
SENATE BILL No. 433

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-24; IC 36-7.

Synopsis: Abandoned property. 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. 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 under the: (1) unsafe building law; and (2) high weeds and grass law; be served on each person with a known or recorded substantial property interest. 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.)

Effective: July 1, 2013.

Paul

January 10, 2013, read first time and referred to Committee on Local Government.

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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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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:

1 SECTION 1. IC 6-1.1-24-6.1, AS AMENDED BY P.L.56-2012,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 6.1. (a) The county executive may do the
4 following:
5 (1) By resolution, identify properties:
6 (A) that are described in section 6.7(a) **or 6.9(a)** of this
7 chapter; and
8 (B) concerning which the county executive desires to offer to
9 the public the certificates of sale acquired by the county
10 executive under section 6 of this chapter.
11 (2) In conformity with IC 5-3-1-4, publish:
12 (A) notice of the date, time, and place for a public sale; and
13 (B) a listing of parcels on which certificates will be offered by
14 parcel number and minimum bid amount;
15 once each week for three (3) consecutive weeks, with the final
16 advertisement being not less than thirty (30) days before the sale
17 date. The expenses of the publication shall be paid out of the



1 county general fund.
 2 (3) Sell each certificate of sale covered by the resolution for a
 3 price that:
 4 (A) is less than the minimum sale price prescribed by section
 5 5 of this chapter; and
 6 (B) includes any costs to the county executive directly
 7 attributable to the sale of the certificate of sale.
 8 (b) Notice of the list of properties prepared under subsection (a) and
 9 the date, time, and place for the public sale of the certificates of sale
 10 shall be published in accordance with IC 5-3-1. The notice must:
 11 (1) include a description of the property by parcel number and
 12 common address;
 13 (2) specify that the county executive will accept bids for the
 14 certificates of sale for the price referred to in subsection (a)(3);
 15 (3) specify the minimum bid for each parcel;
 16 (4) include a statement that a person redeeming each tract or item
 17 of real property after the sale of the certificate must pay:
 18 (A) the amount of the minimum bid under section 5 of this
 19 chapter for which the tract or item of real property was last
 20 offered for sale;
 21 (B) ten percent (10%) of the amount for which the certificate
 22 is sold;
 23 (C) the attorney's fees and costs of giving notice under
 24 IC 6-1.1-25-4.5;
 25 (D) the costs of a title search or of examining and updating the
 26 abstract of title for the tract or item of real property;
 27 (E) all taxes and special assessments on the tract or item of
 28 real property paid by the purchaser after the sale of the
 29 certificate plus interest at the rate of ten percent (10%) per
 30 annum on the amount of taxes and special assessments paid by
 31 the purchaser on the redeemed property; and
 32 (F) all costs of sale, advertising costs, and other expenses of
 33 the county directly attributable to the sale of certificates of
 34 sale; and
 35 (5) include a statement that, if the certificate is sold for an amount
 36 more than the minimum bid under section 5 of this chapter for
 37 which the tract or item of real property was last offered for sale
 38 and the property is not redeemed, the owner of record of the tract
 39 or item of real property who is divested of ownership at the time
 40 the tax deed is issued may have a right to the tax sale surplus.

41 SECTION 2. IC 6-1.1-24-6.8, AS ADDED BY P.L.98-2010,
 42 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2013]: Sec. 6.8. (a) For purposes of this section, in a county
 2 containing a consolidated city "county executive" refers to the board of
 3 commissioners of the county as provided in IC 36-3-3-10.

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

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

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

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

12 ~~(4)~~ **(3)** On the date the parcel is offered for sale under this
 13 chapter, the parcel is contiguous to one (1) or more parcels that
 14 satisfy the following:

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

17 (i) A structure occupied for residential use.

