
HOUSE BILL No. 1573

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.5-5; IC 36-9.

Synopsis: Sewer and storm water fees incurred by tenants. Provides that if: (1) property served by municipal sewage or storm water works is occupied by a tenant; and (2) either the property owner or tenant submits to the entity assessing user fees for the property a rental agreement, a lease, or a contract that: (A) is executed by the property owner and the tenant; (B) identifies the tenant by name; and (C) indicates that the tenant is responsible for paying the user fees for the property; the assessing entity shall establish or continue service to the property in the name of the tenant and shall ensure that the account or other customer or billing records for the property are in the name of the tenant, subject to any requirement for a deposit, or to any requirement to ensure the creditworthiness of the customer, that the assessing entity may lawfully impose. Provides that a lien does not attach for user fees assessed against real property occupied by a tenant if either of the following applies: (1) The assessing entity: (A) has received a rental agreement, a lease, or a contract indicating the tenant is responsible for paying the user fees; and (B) maintains the account or other customer or billing records for the property in the name of the tenant. (2) The account or other customer or billing records for the property maintained by the assessing entity otherwise indicate that: (A) the property is occupied by someone other than the owner; and (B) the person occupying the property is responsible for paying the user fees assessed with respect to the property. Requires the assessing entity to release: (1) any lien filed with the county recorder for user fees assessed against real property occupied by a tenant; and (2) delinquent user fees incurred by the tenant responsible for paying the fees; upon receipt of a verified demand in writing from the property owner.

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Effective: July 1, 2013.

Smith V, Smith M

January 23, 2013, read first time and referred to Committee on Judiciary.



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. 1573



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 8-1.5-5-7, AS AMENDED BY P.L.114-2008,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 7. (a) The acquisition, construction, installation,
4 operation, and maintenance of facilities and land for storm water
5 systems may be financed through:
6 (1) proceeds of special taxing district bonds of the storm water
7 district;
8 (2) the assumption of liability incurred to construct the storm
9 water system being acquired;
10 (3) service rates;
11 (4) revenue bonds; or
12 (5) any other available funds.
13 (b) Except as provided in IC 36-9-23-37, the board, after holding a
14 public hearing with notice given under IC 5-3-1 and obtaining the
15 approval of the fiscal body of the unit served by the department, may
16 assess and collect user fees from all of the property of the storm water
17 district for the operation and maintenance of the storm water system.



1 The amount of the user fees must be the minimum amount necessary
 2 for the operation and maintenance of the storm water system. The
 3 assessment and collection of user fees under this subsection by the
 4 board of a county must also be approved by the county executive.

5 (c) **Subject to section 7.1 of this chapter**, the collection of the fees
 6 authorized by this section may be effectuated through a periodic billing
 7 system or through a charge appearing on the semiannual property tax
 8 statement of the affected property owner.

9 (d) The board shall use one (1) or more of the following factors to
 10 establish the fees authorized by this section:

- 11 (1) A flat charge for each lot, parcel of property, or building.
- 12 (2) The amount of impervious surface on the property.
- 13 (3) The number and size of storm water outlets on the property.
- 14 (4) The amount, strength, or character of storm water discharged.
- 15 (5) The existence of improvements on the property that address
 16 storm water quality and quantity issues.
- 17 (6) The degree to which storm water discharged from the property
 18 affects water quality in the storm water district.
- 19 (7) Any other factors the board considers necessary.

20 (e) The board may exercise reasonable discretion in adopting
 21 different schedules of fees or making classifications in schedules of
 22 fees based on:

- 23 (1) variations in the costs, including capital expenditures, of
 24 furnishing services to various classes of users or to various
 25 locations;
- 26 (2) variations in the number of users in various locations; and
- 27 (3) whether the property is used primarily for residential,
 28 commercial, or agricultural purposes.

29 SECTION 2. IC 8-1.5-5-7.1 IS ADDED TO THE INDIANA CODE
 30 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 31 1, 2013]: **Sec. 7.1. (a) This section applies to real property that is
 32 served by a district's storm water system and occupied by someone
 33 other than the owner.**

34 **(b) If:**

- 35 **(1) the collection of user fees under section 7 of this chapter is
 36 made through a periodic billing system, as authorized by
 37 section 7(c) of this chapter; and**
- 38 **(2) either the owner of real property to which this section
 39 applies or the person occupying the property submits to the
 40 department a copy of a rental agreement, a lease, or a
 41 contract that:**

