6 of this chapter.

(2) In conformity with IC 5-3-1-4, publish:

(A) notice of the date, time, and place for a public sale; and

(B) a listing of parcels on which certificates will be offered by parcel number and minimum bid amount;

once each week for three (3) consecutive weeks, with the final advertisement being not less than thirty (30) days before the sale date. The expenses of the publication shall be paid out of the county general fund.

(3) Sell each certificate of sale covered by the resolution for a price that:

(A) is less than the minimum sale price prescribed by section 5 of this chapter; and

(B) includes any costs to the county executive directly attributable to the sale of the certificate of sale.

(b) Notice of the list of properties prepared under subsection (a) and the date, time, and place for the public sale of the certificates of sale shall be published in accordance with IC 5-3-1. The notice must:

(1) include a description of the property by parcel number and common address;

(2) specify that the county executive will accept bids for the certificates of sale for the price referred to in subsection (a)(3);

(3) specify the minimum bid for each parcel;

(4) include a statement that a person redeeming each tract or item of real property after the sale of the certificate must pay:

(A) the amount of the minimum bid under section 5 of this chapter for which the tract or item of real property was last offered for sale;

(B) ten percent (10%) of the amount for which the certificate is sold;

(C) the attorney's fees and costs of giving notice under

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IC 6-1.1-25-4.5;

(D) the costs of a title search or of examining and updating the abstract of title for the tract or item of real property;

(E) all taxes and special assessments on the tract or item of real property paid by the purchaser after the sale of the certificate plus interest at the rate of ten percent (10%) per annum on the amount of taxes and special assessments paid by the purchaser on the redeemed property; and

(F) all costs of sale, advertising costs, and other expenses of the county directly attributable to the sale of certificates of sale; and

(5) include a statement that, if the certificate is sold for an amount more than the minimum bid under section 5 of this chapter for which the tract or item of real property was last offered for sale and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

SECTION 5. IC 6-1.1-24-6.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6.2. (a) This section applies to real property located within the municipal boundaries of a city or town.**

(b) Before the transfer of real property under section 6.7 of this chapter, the sale of real property under section 6.8 of this chapter, or the transfer of real property under section 6.9 of this chapter, the county executive of the county in which the real property is located shall notify the executive of the city or town in which the real property is located of the opportunity to accept a transfer of the property to the city or town as negotiated between the city or town and the county.

(c) After receiving notice from a county executive under subsection (b), the executive of the city or town shall respond to the notice not later than twenty (20) days after the executive receives the notice.

SECTION 6. IC 6-1.1-24-6.7, AS AMENDED BY P.L.1-2007, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6.7. (a) The county executive may:

(1) by resolution, identify the property described under section 6 of this chapter that the county executive desires to transfer to a nonprofit corporation for use for the public good; and

(2) set a date, time, and place for a public hearing to consider the transfer of the property to a nonprofit corporation.

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(b) Notice of the property identified under subsection (a) and the date, time, and place for the hearing on the proposed transfer of the property on the list shall be published in accordance with IC 5-3-1. The notice must include a description of the property by:

(1) legal description; and

(2) parcel number or street address, or both.

The notice must specify that the county executive will accept applications submitted by nonprofit corporations as provided in subsection (d) and hear any opposition to a proposed transfer.

(c) After the hearing set under subsection (a), the county executive shall by resolution make a final determination concerning:

(1) the properties that are to be transferred to a nonprofit corporation;

(2) the nonprofit corporation to which each property is to be transferred; and

(3) the terms and conditions of the transfer.

(d) To be eligible to receive property under this section, a nonprofit corporation must file an application with the county executive. The application must state the property that the corporation desires to acquire, the use to be made of the property, and the time period anticipated for implementation of the use. The application must be accompanied by documentation verifying the nonprofit status of the corporation and be signed by an officer of the corporation. If more than one (1) application for a single property is filed, the county executive shall determine which application is to be accepted based on the benefit to be provided to the public and the neighborhood and the suitability of the stated use for the property and the surrounding area.

(e) After the hearing set under subsection (a) and the final determination of properties to be transferred under subsection (c), the county executive, on behalf of the county, shall cause all delinquent taxes, special assessments, penalties, interest, and costs of sale to be removed from the tax duplicate and the ~~county auditor to prepare a deed transferring the property to the~~ nonprofit corporation **shall be entitled to a tax deed prepared by the county auditor, if the conditions of IC 6-1.1-25-4.5 and IC 6-1.1-25-4.6 are satisfied.** The deed shall provide for:

(1) the use to be made of the property;

(2) the time within which the use must be implemented and maintained;

(3) any other terms and conditions that are established by the county executive; and

(4) the reversion of the property to the county executive if the

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grantee nonprofit corporation fails to comply with the terms and conditions.

If the grantee nonprofit corporation fails to comply with the terms and conditions of the transfer and title to the property reverts to the county executive, the property may be retained by the county executive or disposed of under any of the provisions of this chapter or ~~IC 6-1.1-24,~~ **IC 6-1.1-25,** or both.

SECTION 7. IC 6-1.1-24-6.8, AS ADDED BY P.L.98-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6.8. (a) For purposes of this section, in a county containing a consolidated city "county executive" refers to the board of commissioners of the county as provided in IC 36-3-3-10.

(b) As used in this section, "vacant parcel" refers to a parcel that satisfies all the following:

(1) A lien has been acquired on the parcel under section 6(a) of this chapter.

(2) The parcel is unimproved on the date the parcel is offered for sale under this chapter.

~~(3) The construction of a structure intended for residential use on the parcel is permitted by law.~~

~~(4)~~ **(3)** On the date the parcel is offered for sale under this chapter, the parcel is contiguous to one (1) or more parcels that satisfy the following:

(A) One (1) or more of the following are located on the contiguous parcel:

(i) A structure occupied for residential use.

(ii) A structure used in conjunction with a structure occupied for residential use.

(B) The contiguous parcel is eligible for the standard deduction under IC 6-1.1-12-37.

(c) The county legislative body may, by ordinance, establish criteria for the identification of vacant parcels to be offered for sale under this section. The criteria may include the following:

(1) Limitations on the use of the parcel under local zoning and land use requirements.

(2) Minimum parcel area sufficient for construction of improvements.

(3) Any other factor considered appropriate by the county legislative body.

In a county containing a consolidated city, the county legislative body may adopt an ordinance under this subsection only upon recommendation by the board of commissioners provided in

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IC 36-3-3-10.

(d) If the county legislative body adopts an ordinance under subsection (c), the county executive shall for each tax sale:

(1) by resolution, identify each vacant parcel that the county executive desires to sell under this section; and

(2) subject to subsection (e), give written notice to the owner of record of each parcel referred to in subsection ~~(b)(4)~~ **(b)(3)** that is contiguous to the vacant parcel.

(e) The notice under subsection (d)(2) with respect to each vacant parcel must include at least the following:

(1) A description of the vacant parcel by:

(A) legal description; and

(B) parcel number or street address, or both.

(2) Notice that the county executive will accept written applications from owners of parcels described in subsection ~~(b)(4)~~ **(b)(3)** as provided in subsection (f).

(3) Notice of the deadline for applications referred to in subdivision (2) and of the information to be included in the applications.

(4) Notice that the vacant parcel will be sold to the successful applicant for one dollar ($1).

(5) Notice of the exemption provisions of subsection (l).

(f) To be eligible to purchase a vacant parcel under this section, the owner of a contiguous parcel referred to in subsection ~~(b)(4)~~ **(b)(3)** must file a written application with the county executive. The application must:

(1) identify the vacant parcel that the applicant desires to purchase; and

(2) include any other information required by the county executive.

