

Adopted	Rejected
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COMMITTEE REPORT

YES:	12
NO:	0

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:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 6-1.1-24-1, AS AMENDED BY P.L.120-2012,
4 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2013]: Sec. 1. (a) On or after January 1 of each calendar year
6 in which a tax sale will be held in a county and not later than fifty-one
7 (51) days after the first tax payment due date in that calendar year, the
8 county treasurer (or county executive, in the case of property described
9 in subdivision (2)) shall certify to the county auditor a list of real
10 property on which any of the following exist:
11 (1) In the case of real property other than real property described
12 in subdivision (2), any property taxes or special assessments
13 certified to the county auditor for collection by the county
14 treasurer from the prior year's spring installment or before are
15 delinquent as determined under IC 6-1.1-37-10 and the delinquent
16 property tax or special assessments due exceed twenty-five dollars

- 1 (\$25).
- 2 (2) In the case of real property for which a county executive has
- 3 certified to the county auditor that the real property is:
- 4 (A) vacant; or
- 5 (B) abandoned;
- 6 any property taxes or special assessments from the prior year's fall
- 7 installment or before that are delinquent as determined under
- 8 IC 6-1.1-37-10. The county executive must make a certification
- 9 under this subdivision not later than sixty-one (61) days before
- 10 the earliest date on which application for judgment and order for
- 11 sale may be made. **The executive of a city or town may provide**
- 12 **to the county executive of the county in which the city or town**
- 13 **is located a list of real property that the city or town has**
- 14 **determined to be vacant or abandoned. The county executive**
- 15 **shall include real property included on the list provided by a**
- 16 **city or town executive on the list certified by the county**
- 17 **executive to the county auditor under this subsection.**
- 18 (3) Any unpaid costs are due under section 2(b) of this chapter
- 19 from a prior tax sale.
- 20 (b) The county auditor shall maintain a list of all real property
- 21 eligible for sale. Except as provided in section 1.2 or another provision
- 22 of this chapter, the taxpayer's property shall remain on the list. The list
- 23 must:
- 24 (1) describe the real property by parcel number and common
- 25 address, if any;
- 26 (2) for a tract or item of real property with a single owner,
- 27 indicate the name of the owner; and
- 28 (3) for a tract or item with multiple owners, indicate the name of
- 29 at least one (1) of the owners.
- 30 (c) Except as otherwise provided in this chapter, the real property
- 31 so listed is eligible for sale in the manner prescribed in this chapter.
- 32 (d) Not later than fifteen (15) days after the date of the county
- 33 treasurer's certification under subsection (a), the county auditor shall
- 34 mail by certified mail a copy of the list described in subsection (b) to
- 35 each mortgagee who requests from the county auditor by certified mail
- 36 a copy of the list. Failure of the county auditor to mail the list under
- 37 this subsection does not invalidate an otherwise valid sale.
- 38 SECTION 2. IC 6-1.1-24-4.5 IS AMENDED TO READ AS

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

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

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

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

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

36 (c) When a lien is acquired by a county executive under this section,
 37 no money shall be paid by the county executive. However, each of the
 38 taxing units having an interest in the taxes on the tract shall be charged

1 with the full amount of all delinquent taxes due them.

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

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

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

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

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

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

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

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

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

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

7 (1) legal description; and

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

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

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

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

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

18 (3) the terms and conditions of the transfer.

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

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

- 1 (1) the use to be made of the property;
- 2 (2) the time within which the use must be implemented and
- 3 maintained;
- 4 (3) any other terms and conditions that are established by the
- 5 county executive; and
- 6 (4) the reversion of the property to the county executive if the
- 7 grantee nonprofit corporation fails to comply with the terms and
- 8 conditions.