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

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

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

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

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

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

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

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

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

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

42 (e) The notice under subsection (d)(2) with respect to each vacant

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- 1 parcel must include at least the following:
- 2 (1) A description of the vacant parcel by:
- 3 (A) legal description; and
- 4 (B) parcel number or street address, or both.
- 5 (2) Notice that the county executive will accept written
- 6 applications from owners of parcels described in subsection ~~(b)(4)~~
- 7 **(b)(3)** as provided in subsection (f).
- 8 (3) Notice of the deadline for applications referred to in
- 9 subdivision (2) and of the information to be included in the
- 10 applications.
- 11 (4) Notice that the vacant parcel will be sold to the successful
- 12 applicant for one dollar (\$1).
- 13 (5) Notice of the exemption provisions of subsection (l).
- 14 (f) To be eligible to purchase a vacant parcel under this section, the
- 15 owner of a contiguous parcel referred to in subsection ~~(b)(4)~~ **(b)(3)**
- 16 must file a written application with the county executive. The
- 17 application must:
- 18 (1) identify the vacant parcel that the applicant desires to
- 19 purchase; and
- 20 (2) include any other information required by the county
- 21 executive.
- 22 (g) If more than one (1) application to purchase a single vacant
- 23 parcel is filed with the county executive, the county executive shall
- 24 conduct a drawing between or among the applicants in which each
- 25 applicant has an equal chance to be selected as the transferee of the
- 26 vacant parcel.
- 27 (h) The county executive shall by resolution make a final
- 28 determination concerning the vacant parcels that are to be sold under
- 29 this section.
- 30 (i) After the final determination of vacant parcels to be sold under
- 31 subsection (h), the county executive shall:
- 32 (1) on behalf of the county, cause all delinquent taxes, special
- 33 assessments, penalties, interest, and costs of sale with respect to
- 34 the vacant parcels to be removed from the tax duplicate;
- 35 (2) give notice of the final determination to:
- 36 (A) the successful applicant;
- 37 (B) the county auditor; and
- 38 (C) the township assessor, or the county assessor if there is no
- 39 township assessor for the township.
- 40 (j) Upon receipt of notice under subsection (i)(2):
- 41 (1) the county auditor shall:
- 42 (A) collect the purchase price from each successful applicant;

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1 and
2 (B) subject to subsection (k), prepare a deed transferring each
3 vacant parcel to the successful applicant; and
4 (2) the township assessor or county assessor shall consolidate
5 each vacant parcel sold and the contiguous parcel owned by the
6 successful applicant into a single parcel.
7 (k) The county auditor shall include in the deed prepared under
8 subsection (j)(1)(B) reference to the exemption under subsection (l).
9 (l) Except as provided in subsection (m), each consolidated parcel
10 referred to in subsection (j)(2) is entitled to an exemption from property
11 taxation beginning on the assessment date that next succeeds the
12 consolidation in the amount of the assessed value at the time of
13 consolidation of the vacant parcel that was subject to the consolidation.
14 (m) The exemption under subsection (l) is terminated as of the
15 assessment date that next succeeds the earlier of the following:
16 (1) Five (5) years after the transfer of title to the successful
17 applicant.
18 (2) The first transfer of title to the consolidated parcel that occurs
19 after the consolidation.
20 SECTION 3. IC 6-1.1-24-6.9 IS ADDED TO THE INDIANA
21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2013]: **Sec. 6.9. (a) The county executive**
23 **may:**
24 **(1) by resolution, identify the property described under**
25 **section 6 of this chapter that the county executive desires to**
26 **transfer to a person able to satisfactorily repair and maintain**
27 **the property, if repair and maintenance of the property are in**
28 **the public interest; and**
29 **(2) set a date, time, and place for a public hearing to consider**
30 **the transfer of the property to a person.**
31 **(b) Notice of the property identified under subsection (a) and**
32 **the date, time, and place for the hearing on the proposed transfer**
33 **of the property on the list shall be published in accordance with**
34 **IC 5-3-1. The notice must include a description of the property by:**
35 **(1) legal description; and**
36 **(2) parcel number or street address, or both.**
37 **The notice must specify that the county executive will accept**
38 **applications submitted by persons able to satisfactorily repair and**
39 **maintain the property as provided in subsection (d) and hear any**
40 **opposition to a proposed transfer.**
41 **(c) After the hearing set under subsection (a), the county**
42 **executive shall by resolution make a final determination**

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1 concerning:

- 2 (1) the properties that are to be transferred;
 3 (2) the person to which each property is to be transferred; and
 4 (3) the terms and conditions of the transfer.