(g) If more than one (1) application to purchase a single vacant parcel is filed with the county executive, the county executive shall conduct a drawing between or among the applicants in which each applicant has an equal chance to be selected as the transferee of the vacant parcel.

(h) The county executive shall by resolution make a final determination concerning the vacant parcels that are to be sold under this section.

(i) After the final determination of vacant parcels to be sold under subsection (h), the county executive shall:

(1) on behalf of the county, cause all delinquent taxes, special assessments, penalties, interest, and costs of sale with respect to

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the vacant parcels to be removed from the tax duplicate;

(2) give notice of the final determination to:

(A) the successful applicant;

(B) the county auditor; and

(C) the township assessor, or the county assessor if there is no township assessor for the township.

(j) Upon receipt of notice under subsection (i)(2):

(1) the county auditor shall:

(A) collect the purchase price from each successful applicant; and

(B) subject to subsection (k), prepare a **tax** deed transferring each vacant parcel to the successful applicant **if the conditions of IC 6-1.1-25-4.5 and IC 6-1.1-25-4.6 are satisfied;** and

(2) the township assessor or county assessor shall consolidate each vacant parcel sold and the contiguous parcel owned by the successful applicant into a single parcel.

(k) The county auditor shall include in the **tax** deed prepared under subsection (j)(1)(B) reference to the exemption under subsection (l).

(l) Except as provided in subsection (m), each consolidated parcel referred to in subsection (j)(2) is entitled to an exemption from property taxation beginning on the assessment date that next succeeds the consolidation in the amount of the assessed value at the time of consolidation of the vacant parcel that was subject to the consolidation.

(m) The exemption under subsection (l) is terminated as of the assessment date that next succeeds the earlier of the following:

(1) Five (5) years after the transfer of title to the successful applicant.

(2) The first transfer of title to the consolidated parcel that occurs after the consolidation.

SECTION 8. IC 6-1.1-24-6.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6.9. (a) For purposes of this section, in a county having a consolidated city, "county executive" refers to the board of commissioners of the county as provided in IC 36-3-3-10.**

(b) The county executive may:

(1) by resolution, identify the property described in section 6 of this chapter that the county executive desires to transfer to a person able to satisfactorily repair and maintain the property, if repair and maintenance of the property are in the public interest; and

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(2) set a date, time, and place for a public hearing to consider the transfer of the property.

(c) Notice of the property identified under subsection (b) and the date, time, and place for the hearing on the proposed transfer of the property shall be published in accordance with IC 5-3-1. The notice must include a description of the property by:

(1) legal description; and

(2) parcel number or street address, or both.

The notice must specify that the county executive will accept applications submitted by persons able to satisfactorily repair and maintain the property as provided in subsection (e) and hear any opposition to a proposed transfer.

(d) After the hearing set under subsection (b), the county executive shall by resolution make a final determination concerning:

(1) the properties that are to be transferred;

(2) the person to which each property is to be transferred; and

(3) the terms and conditions of the transfer.

(e) To be eligible to receive a property under this section, a person must file an application with the county executive. The application must identify the property that the person desires to acquire, the use to be made of the property, and the time anticipated for implementation of the use. The application must be accompanied by documentation demonstrating the person's ability to satisfactorily repair and maintain the property, including evidence of the person's:

(1) ability to repair and maintain the property personally, if applicable;

(2) financial resources, if the services of a contractor may be required to satisfactorily repair or maintain the property; and

(3) previous experience in repairing or maintaining property, if applicable.

The application must be signed by the person. If more than one (1) application for a single property is filed, the county executive shall determine which application is to be accepted based on the benefit to be provided to the public and the neighborhood, the suitability of the stated use for the property and the surrounding area, and the likelihood that the person will satisfactorily repair and maintain the property. The county executive may require the person to pay a reasonable deposit or post a performance bond to be forfeited if the person does not satisfactorily repair and maintain the property.

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(f) After the hearing set under subsection (b) and the final determination of the properties to be transferred under subsection (d), the county executive, on behalf of the county, shall cause all delinquent taxes, special assessments, penalties, interest, and costs of sale to be removed from the tax duplicate and the person shall be entitled to a tax deed if the conditions of IC 6-1.1-25-4.5 and IC 6-1.1-25-4.6 are satisfied. The deed must provide for:

(1) the use to be made of the property;

(2) the time within which the use must be implemented and maintained;

(3) any other terms and conditions that are established by the county executive;

(4) the reversion of the property to the county executive if the grantee fails to comply with the terms and conditions; and

(5) the forfeiture of any bond or deposit to the county executive if the grantee fails to comply with the terms and conditions.

If the grantee fails to comply with the terms and conditions of the transfer and title to the property reverts to the county executive, the property may be retained by the county executive or disposed of under any of the provisions of this chapter or IC 6-1.1-25, or both.

SECTION 9. IC 32-30-10.6-1, AS ADDED BY P.L.102-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. This chapter applies to **the following:**

(1) A mortgage foreclosure action filed under IC 32-30-10-3.

(2) A determination that property is abandoned or vacant for purposes of IC 6-1.1-24.

SECTION 10. IC 32-30-10.6-2, AS ADDED BY P.L.102-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. As used in this chapter, "enforcement authority" refers to the enforcement authority (as defined in IC 36-7-9-2) that has jurisdiction in the location of the property. ~~that is the subject of a mortgage foreclosure action.~~

SECTION 11. IC 32-30-10.6-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 3.5. (a) This section applies to a property whether or not there is a mortgage on the property.**

(b) As an alternative to seeking a determination of abandonment under any other statute, the executive of a city or town that:

(1) has jurisdiction in the location of a property; and

(2) does not have a person designated as a hearing authority,

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as defined by IC 36-7-9-2;

may petition a court for a determination that the property is abandoned.

(c) A petition filed with the court under this section must do all the following:

(1) Include a statement of the enforcement authority's jurisdiction in the location of the property.

(2) Allege that the property is abandoned.

(3) Include evidence that one (1) or more of the conditions set forth in section 5(a) or 5(b) of this chapter apply.

(d) A petition under this section shall be served on:

(1) the creditor and the debtor, if the property is subject to a mortgage; and

(2) any other appropriate party;

in the manner prescribed by the Indiana Rules of Trial Procedure.

SECTION 12. IC 32-30-10.6-4, AS ADDED BY P.L.102-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) Upon receiving a request for a determination of abandonment from a creditor or an enforcement authority through a petition or motion filed with the court and served on the required parties in accordance with section 3 **or 3.5** of this chapter, the court shall issue an order to show cause as to why the property should not be found to be abandoned and directing the petitioner, the debtor, and any other person or party the court considers appropriate to appear before the court on a date and time specified in the order under subdivision (1). The court's order under this subsection must do the following:

(1) Direct the parties subject to the order to appear before the court on a date and time specified by the court. The date specified under this subdivision must not be:

(A) earlier than fifteen (15) days; or

(B) later than twenty-five (25) days;

after the date of the court's order under this section.

(2) Notify the parties subject to the order that any party ordered to appear:

(A) may present evidence or objections on the issue of abandonment to the court:

(i) in writing before the appearance date specified by the court under subdivision (1); or

(ii) in writing or by oral testimony on the date and at the time specified by the court under subdivision (1);

in the manner specified by the court; and

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(B) has the right to be represented by an attorney when appearing before the court.

