
HOUSE BILL No. 1274

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7-9.

Synopsis: Service of warrants for unsafe buildings. Allows an inspection warrant issued under the unsafe building law to be served by one of the following methods: (1) Registered or certified mail, return receipt requested to the residence or place of business or employment of the person served. (2) Personal service. (3) Leaving a copy of the warrant at the person's dwelling and mailing a copy to the person's last known address. (4) Mailing a copy by first class mail to the person's last known address. (Current law allows only personal service of inspection warrants.)

Effective: July 1, 2013.

Niemeyer

January 14, 2013, read first time and referred to Committee on Judiciary.

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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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HOUSE BILL No. 1274



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

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

1 SECTION 1. IC 36-7-9-16 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. (a) If the owners or
3 those in possession of a building refuse inspection, an inspection
4 officer of the enforcement authority may obtain an inspection warrant
5 from any court of record in the county in which the building is located
6 in order to determine if the building is an unsafe building. The court
7 shall issue the warrant subject to the following conditions:
8 (1) The person seeking the warrant must establish that the
9 building to be searched or inspected is to be searched or inspected
10 as part of a legally authorized program of inspection that naturally
11 includes the building, or that there is probable cause for believing
12 that a condition, object, activity, or circumstance legally justifies
13 a search or inspection of that building.
14 (2) An affidavit establishing one (1) of the grounds described in
15 subdivision (1) must be signed under oath or affirmation by the
16 affiant.
17 (3) The court must examine the affiant under oath or affirmation



1 to verify the accuracy of the affidavit.
 2 (b) The warrant is valid only if it:
 3 (1) is signed by the judge of the court and bears the date and hour
 4 of its issuance above that signature, with a notation that the
 5 warrant is valid for only forty-eight (48) hours after its issuance;
 6 (2) describes (either directly or by reference to the affidavit) the
 7 building where the search or inspection is to occur so that the
 8 executor of the warrant and owner or the possessor of the building
 9 can reasonably determine what property the warrant authorizes an
 10 inspection of;
 11 (3) indicates the conditions, objects, activities, or circumstances
 12 that the inspection is intended to check or reveal; and
 13 (4) is attached to the affidavit required to be made in order to
 14 obtain the warrant.
 15 (c) A warrant issued under this section is valid for only forty-eight
 16 (48) hours after its issuance, must be ~~personally~~ served upon the owner
 17 or possessor of the building **in accordance with section 25 of this**
 18 **chapter**, and must be returned within seventy-two (72) hours.
 19 SECTION 2. IC 36-7-9-25, AS AMENDED BY P.L.194-2007,
 20 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2013]: Sec. 25. **(a) This section applies to service of the**
 22 **following:**
 23 (1) Notice of Orders.
 24 (2) Notice of continued hearings without a specified date.
 25 (3) Notice of a statement that public bids are to be let. ~~and~~
 26 (4) Notice of claims for payment. ~~must be given by:~~
 27 (5) **Inspection warrants.**
 28 **(b) Service must be given by:**
 29 (1) sending **by registered or certified mail with return receipt**
 30 **requested**, a copy of the order, ~~or~~ statement, ~~by registered or~~
 31 ~~certified mail or warrant~~ to the residence or place of business or
 32 employment of the person to be ~~notified with return receipt~~
 33 ~~requested; served;~~
 34 (2) delivering a copy of the order, ~~or~~ statement, **or warrant**
 35 personally to the person to be ~~notified; served;~~
 36 (3) leaving a copy of the order, ~~or~~ statement, **or warrant** at the
 37 dwelling or usual place of abode of the person to be ~~notified~~
 38 **served** and sending by first class mail a copy of the order, ~~or~~
 39 statement, **or warrant** to the last known address of the person to
 40 be ~~notified; served;~~ or
 41 (4) sending a copy of the order, ~~or~~ statement, **or warrant** by first
 42 class mail to the last known address of the person to be ~~notified;~~

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- 1 **served.**
 2 If a ~~notice described in service of a notice or warrant under~~
 3 subdivision (1) is returned undelivered, a copy of the order, ~~or~~
 4 statement, **or warrant** must be given in accordance with subdivision
 5 (2), (3), or (4).
 6 ~~(b)~~ **(c)** If service is not obtained by a means described in subsection
 7 (a) and the hearing authority concludes that a reasonable effort has
 8 been made to obtain service, service may be made by publishing a
 9 notice of the order, ~~or~~ statement, **or warrant** in accordance with
 10 IC 5-3-1 in the county where the unsafe premises are located. However,
 11 publication may be made on consecutive days. If service of an order is
 12 made by publication, the publication must include the information
 13 required by subdivisions (1), (2), (4), (5), (6), (7), and (9) of section
 14 5(b) of this chapter, and must also include a statement indicating
 15 generally what action is required by the order and that the exact terms
 16 of the order may be obtained from the enforcement authority. The
 17 hearing authority may make a determination about whether a
 18 reasonable effort has been made to obtain service by the means
 19 described in subsection (a) on the basis of information provided by the
 20 department (or, in the case of a consolidated city, the enforcement
 21 authority). The hearing authority is not required to make the
 22 determination at a hearing. The hearing authority must make the
 23 determination in writing.
 24 ~~(c)~~ **(d)** When service is made by any of the means described in this
 25 section, except by mailing or by publication, the person making service
 26 must make an affidavit stating that the person has made the service, the
 27 manner in which service was made, to whom the order, ~~or~~ statement,
 28 **or warrant** was issued, the nature of the order, ~~or~~ statement, **or**
 29 **warrant**, and the date of service. The affidavit must be placed on file
 30 with the enforcement authority.
 31 ~~(d)~~ **(e)** The date when notice of the order, ~~or~~ statement, **or service**
 32 **of the warrant** is considered given is as follows:
 33 (1) If the order, ~~or~~ statement, **or warrant** is delivered personally
 34 or left at the dwelling or usual place of abode, ~~notice service~~
 35 is considered given on the day when the order, ~~or~~ statement, **or**
 36 **warrant** is delivered to the person or left at the person's dwelling
 37 or usual place of abode.
 38 (2) If the order, ~~or~~ statement, **or warrant** is mailed, ~~notice service~~
 39 is considered given on the date shown on the return receipt, or, if
 40 no date is shown, on the date when the return receipt is received
 41 by the enforcement authority.
 42 (3) ~~Notice Service~~ **Service** by publication is considered given on the date

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1 of the second day that publication was made.
 2 ~~(e)~~ **(f)** A person with a property interest in an unsafe premises who
 3 does not:
 4 (1) record an instrument reflecting the interest in the recorder's
 5 office of the county where the unsafe premises is located; or
 6 (2) if an instrument reflecting the interest is not recorded, provide
 7 to the department (or, in the case of a consolidated city, the
 8 enforcement authority) in writing the person's name and address
 9 and the location of the unsafe premises;
 10 is considered to consent to reasonable action taken under this chapter
 11 for which notice would be required and relinquish a claim to notice
 12 under this chapter.
 13 ~~(f)~~ **(g)** The department (or, in the case of a consolidated city, the
 14 enforcement authority) may, for the sake of administrative
 15 convenience, ~~publish notice~~ **make service by publication** under
 16 subsection ~~(b)~~ **(c)** at the same time ~~notice service~~ **is attempted** under
 17 subsection (a). If ~~published notice service by publication~~ **is given** as
 18 described in subsection ~~(b); (c)~~, the hearing authority shall
 19 subsequently make a determination about whether a reasonable effort
 20 has been made to obtain service by the means described in subsection
 21 (a).

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