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

- 13 (1) ability to repair and maintain the property personally, if
 14 applicable;
 15 (2) financial resources, if the services of a contractor may be
 16 required to satisfactorily repair or maintain the property; and
 17 (3) previous experience in repairing or maintaining property,
 18 if applicable.

19 The application must be signed by the person. If more than one (1)
 20 application for a single property is filed, the county executive shall
 21 determine which application is to be accepted based on the benefit
 22 to be provided to the public and the neighborhood, the suitability
 23 of the stated use for the property and the surrounding area, and
 24 the likelihood that the person will satisfactorily repair and
 25 maintain the property. The county executive may require the
 26 person to pay a reasonable deposit or post a performance bond, not
 27 exceeding twenty-five percent (25%) of the delinquent taxes,
 28 special assessments, penalties, interest, and costs of sale of the
 29 property, to be forfeited if the person does not satisfactorily repair
 30 and maintain the property.

31 (e) After the hearing set under subsection (a) and the final
 32 determination of properties to be transferred under subsection (c),
 33 the county executive, on behalf of the county, shall cause all
 34 delinquent taxes, special assessments, penalties, interest, and costs
 35 of sale to be removed from the tax duplicate and shall cause the
 36 county auditor to prepare a deed transferring the property to the
 37 person. The deed must provide for:

- 38 (1) the use to be made of the property;
 39 (2) the time within which the use must be implemented and
 40 maintained;
 41 (3) any other terms and conditions that are established by the
 42 county executive;

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**(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 6-1.1-24, or both.

SECTION 4. 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

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1 ordered action must be reasonably related to the condition of the unsafe
 2 premises and the nature and use of nearby properties. The order
 3 supersedes any permit relating to building or land use, whether that
 4 permit is obtained before or after the order is issued.

5 (b) The order must contain:

- 6 (1) the name of the person to whom the order is issued;
 7 (2) the legal description or address of the unsafe premises that are
 8 the subject of the order;
 9 (3) the action that the order requires;
 10 (4) the period of time in which the action is required to be
 11 accomplished, measured from the time when the notice of the
 12 order is given;
 13 (5) if a hearing is required, a statement indicating the exact time
 14 and place of the hearing, and stating that person to whom the
 15 order was issued is entitled to appear at the hearing with or
 16 without legal counsel, present evidence, cross-examine opposing
 17 witnesses, and present arguments;
 18 (6) if a hearing is not required, a statement that an order under
 19 subsection (a)(2), (a)(3), (a)(4), or (a)(5) becomes final ten (10)
 20 days after notice is given, unless a hearing is requested in writing
 21 by a person holding a fee interest, life estate interest, or equitable
 22 interest of a contract purchaser in the unsafe premises, and the
 23 request is delivered to the enforcement authority before the end
 24 of the ten (10) day period;
 25 (7) a statement briefly indicating what action can be taken by the
 26 enforcement authority if the order is not complied with;
 27 (8) a statement indicating the obligation created by section 27 of
 28 this chapter relating to notification of subsequent interest holders
 29 and the enforcement authority; and
 30 (9) the name, address, and telephone number of the enforcement
 31 authority.

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

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

- 41 (1) A complaint requesting judicial review is filed under section
 42 8 of this chapter.

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

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

4 **(e) Notice of the order shall be given to each person with a**
5 **known or recorded substantial property interest.**

6 SECTION 5. IC 36-7-10.1-3, AS AMENDED BY P.L.137-2012,
7 SECTION 119, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) The legislative body of a
9 municipality or county may by ordinance require the owners of real
10 property located within the municipality or the unincorporated area of
11 the county to cut and remove weeds and other rank vegetation growing
12 on the property. As used in this chapter, "weeds and other rank
13 vegetation" does not include agricultural crops, such as hay and
14 pasture.

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

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

19 (2) The definitions of weeds and rank vegetation.

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

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

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

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

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

36 **(8) That a copy of the notice issued to the owner of real**
37 **property under this subsection shall be served on each person**
38 **with a known or recorded substantial property interest (as**
39 **defined in IC 36-7-9-2).**

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

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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 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 or equivalent service as required under subsection (c). A continuous abatement notice serves as notice to the 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 6. 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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