(3) Notify the parties subject to the order that if ~~the debtor~~ **a party** fails to:

(A) submit written evidence or objections to the court before the appearance date specified by the court under subdivision (1); or

(B) appear before the court on the date and at the time specified by the court under subdivision (1);

the ~~debtor's~~ **party's** failure to submit evidence or objections or to appear before the court will result in a finding of abandonment by the court.

(b) A party subject to an order issued by the court under this section has the following rights, as described in the court's order under subsection (a):

(1) The right to present evidence or objections on the issue of abandonment to the court:

(A) in writing before the appearance date specified in the court's order under subsection (a)(1); or

(B) in writing or by oral testimony on the date and at the time specified in the court's order under subsection (a)(1);

in the manner specified by the court.

(2) The right to be represented by an attorney when appearing before the court.

SECTION 13. IC 32-30-10.6-5, AS ADDED BY P.L.102-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) Subject to subsection (b), for purposes of an abandonment determination under this chapter, one (1) or more of the following constitute prima facie evidence that ~~mortgaged~~ property is abandoned:

(1) The enforcement authority that has jurisdiction in the location of the ~~mortgaged~~ property has issued an order under IC 36-7-36-9 with respect to the property.

(2) Windows or entrances to the ~~mortgaged~~ property are boarded up or closed off.

(3) Multiple window panes on the ~~mortgaged~~ property are broken and unrepaired.

(4) One (1) or more doors to the ~~mortgaged~~ property are smashed through, broken off, unhinged, or continuously unlocked.

(5) Gas service, electric service, water service, or other utility service to the ~~mortgaged~~ property has been terminated.

(6) Rubbish, trash, or debris has accumulated on the ~~mortgaged~~

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property.

(7) The ~~mortgaged~~ property is deteriorating and is either below or in imminent danger of falling below minimum community standards for public safety and sanitation.

(8) The creditor has changed the locks on the ~~mortgaged~~ property and for at least fifteen (15) days after the changing of the locks the owner has not requested entrance to the ~~mortgaged~~ property.

(9) There exist one (1) or more written statements, including documents of conveyance, that have been executed by the debtor, or by the debtor's personal representatives or assigns, and that indicate a clear intent to abandon the ~~mortgaged~~ property.

(10) There exists other evidence indicating a clear intent to abandon the ~~mortgaged~~ property.

(b) Regardless of whether any of the conditions described in subsection (a) are found to apply, the debtor's failure to either:

(1) present evidence or objections on the issue of abandonment to the court in writing before the appearance date specified in the court's order under section 4(a)(1) of this chapter; or

(2) appear before the court on the date specified in the court's order under section 4(a)(1) of this chapter;

constitutes prima facie evidence that the ~~mortgaged~~ property is abandoned.

(c) If the court finds that:

(1) one (1) or more of the conditions described in subsection (a) apply; or

(2) the circumstances described in subsection (b) apply;

the court shall issue an order finding that the ~~mortgaged~~ property is abandoned.

SECTION 14. IC 34-30-26-5, AS ADDED BY P.L.170-2011, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) Except as provided in subsection (d), a person who is not the owner of real property **or who is a creditor,** and who suspects that the property may be vacant or abandoned, may enter upon the premises of the real property to do the following:

(1) Without entering any structure located on the real property, visually inspect the real property to determine whether the real property may be vacant or abandoned.

(2) Perform any of the following actions:

(A) Secure the real property.

(B) Remove trash or debris from the grounds of the real property.

(C) Landscape, maintain, or mow the grounds of the real

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property.

(D) Remove or paint over graffiti on the real property.

(b) A person who:

(1) enters upon the premises of real property to visually inspect the property, as permitted under subsection (a)(1); and

(2) after inspecting the real property, determines that the real property may be vacant or abandoned;

may notify the appropriate enforcement authority of the suspected vacant or abandoned status of the property and request that the enforcement authority inspect the property to determine whether the property is in fact vacant or abandoned.

(c) A person that enters upon the premises of real property as permitted under this section:

(1) is immune from civil liability for an act or omission related to the entry or to any action described in subsection (a)(2), unless the act or omission constitutes gross negligence or willful, wanton, or intentional misconduct; and

(2) shall be held harmless from and against all claims of civil or criminal trespass.

(d) In the case of real property that is subject to a mortgage, the creditor in the mortgage transaction may not enter upon the premises of the real property under subsection (a) if entry is barred by an automatic stay issued by a bankruptcy court.

SECTION 15. IC 35-43-2-2, AS AMENDED BY P.L.88-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) A person who:

(1) not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after having been denied entry by the other person or that person's agent;

(2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that person's agent;

(3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;

(4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;

(5) not having a contractual interest in the property, knowingly or intentionally enters the dwelling of another person without the person's consent;

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(6) knowingly or intentionally:

(A) travels by train without lawful authority or the railroad carrier's consent; and

(B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;

(7) not having a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is

~~(A)~~ vacant or designated by a municipality or county enforcement authority to be abandoned property ~~and~~

~~(B) subject to abatement under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36;~~ **or an abandoned structure (as defined in IC 36-7-36-1);** or

(8) knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property

~~(A)~~ has been designated by a municipality or county enforcement authority to be a vacant property, ~~or~~ an abandoned property, ~~and~~

~~(B) is subject to an abatement order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36;~~ **or an abandoned structure (as defined in IC 36-7-36-1);**

commits criminal trespass, a Class A misdemeanor. However, the offense is a Class D felony if it is committed on a scientific research facility, on a key facility, on a facility belonging to a public utility (as defined in IC 32-24-1-5.9(a)), on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property.

(b) A person has been denied entry under subdivision (a)(1) of this section when the person has been denied entry by means of:

(1) personal communication, oral or written;

(2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public; or

(3) a hearing authority or court order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36.

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(c) A law enforcement officer may not deny entry to property or ask a person to leave a property under subsection (a)(7) unless there is reasonable suspicion that criminal activity has occurred or is occurring.

(d) A person described in subsection (a)(7) violates subsection (a)(7) unless the person has the written permission of the owner, owner's agent, enforcement authority, or court to come onto the property for purposes of performing maintenance, repair, or demolition.

(e) A person described in subsection (a)(8) violates subsection (a)(8) unless the court that issued the order denying the person entry grants permission for the person to come onto the property.

(f) Subsections (a), (b), and (e) do not apply to the following:

(1) A passenger on a train.

(2) An employee of a railroad carrier while engaged in the performance of official duties.

(3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.

(4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.

(5) A person on the station grounds or in the depot of a railroad carrier:

(A) as a passenger; or

(B) for the purpose of transacting lawful business.

(6) A:

(A) person; or

(B) person's:

(i) family member;

(ii) invitee;

(iii) employee;

(iv) agent; or

(v) independent contractor;

going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain access to land that the person owns, leases, or operates.

(7) A person having written permission from the railroad carrier to go on specified railroad property.

(8) A representative of the Indiana department of transportation while engaged in the performance of official duties.

(9) A representative of the federal Railroad Administration while engaged in the performance of official duties.

(10) A representative of the National Transportation Safety Board

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while engaged in the performance of official duties.

SECTION 16. IC 36-7-9-5, AS AMENDED BY P.L.1-2010, SECTION 149, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) The enforcement authority may issue an order requiring action relative to any unsafe premises, including:

(1) vacating of an unsafe building;

(2) sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;

(3) extermination of vermin in and about the unsafe premises;

(4) removal of trash, debris, fire hazardous material, or a public health hazard in and about the unsafe premises;

(5) repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under IC 4-22-2, or an ordinance;

(6) demolition and removal of part of an unsafe building;

(7) demolition and removal of an unsafe building if:

(A) the general condition of the building warrants removal; or

(B) the building continues to require reinspection and additional abatement action after an initial abatement action was taken pursuant to notice and an order; and

(8) requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:

(A) sealing against intrusion by unauthorized persons and the effects of weather;

(B) exterior improvements to make the building compatible in appearance with other buildings in the area; and

(C) continuing maintenance and upkeep of the building and premises;

in accordance with standards established by ordinance.