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

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

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

- 21 (1) A lien has been acquired on the parcel under section 6(a) of
- 22 this chapter.
- 23 (2) The parcel is unimproved on the date the parcel is offered for
- 24 sale under this chapter.
- 25 ~~(3) The construction of a structure intended for residential use on~~
- 26 ~~the parcel is permitted by law.~~
- 27 ~~(4)~~ (3) On the date the parcel is offered for sale under this
- 28 chapter, the parcel is contiguous to one (1) or more parcels that
- 29 satisfy the following:

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

- 32 (i) A structure occupied for residential use.
- 33 (ii) A structure used in conjunction with a structure
- 34 occupied for residential use.
- 35 (B) The contiguous parcel is eligible for the standard
- 36 deduction under IC 6-1.1-12-37.

37 (c) The county legislative body may, by ordinance, establish criteria
 38 for the identification of vacant parcels to be offered for sale under this

1 section. The criteria may include the following:

- 2 (1) Limitations on the use of the parcel under local zoning and
 3 land use requirements.
 4 (2) Minimum parcel area sufficient for construction of
 5 improvements.
 6 (3) Any other factor considered appropriate by the county
 7 legislative body.

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

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

- 14 (1) by resolution, identify each vacant parcel that the county
 15 executive desires to sell under this section; and
 16 (2) subject to subsection (e), give written notice to the owner of
 17 record of each parcel referred to in subsection ~~(b)(4)~~ **(b)(3)** that
 18 is contiguous to the vacant parcel.

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

- 21 (1) A description of the vacant parcel by:
 22 (A) legal description; and
 23 (B) parcel number or street address, or both.
 24 (2) Notice that the county executive will accept written
 25 applications from owners of parcels described in subsection ~~(b)(4)~~
 26 **(b)(3)** as provided in subsection (f).
 27 (3) Notice of the deadline for applications referred to in
 28 subdivision (2) and of the information to be included in the
 29 applications.
 30 (4) Notice that the vacant parcel will be sold to the successful
 31 applicant for one dollar (\$1).
 32 (5) Notice of the exemption provisions of subsection (l).

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

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

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

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

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

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

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

16 (2) give notice of the final determination to:

17 (A) the successful applicant;

18 (B) the county auditor; and

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

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

22 (1) the county auditor shall:

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

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

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

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

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

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

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

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

7 SECTION 4. IC 6-1.1-24-6.9 IS ADDED TO THE INDIANA
8 CODE AS A NEW SECTION TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2013]: **Sec. 6.9. (a) For purposes of this**
10 **section, in a county having a consolidated city, "county executive"**
11 **refers to the board of commissioners of the county as provided in**
12 **IC 36-3-3-10.**

13 **(b) The county executive may:**

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

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

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

25 **(1) legal description; and**

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

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

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

34 **(1) the properties that are to be transferred;**

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

36 **(3) the terms and conditions of the transfer.**

37 **(e) To be eligible to receive a property under this section, a**
38 **person must file an application with the county executive. The**

1 application must identify the property that the person desires to
 2 acquire, the use to be made of the property, and the time
 3 anticipated for implementation of the use. The application must be
 4 accompanied by documentation demonstrating the person's ability
 5 to satisfactorily repair and maintain the property, including
 6 evidence of the person's:

- 7 (1) ability to repair and maintain the property personally, if
 8 applicable;
- 9 (2) financial resources, if the services of a contractor may be
 10 required to satisfactorily repair or maintain the property; and
- 11 (3) previous experience in repairing or maintaining property,
 12 if applicable.

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

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

- 30 (1) the use to be made of the property;
- 31 (2) the time within which the use must be implemented and
 32 maintained;
- 33 (3) any other terms and conditions that are established by the
 34 county executive;
- 35 (4) the reversion of the property to the county executive if the
 36 grantee fails to comply with the terms and conditions; and
- 37 (5) the forfeiture of any bond or deposit to the county
 38 executive if the grantee fails to comply with the terms and

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

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

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

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

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

25 **(2) A tent.**

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

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

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

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

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

1 mortgage foreclosure action:

2 SECTION 12. IC 32-30-10.6-3.5 IS ADDED TO THE INDIANA

3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS

4 [EFFECTIVE JULY 1, 2013]: **Sec. 3.5. (a) This section applies to a**

5 **property whether or not there is a mortgage on the property.**

6 **(b) As an alternative to seeking a determination of abandonment**

7 **under any other statute, the executive of a city or town that:**

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

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

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

11 **may petition a court for a determination that the property is**

12 **abandoned.**

13 **(c) A petition filed with the court under this section must do all**

14 **the following:**

15 **(1) Include a statement of the enforcement authority's**

16 **jurisdiction in the location of the property.**

17 **(2) Allege that the property is abandoned.**

18 **(3) Include evidence that one (1) or more of the conditions set**

19 **forth in section 5(a) or 5(b) of this chapter apply.**

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

21 **(1) the creditor and the debtor, if the property is subject to a**

22 **mortgage; and**

23 **(2) any other appropriate party;**

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

25 SECTION 13. IC 32-30-10.6-4, AS ADDED BY P.L.102-2012,

26 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

27 JULY 1, 2013]: **Sec. 4. (a) Upon receiving a request for a**

28 **determination of abandonment from a creditor or an enforcement**

29 **authority through a petition or motion filed with the court and served**

30 **on the required parties in accordance with section 3 or 3.5 of this**

31 **chapter, the court shall issue an order to show cause as to why the**

32 **property should not be found to be abandoned and directing the**

33 **petitioner, the debtor, and any other person or party the court considers**

34 **appropriate to appear before the court on a date and time specified in**

35 **the order under subdivision (1). The court's order under this subsection**

36 **must do the following:**

37 **(1) Direct the parties subject to the order to appear before the**

38 **court on a date and time specified by the court. The date specified**

- 1 under this subdivision must not be:
- 2 (A) earlier than fifteen (15) days; or
- 3 (B) later than twenty-five (25) days;
- 4 after the date of the court's order under this section.
- 5 (2) Notify the parties subject to the order that any party ordered
- 6 to appear:
- 7 (A) may present evidence or objections on the issue of
- 8 abandonment to the court:
- 9 (i) in writing before the appearance date specified by the
- 10 court under subdivision (1); or
- 11 (ii) in writing or by oral testimony on the date and at the
- 12 time specified by the court under subdivision (1);
- 13 in the manner specified by the court; and
- 14 (B) has the right to be represented by an attorney when
- 15 appearing before the court.
- 16 (3) Notify the parties subject to the order that if ~~the debtor a party~~
- 17 fails to:
- 18 (A) submit written evidence or objections to the court before
- 19 the appearance date specified by the court under subdivision
- 20 (1); or
- 21 (B) appear before the court on the date and at the time
- 22 specified by the court under subdivision (1);
- 23 ~~the debtor's party's~~ failure to submit evidence or objections or to
- 24 appear before the court will result in a finding of abandonment by
- 25 the court.
- 26 (b) A party subject to an order issued by the court under this section
- 27 has the following rights, as described in the court's order under
- 28 subsection (a):
- 29 (1) The right to present evidence or objections on the issue of
- 30 abandonment to the court:
- 31 (A) in writing before the appearance date specified in the
- 32 court's order under subsection (a)(1); or
- 33 (B) in writing or by oral testimony on the date and at the time
- 34 specified in the court's order under subsection (a)(1);
- 35 in the manner specified by the court.
- 36 (2) The right to be represented by an attorney when appearing
- 37 before the court.
- 38 SECTION 14. IC 32-30-10.6-5, AS ADDED BY P.L.102-2012,

1 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2013]: Sec. 5. (a) Subject to subsection (b), for purposes of an
3 abandonment determination under this chapter, one (1) or more of the
4 following constitute prima facie evidence that mortgaged property is
5 abandoned:

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

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

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

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

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

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

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

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

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

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

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

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

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

38 constitutes prima facie evidence that the mortgaged property is

1 abandoned.
 2 (c) If the court finds that:
 3 (1) one (1) or more of the conditions described in subsection (a)
 4 apply; or
 5 (2) the circumstances described in subsection (b) apply;
 6 the court shall issue an order finding that the ~~mortgaged~~ property is
 7 abandoned.