Notice of the order must be given under section 25 of this chapter. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(b) The order must contain:

(1) the name of the person to whom the order is issued;

(2) the legal description or address of the unsafe premises that are the subject of the order;

(3) the action that the order requires;

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(4) the period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;

(5) if a hearing is required, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;

(6) if a hearing is not required, a statement that an order under subsection (a)(2), (a)(3), (a)(4), or (a)(5) becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten (10) day period;

(7) a statement briefly indicating what action can be taken by the enforcement authority if the order is not complied with;

(8) a statement indicating the obligation created by section 27 of this chapter relating to notification of subsequent interest holders and the enforcement authority; and

(9) the name, address, and telephone number of the enforcement authority.

(c) The order must allow a sufficient time, of at least ten (10) days, but not more than sixty (60) days, from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within thirty (30) days.

(d) The order expires two (2) years from the day the notice of the order is given, unless one (1) or more of the following events occurs within that two (2) year period:

(1) A complaint requesting judicial review is filed under section 8 of this chapter.

(2) A contract for action required by the order is let at public bid under section 11 of this chapter.

(3) A civil action is filed under section 17 of this chapter.

(e) If the order contains a statement under subsection (a)(6) or (a)(7), notice of the order shall be given to each person with a known or recorded substantial property interest.

SECTION 17. IC 36-7-10.1-3, AS AMENDED BY P.L.137-2012, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) The legislative body of a

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municipality or county may by ordinance require the owners of real property located within the municipality or the unincorporated area of the county to cut and remove weeds and other rank vegetation growing on the property. As used in this chapter, "weeds and other rank vegetation" does not include agricultural crops, such as hay and pasture.

(b) An ordinance adopted under subsection (a) must specify the following:

(1) The department of the municipality or county responsible for the administration of the ordinance.

(2) The definitions of weeds and rank vegetation.

(3) The height at which weeds or rank vegetation becomes a violation of the ordinance, specifying the appropriate heights for various types of weeds and rank vegetation.

(4) The procedure for issuing notice to the owner of real property of a violation of the ordinance, including any procedures for issuing a continuous abatement notice under subsection (d).

(5) The procedure under which the municipality or county, or its contractors, may enter real property to abate a violation of the ordinance if the owner fails to abate the violation.

(6) The procedure for issuing a bill to the owner of real property for the costs incurred by the municipality or county in abating the violation, including administrative costs and removal costs. The cost of sending notice under subsection (c) is an administrative cost that may be billed to the owner under this subdivision.

(7) The procedure for appealing a notice of violation or a bill issued under the ordinance.

(c) An ordinance adopted under subsection (a) must provide that a notice sent to the property owner must be sent by ~~certified~~ **first class** mail, ~~return receipt requested,~~ or an equivalent service permitted under IC 1-1-7-1, to:

(1) the owner of record of real property with a single owner; or

(2) at least one (1) of the owners of real property with multiple owners;

at the last address of the owner for the property as indicated in the records of the county auditor on the date of the notice.

(d) If an initial notice of the violation of an ordinance adopted under this section was provided by certified mail, **first class mail,** or equivalent service under subsection (c), a continuous abatement notice may be posted at the property at the time of abatement instead of by certified mail, **first class mail,** or equivalent service as required under subsection (c). A continuous abatement notice serves as notice to the

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real property owner that each subsequent violation during the same year for which the initial notice of the violation was provided may be abated by the municipality or county, or its contractors.

SECTION 18. IC 36-7-10.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. **(a) Except as provided in subsection (b),** if the owner of real property fails to pay a bill issued under section 3 of this chapter within the time specified in the ordinance, the department specified in the ordinance shall certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the municipality or county.

(b) If the owner of real property fails to pay a bill issued under section 3 of this chapter within the time specified in the ordinance, the municipality or county may bring an action in an appropriate court to collect the amount of the bill, plus any additional costs incurred in the collection, including court costs and reasonable attorney's fees. If the municipality or county obtains a judgment under this subsection, the municipality or county may obtain a lien in the amount of the judgment on any real or personal property of the owner.

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COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 433, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 2. IC 6-1.1-24-6.7, AS AMENDED BY P.L.1-2007, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6.7. (a) The county executive may:

(1) by resolution, identify the property described under section 6 of this chapter ~~that~~ **for which** the county executive desires to transfer **the certificate of sale** to a nonprofit corporation for use for the public good; and

(2) set a date, time, and place for a public hearing to consider the transfer of the ~~property~~ **certificate of sale** to a nonprofit corporation.

(b) Notice of the property identified under subsection (a) and the date, time, and place for the hearing on the proposed transfer of the ~~property~~ **certificate of sale** on the list shall be published in accordance with IC 5-3-1. The notice must include a description of the property by:

(1) legal description; and

(2) parcel number or street address, or both.

The notice must specify that the county executive will accept applications submitted by nonprofit corporations as provided in subsection (d) and hear any opposition to a proposed transfer.

(c) After the hearing set under subsection (a), the county executive shall by resolution make a final determination concerning:

(1) the ~~properties~~ **certificates of sale** that are to be transferred to a nonprofit corporation;

(2) the nonprofit corporation to which each ~~property~~ **certificate of sale** is to be transferred; and

(3) the terms and conditions of the transfer.

(d) To be eligible to receive ~~property~~ **a certificate of sale** under this section, a nonprofit corporation must file an application with the county executive. The application must state the ~~property~~ **certificate of sale** that the corporation desires to acquire, the use to be made of the property, and the time period anticipated for implementation of the use. The application must be accompanied by documentation verifying the nonprofit status of the corporation and be signed by an officer of the corporation. If more than one (1) application for a single property is filed, the county executive shall determine which application is to be

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accepted based on the benefit to be provided to the public and the neighborhood and the suitability of the stated use for the property and the surrounding area.

(e) After the hearing set under subsection (a) and the final determination of ~~properties~~ **certificates of sale** to be transferred under subsection (c), the county executive, on behalf of the county, shall cause all delinquent taxes, special assessments, penalties, interest, and costs of sale to be removed from the tax duplicate and the ~~county auditor to prepare a deed transferring the property to the~~ nonprofit corporation **shall be entitled to a tax deed prepared by the county auditor, if the conditions of IC 6-1.1-25-4.5 are satisfied.** The deed shall provide for:

(1) the use to be made of the property;

(2) the time within which the use must be implemented and maintained;

(3) any other terms and conditions that are established by the county executive; and

(4) the reversion of the property to the county executive if the grantee nonprofit corporation fails to comply with the terms and conditions.

If the grantee nonprofit corporation fails to comply with the terms and conditions of the transfer and title to the property reverts to the county executive, the property may be retained by the county executive or disposed of under any of the provisions of this chapter or IC 6-1.1-24, or both.".

Page 3, line 8, after "date the" insert "**certificate of sale of the**".

Page 3, line 12, after "date" insert "**the certificate of sale for**".

Page 3, line 23, after "parcels" insert "**for which the certificates of sale are**".

Page 3, line 37, strike "that" and insert "**for which**".

Page 3, line 38, after "sell" insert "**the certificate of sale**".

Page 4, line 11, after "that the" insert "**certificate of sale of the**".

Page 4, line 14, after "purchase" insert "**the certificate of sale for**".

Page 4, line 18, strike "vacant parcel" and insert "**certificate of sale**".

Page 4, line 25, after "of the" insert "**certificate of sale of the**".

Page 4, line 28, strike "vacant parcels" and insert "**certificates of sale**".

Page 5, line 2, after "a" insert "**tax**".

Page 5, line 3, delete ";" and insert "**if the conditions of IC 6-1.1-25-4.5 are satisfied;**".

Page 5, line 7, after "in the" insert "**tax**".

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Page 5, line 25, delete "that" and insert "**for which**".
Page 5, line 26, after "transfer" insert "**the certificate of sale**".
Page 5, line 30, delete "property" and insert "**certificate of sale**".
Page 5, line 33, delete "property" and insert "**certificate of sale**".
Page 6, line 2, delete "properties" and insert "**certificates of sale**".
Page 6, line 3, delete "property" and insert "**certificate of sale**".
Page 6, line 5, delete "property" and insert "**a certificate of sale**".
Page 6, line 7, delete "property" and insert "**certificate of sale**".
Page 6, line 32, delete "properties" and insert "**certificates of sale**".
Page 6, line 35, delete "shall cause the" and insert "**the person shall be entitled to a tax deed if the conditions of IC 6-1.1-25-4.5 are satisfied.**".
Page 6, delete line 36.
Page 6, line 37, delete "person.".
Page 9, delete lines 6 through 42.
Page 10, delete lines 1 through 15.
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 433 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 6, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 433 be amended to read as follows:
Page 10, line 27, delete "Notice" and insert "**If the order contains a statement under subsection (a)(6) or (a)(7), notice**".

(Reference is to SB 433 as printed January 25, 2013.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Senate Bill 433, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-24-1, AS AMENDED BY P.L.120-2012, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) On or after January 1 of each calendar year in which a tax sale will be held in a county and not later than fifty-one (51) days after the first tax payment due date in that calendar year, the county treasurer (or county executive, in the case of property described in subdivision (2)) shall certify to the county auditor a list of real property on which any of the following exist:

(1) In the case of real property other than real property described in subdivision (2), any property taxes or special assessments certified to the county auditor for collection by the county treasurer from the prior year's spring installment or before are delinquent as determined under IC 6-1.1-37-10 and the delinquent property tax or special assessments due exceed twenty-five dollars ($25).

(2) In the case of real property for which a county executive has certified to the county auditor that the real property is:

(A) vacant; or

(B) abandoned;

any property taxes or special assessments from the prior year's fall installment or before that are delinquent as determined under IC 6-1.1-37-10. The county executive must make a certification under this subdivision not later than sixty-one (61) days before the earliest date on which application for judgment and order for sale may be made. **The executive of a city or town may provide to the county executive of the county in which the city or town is located a list of real property that the city or town has determined to be vacant or abandoned. The county executive shall include real property included on the list provided by a city or town executive on the list certified by the county executive to the county auditor under this subsection.**

(3) Any unpaid costs are due under section 2(b) of this chapter from a prior tax sale.

(b) The county auditor shall maintain a list of all real property eligible for sale. Except as provided in section 1.2 or another provision

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of this chapter, the taxpayer's property shall remain on the list. The list must:

(1) describe the real property by parcel number and common address, if any;

(2) for a tract or item of real property with a single owner, indicate the name of the owner; and

(3) for a tract or item with multiple owners, indicate the name of at least one (1) of the owners.

(c) Except as otherwise provided in this chapter, the real property so listed is eligible for sale in the manner prescribed in this chapter.

(d) Not later than fifteen (15) days after the date of the county treasurer's certification under subsection (a), the county auditor shall mail by certified mail a copy of the list described in subsection (b) to each mortgagee who requests from the county auditor by certified mail a copy of the list. Failure of the county auditor to mail the list under this subsection does not invalidate an otherwise valid sale.

SECTION 2. IC 6-1.1-24-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4.5. (a) The county auditor shall also provide those agencies under IC 36-7-17, in that county, with a list of tracts or items of real property on which one (1) or more installments of taxes is delinquent by June 15 of the year following the date the delinquency occurred.

(b) This subsection applies to a county having a consolidated city. The county auditor shall prepare a list of tracts or items of real properties for which at least one (1) installment of taxes is delinquent at least ten (10) months. The auditor shall submit a copy of this list to the metropolitan development commission ~~no~~ **not** later than one hundred six (106) days ~~prior to~~ **before** the date on which application for judgment and order for sale is made.

(c) This subsection applies to a county not having a consolidated city. The county auditor shall prepare a list of tracts or items of real property located in the county for which the fall installment of taxes for the most recent previous year is delinquent. The auditor shall submit a copy of the list prepared under this subsection to each city or town within the county or make the list available on the county's Internet web site not later than one hundred six (106) days before the date on which application for judgment and order for sale is made.

SECTION 3. IC 6-1.1-24-6, AS AMENDED BY P.L.56-2012, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) When a tract or an item of real property is offered for sale under this chapter and an amount is not received equal

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to or in excess of the minimum sale price prescribed in section 5 of this chapter, the county executive acquires a lien in the amount of the minimum sale price. This lien attaches on the day after the last date on which the tract or item was offered for sale.

(b) When a county executive acquires a lien under this section, the county auditor shall issue a tax sale certificate to the county executive in the manner provided in section 9 of this chapter. The county auditor shall date the certificate the day that the county executive acquires the lien. When a county executive acquires a certificate under this section, the county executive has the same rights as a purchaser.

(c) When a lien is acquired by a county executive under this section, no money shall be paid by the county executive. However, each of the taxing units having an interest in the taxes on the tract shall be charged with the full amount of all delinquent taxes due them.

(d) This subsection applies after June 30, 2013. Whenever a county executive acquires a lien under this section, the county auditor shall provide a list of the liens held by the county to the executive of a city or town who requests the list or post the list on the county's Internet web site not later than thirty (30) days after the tax sale.

~~(d)~~ **(e)** This section shall apply to any tract or an item of real property offered for sale under this chapter in 2006, and an amount was not received equal to or in excess of the minimum sale price prescribed in section 5 of this chapter, if the county executive finds that the tract or item of real property meets the definition of a brownfield as set forth in IC 13-11-2-19.3.".

Page 2, delete lines 41 through 42, begin a new paragraph and insert:

"SECTION 5. IC 6-1.1-24-6.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6.2. (a) This section applies to real property located within the municipal boundaries of a city or town.**

(b) Before the transfer of real property under section 6.7 of this chapter, the sale of real property under section 6.8 of this chapter, or the transfer of real property under section 6.9 of this chapter, the county executive of the county in which the real property is located shall notify the executive of the city or town in which the real property is located of the opportunity to accept a transfer of the property to the city or town as negotiated between the city or town and the county.

(c) After receiving notice from a county executive under

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subsection (b), the executive of the city or town shall respond to the notice not later than twenty (20) days after the executive receives the notice.

SECTION 6. IC 6-1.1-24-6.7, AS AMENDED BY P.L.1-2007, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6.7. (a) The county executive may:

(1) by resolution, identify the property described under section 6 of this chapter that the county executive desires to transfer to a nonprofit corporation for use for the public good; and

(2) set a date, time, and place for a public hearing to consider the transfer of the property to a nonprofit corporation.