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

- 14 (1) Without entering any structure located on the real property,
 15 visually inspect the real property to determine whether the real
 16 property may be vacant or abandoned.
- 17 (2) Perform any of the following actions:
 18 (A) Secure the real property.
 19 (B) Remove trash or debris from the grounds of the real
 20 property.
 21 (C) Landscape, maintain, or mow the grounds of the real
 22 property.
 23 **(D) Remove or paint over graffiti on the real property.**

24 (b) A person who:
 25 (1) enters upon the premises of real property to visually inspect
 26 the property, as permitted under subsection (a)(1); and
 27 (2) after inspecting the real property, determines that the real
 28 property may be vacant or abandoned;
 29 may notify the appropriate enforcement authority of the suspected
 30 vacant or abandoned status of the property and request that the
 31 enforcement authority inspect the property to determine whether the
 32 property is in fact vacant or abandoned.

33 (c) A person that enters upon the premises of real property as
 34 permitted under this section:
 35 (1) is immune from civil liability for an act or omission related to
 36 the entry or to any action described in subsection (a)(2), unless
 37 the act or omission constitutes gross negligence or willful,
 38 wanton, or intentional misconduct; and

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

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

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

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

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

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

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

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

26 (6) knowingly or intentionally:

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

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

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

38 (A) vacant or designated by a municipality or county

1 enforcement authority to be abandoned property ~~and~~
2 ~~(B) subject to abatement under IC 32-30-6, IC 32-30-7,~~
3 ~~IC 32-30-8, IC 36-7-9, or IC 36-7-36; or an abandoned~~
4 ~~structure (as defined in IC 36-7-36-1); or~~
5 (8) knowingly or intentionally enters the property of another
6 person after being denied entry by a court order that has been
7 issued to the person or issued to the general public by
8 conspicuous posting on or around the premises in areas where a
9 person can observe the order when the property
10 ~~(A) has been designated by a municipality or county~~
11 ~~enforcement authority to be a vacant property, or an~~
12 ~~abandoned property, and~~
13 ~~(B) is subject to an abatement order under IC 32-30-6,~~
14 ~~IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36; or an~~
15 ~~abandoned structure (as defined in IC 36-7-36-1);~~
16 commits criminal trespass, a Class A misdemeanor. However, the
17 offense is a Class D felony if it is committed on a scientific research
18 facility, on a key facility, on a facility belonging to a public utility (as
19 defined in IC 32-24-1-5.9(a)), on school property, or on a school bus or
20 the person has a prior unrelated conviction for an offense under this
21 section concerning the same property.
22 (b) A person has been denied entry under subdivision (a)(1) of this
23 section when the person has been denied entry by means of:
24 (1) personal communication, oral or written;
25 (2) posting or exhibiting a notice at the main entrance in a manner
26 that is either prescribed by law or likely to come to the attention
27 of the public; or
28 (3) a hearing authority or court order under IC 32-30-6,
29 IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36.
30 (c) A law enforcement officer may not deny entry to property or ask
31 a person to leave a property under subsection (a)(7) unless there is
32 reasonable suspicion that criminal activity has occurred or is occurring.
33 (d) A person described in subsection (a)(7) violates subsection
34 (a)(7) unless the person has the written permission of the owner,
35 owner's agent, enforcement authority, or court to come onto the
36 property for purposes of performing maintenance, repair, or demolition.
37 (e) A person described in subsection (a)(8) violates subsection
38 (a)(8) unless the court that issued the order denying the person entry