(b) Notice of the property identified under subsection (a) and the date, time, and place for the hearing on the proposed transfer of the property on the list shall be published in accordance with IC 5-3-1. The notice must include a description of the property by:

(1) legal description; and

(2) parcel number or street address, or both.

The notice must specify that the county executive will accept applications submitted by nonprofit corporations as provided in subsection (d) and hear any opposition to a proposed transfer.

(c) After the hearing set under subsection (a), the county executive shall by resolution make a final determination concerning:

(1) the properties that are to be transferred to a nonprofit corporation;

(2) the nonprofit corporation to which each property is to be transferred; and

(3) the terms and conditions of the transfer.

(d) To be eligible to receive property under this section, a nonprofit corporation must file an application with the county executive. The application must state the property that the corporation desires to acquire, the use to be made of the property, and the time period anticipated for implementation of the use. The application must be accompanied by documentation verifying the nonprofit status of the corporation and be signed by an officer of the corporation. If more than one (1) application for a single property is filed, the county executive shall determine which application is to be accepted based on the benefit to be provided to the public and the neighborhood and the suitability of the stated use for the property and the surrounding area.

(e) After the hearing set under subsection (a) and the final determination of properties to be transferred under subsection (c), the county executive, on behalf of the county, shall cause all delinquent taxes, special assessments, penalties, interest, and costs of sale to be

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removed from the tax duplicate and the ~~county auditor to prepare a deed transferring the property to the~~ nonprofit corporation **shall be entitled to a tax deed prepared by the county auditor, if the conditions of IC 6-1.1-25-4.5 and IC 6-1.1-25-4.6 are satisfied.** The deed shall provide for:

(1) the use to be made of the property;

(2) the time within which the use must be implemented and maintained;

(3) any other terms and conditions that are established by the county executive; and

(4) the reversion of the property to the county executive if the grantee nonprofit corporation fails to comply with the terms and conditions.

If the grantee nonprofit corporation fails to comply with the terms and conditions of the transfer and title to the property reverts to the county executive, the property may be retained by the county executive or disposed of under any of the provisions of this chapter or ~~IC 6-1.1-24,~~ **IC 6-1.1-25,** or both.

SECTION 7. IC 6-1.1-24-6.8, AS ADDED BY P.L.98-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6.8. (a) For purposes of this section, in a county containing a consolidated city "county executive" refers to the board of commissioners of the county as provided in IC 36-3-3-10.

(b) As used in this section, "vacant parcel" refers to a parcel that satisfies all the following:

(1) A lien has been acquired on the parcel under section 6(a) of this chapter.

(2) The parcel is unimproved on the date the parcel is offered for sale under this chapter.

~~(3) The construction of a structure intended for residential use on the parcel is permitted by law.~~

~~(4)~~ **(3)** On the date the parcel is offered for sale under this chapter, the parcel is contiguous to one (1) or more parcels that satisfy the following:

(A) One (1) or more of the following are located on the contiguous parcel:

(i) A structure occupied for residential use.

(ii) A structure used in conjunction with a structure occupied for residential use.

(B) The contiguous parcel is eligible for the standard deduction under IC 6-1.1-12-37.

(c) The county legislative body may, by ordinance, establish criteria

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for the identification of vacant parcels to be offered for sale under this section. The criteria may include the following:

(1) Limitations on the use of the parcel under local zoning and land use requirements.

(2) Minimum parcel area sufficient for construction of improvements.

(3) Any other factor considered appropriate by the county legislative body.

In a county containing a consolidated city, the county legislative body may adopt an ordinance under this subsection only upon recommendation by the board of commissioners provided in IC 36-3-3-10.

(d) If the county legislative body adopts an ordinance under subsection (c), the county executive shall for each tax sale:

(1) by resolution, identify each vacant parcel that the county executive desires to sell under this section; and

(2) subject to subsection (e), give written notice to the owner of record of each parcel referred to in subsection ~~(b)(4)~~ **(b)(3)** that is contiguous to the vacant parcel.

(e) The notice under subsection (d)(2) with respect to each vacant parcel must include at least the following:

(1) A description of the vacant parcel by:

(A) legal description; and

(B) parcel number or street address, or both.

(2) Notice that the county executive will accept written applications from owners of parcels described in subsection ~~(b)(4)~~ **(b)(3)** as provided in subsection (f).

(3) Notice of the deadline for applications referred to in subdivision (2) and of the information to be included in the applications.

(4) Notice that the vacant parcel will be sold to the successful applicant for one dollar ($1).

(5) Notice of the exemption provisions of subsection (l).

(f) To be eligible to purchase a vacant parcel under this section, the owner of a contiguous parcel referred to in subsection ~~(b)(4)~~ **(b)(3)** must file a written application with the county executive. The application must:

(1) identify the vacant parcel that the applicant desires to purchase; and

(2) include any other information required by the county executive.

(g) If more than one (1) application to purchase a single vacant

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parcel is filed with the county executive, the county executive shall conduct a drawing between or among the applicants in which each applicant has an equal chance to be selected as the transferee of the vacant parcel.

(h) The county executive shall by resolution make a final determination concerning the vacant parcels that are to be sold under this section.

(i) After the final determination of vacant parcels to be sold under subsection (h), the county executive shall:

(1) on behalf of the county, cause all delinquent taxes, special assessments, penalties, interest, and costs of sale with respect to the vacant parcels to be removed from the tax duplicate;

(2) give notice of the final determination to:

(A) the successful applicant;

(B) the county auditor; and

(C) the township assessor, or the county assessor if there is no township assessor for the township.

(j) Upon receipt of notice under subsection (i)(2):

(1) the county auditor shall:

(A) collect the purchase price from each successful applicant; and

(B) subject to subsection (k), prepare a **tax** deed transferring each vacant parcel to the successful applicant **if the conditions of IC 6-1.1-25-4.5 and IC 6-1.1-25-4.6 are satisfied;** and

(2) the township assessor or county assessor shall consolidate each vacant parcel sold and the contiguous parcel owned by the successful applicant into a single parcel.

(k) The county auditor shall include in the **tax** deed prepared under subsection (j)(1)(B) reference to the exemption under subsection (l).

(l) Except as provided in subsection (m), each consolidated parcel referred to in subsection (j)(2) is entitled to an exemption from property taxation beginning on the assessment date that next succeeds the consolidation in the amount of the assessed value at the time of consolidation of the vacant parcel that was subject to the consolidation.

(m) The exemption under subsection (l) is terminated as of the assessment date that next succeeds the earlier of the following:

(1) Five (5) years after the transfer of title to the successful applicant.

(2) The first transfer of title to the consolidated parcel that occurs after the consolidation.

SECTION 4. IC 6-1.1-24-6.9 IS ADDED TO THE INDIANA

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CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6.9. (a) For purposes of this section, in a county having a consolidated city, "county executive" refers to the board of commissioners of the county as provided in IC 36-3-3-10.**

(b) The county executive may:

(1) by resolution, identify the property described in section 6 of this chapter that the county executive desires to transfer to a person able to satisfactorily repair and maintain the property, if repair and maintenance of the property are in the public interest; and

(2) set a date, time, and place for a public hearing to consider the transfer of the property.

(c) Notice of the property identified under subsection (b) and the date, time, and place for the hearing on the proposed transfer of the property shall be published in accordance with IC 5-3-1. The notice must include a description of the property by:

(1) legal description; and

(2) parcel number or street address, or both.

The notice must specify that the county executive will accept applications submitted by persons able to satisfactorily repair and maintain the property as provided in subsection (e) and hear any opposition to a proposed transfer.

(d) After the hearing set under subsection (b), the county executive shall by resolution make a final determination concerning:

(1) the properties that are to be transferred;

(2) the person to which each property is to be transferred; and

(3) the terms and conditions of the transfer.

(e) To be eligible to receive a property under this section, a person must file an application with the county executive. The application must identify the property that the person desires to acquire, the use to be made of the property, and the time anticipated for implementation of the use. The application must be accompanied by documentation demonstrating the person's ability to satisfactorily repair and maintain the property, including evidence of the person's:

(1) ability to repair and maintain the property personally, if applicable;

(2) financial resources, if the services of a contractor may be required to satisfactorily repair or maintain the property; and

(3) previous experience in repairing or maintaining property,

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if applicable.

The application must be signed by the person. If more than one (1) application for a single property is filed, the county executive shall determine which application is to be accepted based on the benefit to be provided to the public and the neighborhood, the suitability of the stated use for the property and the surrounding area, and the likelihood that the person will satisfactorily repair and maintain the property. The county executive may require the person to pay a reasonable deposit or post a performance bond to be forfeited if the person does not satisfactorily repair and maintain the property.

(f) After the hearing set under subsection (b) and the final determination of the properties to be transferred under subsection (d), the county executive, on behalf of the county, shall cause all delinquent taxes, special assessments, penalties, interest, and costs of sale to be removed from the tax duplicate and the person shall be entitled to a tax deed if the conditions of IC 6-1.1-25-4.5 and IC 6-1.1-25-4.6 are satisfied. The deed must provide for:

(1) the use to be made of the property;

(2) the time within which the use must be implemented and maintained;

(3) any other terms and conditions that are established by the county executive;

(4) the reversion of the property to the county executive if the grantee fails to comply with the terms and conditions; and

(5) the forfeiture of any bond or deposit to the county executive if the grantee fails to comply with the terms and conditions.

If the grantee fails to comply with the terms and conditions of the transfer and title to the property reverts to the county executive, the property may be retained by the county executive or disposed of under any of the provisions of this chapter or IC 6-1.1-25, or both.

SECTION 9. IC 22-11-17-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 7. (a) As used in this section, "youth camp" means an area or tract of land established, operated, or maintained to provide more than seventy-two (72) continuous hours of outdoor group living experiences away from established residences for educational, recreational, sectarian, or health purposes to ten (10) or more children who are under eighteen (18) years of age and not accompanied by a parent or guardian.**

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(b) As used in this section, "tent" means a shelter having twenty-five percent (25%) or more of its walls or roof, or both, covered by fabric material.

(c) The commission may not adopt a rule that requires that a sprinkler system be installed and maintained in any of the following structures within a youth camp:

(1) A structure for sleeping quarters that is designed for not more than thirty (30) individuals and does not have any cooking facilities in the structure.

(2) A tent.

(d) Application of a rule inconsistent with subsection (c) is void, to the extent of the inconsistency.

SECTION 10. IC 32-30-10.6-1, AS ADDED BY P.L.102-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. This chapter applies to **the following:**

(1) A mortgage foreclosure action filed under IC 32-30-10-3.

(2) A determination that property is abandoned or vacant for purposes of IC 6-1.1-24.

SECTION 11. IC 32-30-10.6-2, AS ADDED BY P.L.102-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. As used in this chapter, "enforcement authority" refers to the enforcement authority (as defined in IC 36-7-9-2) that has jurisdiction in the location of the property. ~~that is the subject of a mortgage foreclosure action.~~

SECTION 12. IC 32-30-10.6-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 3.5. (a) This section applies to a property whether or not there is a mortgage on the property.**

(b) As an alternative to seeking a determination of abandonment under any other statute, the executive of a city or town that:

(1) has jurisdiction in the location of a property; and

(2) does not have a person designated as a hearing authority, as defined by IC 36-7-9-2;

may petition a court for a determination that the property is abandoned.

(c) A petition filed with the court under this section must do all the following:

(1) Include a statement of the enforcement authority's jurisdiction in the location of the property.

(2) Allege that the property is abandoned.

(3) Include evidence that one (1) or more of the conditions set forth in section 5(a) or 5(b) of this chapter apply.

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(d) A petition under this section shall be served on:

(1) the creditor and the debtor, if the property is subject to a mortgage; and

(2) any other appropriate party;

in the manner prescribed by the Indiana Rules of Trial Procedure.

SECTION 13. IC 32-30-10.6-4, AS ADDED BY P.L.102-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) Upon receiving a request for a determination of abandonment from a creditor or an enforcement authority through a petition or motion filed with the court and served on the required parties in accordance with section 3 **or 3.5** of this chapter, the court shall issue an order to show cause as to why the property should not be found to be abandoned and directing the petitioner, the debtor, and any other person or party the court considers appropriate to appear before the court on a date and time specified in the order under subdivision (1). The court's order under this subsection must do the following:

(1) Direct the parties subject to the order to appear before the court on a date and time specified by the court. The date specified under this subdivision must not be:

(A) earlier than fifteen (15) days; or

(B) later than twenty-five (25) days;

after the date of the court's order under this section.

(2) Notify the parties subject to the order that any party ordered to appear:

(A) may present evidence or objections on the issue of abandonment to the court:

(i) in writing before the appearance date specified by the court under subdivision (1); or

(ii) in writing or by oral testimony on the date and at the time specified by the court under subdivision (1);

in the manner specified by the court; and

(B) has the right to be represented by an attorney when appearing before the court.

(3) Notify the parties subject to the order that if ~~the debtor~~ **a party** fails to:

(A) submit written evidence or objections to the court before the appearance date specified by the court under subdivision (1); or

(B) appear before the court on the date and at the time specified by the court under subdivision (1);

the ~~debtor's~~ **party's** failure to submit evidence or objections or to

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appear before the court will result in a finding of abandonment by the court.

(b) A party subject to an order issued by the court under this section has the following rights, as described in the court's order under subsection (a):

(1) The right to present evidence or objections on the issue of abandonment to the court:

(A) in writing before the appearance date specified in the court's order under subsection (a)(1); or

(B) in writing or by oral testimony on the date and at the time specified in the court's order under subsection (a)(1);

in the manner specified by the court.

(2) The right to be represented by an attorney when appearing before the court.

SECTION 14. IC 32-30-10.6-5, AS ADDED BY P.L.102-2012, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) Subject to subsection (b), for purposes of an abandonment determination under this chapter, one (1) or more of the following constitute prima facie evidence that ~~mortgaged~~ property is abandoned:

(1) The enforcement authority that has jurisdiction in the location of the ~~mortgaged~~ property has issued an order under IC 36-7-36-9 with respect to the property.

(2) Windows or entrances to the ~~mortgaged~~ property are boarded up or closed off.

(3) Multiple window panes on the ~~mortgaged~~ property are broken and unrepaired.

(4) One (1) or more doors to the ~~mortgaged~~ property are smashed through, broken off, unhinged, or continuously unlocked.

(5) Gas service, electric service, water service, or other utility service to the ~~mortgaged~~ property has been terminated.

(6) Rubbish, trash, or debris has accumulated on the ~~mortgaged~~ property.

(7) The ~~mortgaged~~ property is deteriorating and is either below or in imminent danger of falling below minimum community standards for public safety and sanitation.

(8) The creditor has changed the locks on the ~~mortgaged~~ property and for at least fifteen (15) days after the changing of the locks the owner has not requested entrance to the ~~mortgaged~~ property.

(9) There exist one (1) or more written statements, including documents of conveyance, that have been executed by the debtor, or by the debtor's personal representatives or assigns, and that

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indicate a clear intent to abandon the ~~mortgaged~~ property.