- 1 grants permission for the person to come onto the property.
- 2 (f) Subsections (a), (b), and (e) do not apply to the following:
- 3 (1) A passenger on a train.
- 4 (2) An employee of a railroad carrier while engaged in the
- 5 performance of official duties.
- 6 (3) A law enforcement officer, firefighter, or emergency response
- 7 personnel while engaged in the performance of official duties.
- 8 (4) A person going on railroad property in an emergency to rescue
- 9 a person or animal from harm's way or to remove an object that
- 10 the person reasonably believes poses an imminent threat to life or
- 11 limb.
- 12 (5) A person on the station grounds or in the depot of a railroad
- 13 carrier:
- 14 (A) as a passenger; or
- 15 (B) for the purpose of transacting lawful business.
- 16 (6) A:
- 17 (A) person; or
- 18 (B) person's:
- 19 (i) family member;
- 20 (ii) invitee;
- 21 (iii) employee;
- 22 (iv) agent; or
- 23 (v) independent contractor;
- 24 going on a railroad's right-of-way for the purpose of crossing at a
- 25 private crossing site approved by the railroad carrier to obtain
- 26 access to land that the person owns, leases, or operates.
- 27 (7) A person having written permission from the railroad carrier
- 28 to go on specified railroad property.
- 29 (8) A representative of the Indiana department of transportation
- 30 while engaged in the performance of official duties.
- 31 (9) A representative of the federal Railroad Administration while
- 32 engaged in the performance of official duties.
- 33 (10) A representative of the National Transportation Safety Board
- 34 while engaged in the performance of official duties."

35 Delete pages 3 through 7.
 36 Page 8, delete lines 1 through 33.
 37 Page 10, between lines 29 and 30, begin a new paragraph and insert:
 38 "SECTION 18. IC 36-7-10.1-3, AS AMENDED BY P.L.137-2012,

1 SECTION 119, IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) The legislative body of a
3 municipality or county may by ordinance require the owners of real
4 property located within the municipality or the unincorporated area of
5 the county to cut and remove weeds and other rank vegetation growing
6 on the property. As used in this chapter, "weeds and other rank
7 vegetation" does not include agricultural crops, such as hay and
8 pasture.

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

- 11 (1) The department of the municipality or county responsible for
12 the administration of the ordinance.
- 13 (2) The definitions of weeds and rank vegetation.
- 14 (3) The height at which weeds or rank vegetation becomes a
15 violation of the ordinance, specifying the appropriate heights for
16 various types of weeds and rank vegetation.
- 17 (4) The procedure for issuing notice to the owner of real property
18 of a violation of the ordinance, including any procedures for
19 issuing a continuous abatement notice under subsection (d).
- 20 (5) The procedure under which the municipality or county, or its
21 contractors, may enter real property to abate a violation of the
22 ordinance if the owner fails to abate the violation.
- 23 (6) The procedure for issuing a bill to the owner of real property
24 for the costs incurred by the municipality or county in abating the
25 violation, including administrative costs and removal costs. The
26 cost of sending notice under subsection (c) is an administrative
27 cost that may be billed to the owner under this subdivision.
- 28 (7) The procedure for appealing a notice of violation or a bill
29 issued under the ordinance.

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

- 34 (1) the owner of record of real property with a single owner; or
 - 35 (2) at least one (1) of the owners of real property with multiple
36 owners;
- 37 at the last address of the owner for the property as indicated in the
38 records of the county auditor on the date of the notice.

1 (d) If an initial notice of the violation of an ordinance adopted under
2 this section was provided by certified mail, **first class mail**, or
3 equivalent service under subsection (c), a continuous abatement notice
4 may be posted at the property at the time of abatement instead of by
5 certified mail, **first class mail**, or equivalent service as required under
6 subsection (c). A continuous abatement notice serves as notice to the
7 real property owner that each subsequent violation during the same
8 year for which the initial notice of the violation was provided may be
9 abated by the municipality or county, or its contractors."
10 Renumber all SECTIONS consecutively.
 (Reference is to SB 433 as reprinted February 5, 2013.)

and when so amended that said bill do pass.

Representative Neese