(10) There exists other evidence indicating a clear intent to abandon the ~~mortgaged~~ property.

(b) Regardless of whether any of the conditions described in subsection (a) are found to apply, the debtor's failure to either:

(1) present evidence or objections on the issue of abandonment to the court in writing before the appearance date specified in the court's order under section 4(a)(1) of this chapter; or

(2) appear before the court on the date specified in the court's order under section 4(a)(1) of this chapter;

constitutes prima facie evidence that the ~~mortgaged~~ property is abandoned.

(c) If the court finds that:

(1) one (1) or more of the conditions described in subsection (a) apply; or

(2) the circumstances described in subsection (b) apply;

the court shall issue an order finding that the ~~mortgaged~~ property is abandoned.

SECTION 15. IC 34-30-26-5, AS ADDED BY P.L.170-2011, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) Except as provided in subsection (d), a person who is not the owner of real property **or who is a creditor,** and who suspects that the property may be vacant or abandoned, may enter upon the premises of the real property to do the following:

(1) Without entering any structure located on the real property, visually inspect the real property to determine whether the real property may be vacant or abandoned.

(2) Perform any of the following actions:

(A) Secure the real property.

(B) Remove trash or debris from the grounds of the real property.

(C) Landscape, maintain, or mow the grounds of the real property.

(D) Remove or paint over graffiti on the real property.

(b) A person who:

(1) enters upon the premises of real property to visually inspect the property, as permitted under subsection (a)(1); and

(2) after inspecting the real property, determines that the real property may be vacant or abandoned;

may notify the appropriate enforcement authority of the suspected vacant or abandoned status of the property and request that the enforcement authority inspect the property to determine whether the

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property is in fact vacant or abandoned.

(c) A person that enters upon the premises of real property as permitted under this section:

(1) is immune from civil liability for an act or omission related to the entry or to any action described in subsection (a)(2), unless the act or omission constitutes gross negligence or willful, wanton, or intentional misconduct; and

(2) shall be held harmless from and against all claims of civil or criminal trespass.

(d) In the case of real property that is subject to a mortgage, the creditor in the mortgage transaction may not enter upon the premises of the real property under subsection (a) if entry is barred by an automatic stay issued by a bankruptcy court.

SECTION 16. IC 35-43-2-2, AS AMENDED BY P.L.88-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) A person who:

(1) not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after having been denied entry by the other person or that person's agent;

(2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that person's agent;

(3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;

(4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;

(5) not having a contractual interest in the property, knowingly or intentionally enters the dwelling of another person without the person's consent;

(6) knowingly or intentionally:

(A) travels by train without lawful authority or the railroad carrier's consent; and

(B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;

(7) not having a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to

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leave the property by a law enforcement officer when the property is

~~(A)~~ vacant or designated by a municipality or county enforcement authority to be abandoned property ~~and~~

~~(B) subject to abatement under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36;~~ **or an abandoned structure (as defined in IC 36-7-36-1);** or

(8) knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property

~~(A)~~ has been designated by a municipality or county enforcement authority to be a vacant property, ~~or~~ an abandoned property, ~~and~~

~~(B) is subject to an abatement order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36;~~ **or an abandoned structure (as defined in IC 36-7-36-1);**

commits criminal trespass, a Class A misdemeanor. However, the offense is a Class D felony if it is committed on a scientific research facility, on a key facility, on a facility belonging to a public utility (as defined in IC 32-24-1-5.9(a)), on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property.

(b) A person has been denied entry under subdivision (a)(1) of this section when the person has been denied entry by means of:

(1) personal communication, oral or written;

(2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public; or

(3) a hearing authority or court order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36.

(c) A law enforcement officer may not deny entry to property or ask a person to leave a property under subsection (a)(7) unless there is reasonable suspicion that criminal activity has occurred or is occurring.

(d) A person described in subsection (a)(7) violates subsection (a)(7) unless the person has the written permission of the owner, owner's agent, enforcement authority, or court to come onto the property for purposes of performing maintenance, repair, or demolition.

(e) A person described in subsection (a)(8) violates subsection (a)(8) unless the court that issued the order denying the person entry grants permission for the person to come onto the property.

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(f) Subsections (a), (b), and (e) do not apply to the following:

(1) A passenger on a train.

(2) An employee of a railroad carrier while engaged in the performance of official duties.

(3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.

(4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.

(5) A person on the station grounds or in the depot of a railroad carrier:

(A) as a passenger; or

(B) for the purpose of transacting lawful business.

(6) A:

(A) person; or

(B) person's:

(i) family member;

(ii) invitee;

(iii) employee;

(iv) agent; or

(v) independent contractor;

going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain access to land that the person owns, leases, or operates.

(7) A person having written permission from the railroad carrier to go on specified railroad property.

(8) A representative of the Indiana department of transportation while engaged in the performance of official duties.

(9) A representative of the federal Railroad Administration while engaged in the performance of official duties.

(10) A representative of the National Transportation Safety Board while engaged in the performance of official duties.".

Delete pages 3 through 7.

Page 8, delete lines 1 through 33.

Page 10, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 18. IC 36-7-10.1-3, AS AMENDED BY P.L.137-2012, SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) The legislative body of a municipality or county may by ordinance require the owners of real property located within the municipality or the unincorporated area of the county to cut and remove weeds and other rank vegetation growing

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on the property. As used in this chapter, "weeds and other rank vegetation" does not include agricultural crops, such as hay and pasture.

(b) An ordinance adopted under subsection (a) must specify the following:

(1) The department of the municipality or county responsible for the administration of the ordinance.

(2) The definitions of weeds and rank vegetation.

(3) The height at which weeds or rank vegetation becomes a violation of the ordinance, specifying the appropriate heights for various types of weeds and rank vegetation.

(4) The procedure for issuing notice to the owner of real property of a violation of the ordinance, including any procedures for issuing a continuous abatement notice under subsection (d).

(5) The procedure under which the municipality or county, or its contractors, may enter real property to abate a violation of the ordinance if the owner fails to abate the violation.

(6) The procedure for issuing a bill to the owner of real property for the costs incurred by the municipality or county in abating the violation, including administrative costs and removal costs. The cost of sending notice under subsection (c) is an administrative cost that may be billed to the owner under this subdivision.

(7) The procedure for appealing a notice of violation or a bill issued under the ordinance.

(c) An ordinance adopted under subsection (a) must provide that a notice sent to the property owner must be sent by ~~certified~~ **first class** mail, ~~return receipt requested,~~ or an equivalent service permitted under IC 1-1-7-1, to:

(1) the owner of record of real property with a single owner; or

(2) at least one (1) of the owners of real property with multiple owners;

at the last address of the owner for the property as indicated in the records of the county auditor on the date of the notice.

(d) If an initial notice of the violation of an ordinance adopted under this section was provided by certified mail, **first class mail,** or equivalent service under subsection (c), a continuous abatement notice may be posted at the property at the time of abatement instead of by certified mail, **first class mail,** or equivalent service as required under subsection (c). A continuous abatement notice serves as notice to the

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real property owner that each subsequent violation during the same year for which the initial notice of the violation was provided may be abated by the municipality or county, or its contractors.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 433 as reprinted February 5, 2013.)

NEESE, Chair

Committee Vote: yeas 12, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 433 be amended to read as follows:

Page 11, delete lines 23 through 42.

Page 12, delete line 1.

Renumber all SECTIONS consecutively.

(Reference is to ESB 433 as printed April 2, 2013.)

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