42 **(A) is executed by the property owner and the person**

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1 **occupying the property;**
 2 **(B) identifies the person occupying the property by name;**
 3 **and**
 4 **(C) indicates that the person occupying the property is**
 5 **responsible for paying the user fees assessed by the board**
 6 **with respect to the property;**
 7 **the department shall establish or continue service to the property**
 8 **in the name of the person occupying the property, as identified**
 9 **under subdivision (2)(B), and shall ensure that the account or other**
 10 **customer or billing records maintained by the department for the**
 11 **property are in the name of the person occupying the property,**
 12 **subject to any requirement for a deposit to ensure the payment of**
 13 **user fees, or to any requirement to ensure the creditworthiness of**
 14 **the account holder or customer, that the board may lawfully**
 15 **impose.**

16 SECTION 3. IC 8-1.5-5-29, AS ADDED BY P.L.131-2005,
 17 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2013]: Sec. 29. (a) Subsections (c), (d), and (e) do not apply
 19 to a city that before January 1, 2005, adopted an ordinance establishing
 20 procedures for the collection of unpaid user fees under this chapter
 21 through the enforcement of a lien.

22 (b) **Except as provided in subsection (d)**, fees assessed against real
 23 property under this chapter constitute a lien against the property
 24 assessed. The lien is superior to all other liens except tax liens. Except
 25 as provided in subsections (c) and (d), the lien attaches when notice of
 26 the lien is filed in the county recorder's office under section 30 of this
 27 chapter.

28 (c) A fee is not enforceable as a lien against a subsequent owner of
 29 property unless the lien for the fee was recorded with the county
 30 recorder before the conveyance to the subsequent owner. If property is
 31 conveyed before a lien is filed, the department shall notify the person
 32 who owned the property at the time the fee became payable. The notice
 33 must inform the person that payment, including penalty fees for
 34 delinquencies, is due not more than fifteen (15) days after the date of
 35 the notice. If payment is not received within one hundred eighty (180)
 36 days after the date of the notice, the amount due may be expensed as a
 37 bad debt loss.

38 (d) A lien attaches against real property occupied by someone other
 39 than the owner only if the department notifies the owner **within not**
 40 **later than** twenty (20) days after the time the user fees **became become**
 41 sixty (60) days delinquent. However, the department must give notice
 42 **of the delinquency** to the owner only if the owner has given the

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1 department written notice of the address to which to send notice. **A lien**
 2 **does not attach for user fees assessed against real property**
 3 **occupied by someone other than the owner if either of the following**
 4 **applies:**

5 **(1) The department:**

6 **(A) has received a copy of a rental agreement, a lease, or a**
 7 **contract described in section 7.1(b)(2) of this chapter with**
 8 **respect to the property; and**

9 **(B) maintains the account or other customer or billing**
 10 **records for the property in the name of the person**
 11 **occupying the property, as required by section 7.1 of this**
 12 **chapter.**

13 **(2) The account or other customer or billing records**
 14 **maintained by the department for the property otherwise**
 15 **indicate that:**

16 **(A) the property is occupied by someone other than the**
 17 **owner; and**

18 **(B) the person occupying the property is responsible for**
 19 **paying the user fees assessed by the department with**
 20 **respect to the property.**

21 **(e) The department shall release:**

22 **(1) liens filed with the county recorder after the recorded date of**
 23 **conveyance of the property; and**

24 **(2) delinquent fees incurred by the seller;**

25 upon receipt of a verified demand in writing from the purchaser. The
 26 demand must state that the delinquent fees were not incurred by the
 27 purchaser as a user, lessee, or previous owner and that the purchaser
 28 has not been paid by the seller for the delinquent fees.

29 **(f) Regardless of whether the department has notice under**
 30 **subsection (d)(1) or (d)(2) that real property is occupied by**
 31 **someone other than the owner, the department shall release:**

32 **(1) any lien filed with the county recorder for user fees**
 33 **assessed against real property occupied by someone other**
 34 **than the owner; and**

35 **(2) delinquent user fees incurred by the person who occupies**
 36 **the property and is responsible for paying the user fees**
 37 **assessed by the department with respect to the property;**

38 upon receipt of a verified demand in writing from the owner of the
 39 property. The demand must state that the delinquent fees were not
 40 incurred by the owner as a user of the storm water system and that
 41 the owner has not been paid by the person occupying the property
 42 for the delinquent user fees.

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1 SECTION 4. IC 8-1.5-5-30, AS ADDED BY P.L.131-2005,
 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2013]: Sec. 30. (a) **With respect to real property for which
 4 the account or other customer or billing records maintained by the
 5 department indicate under section 29(d)(1) or 29(d)(2) of this
 6 chapter that:**

7 **(1) the property is occupied by someone other than the owner;
 8 and**

9 **(2) the person occupying the property is responsible for
 10 paying the user fees assessed by the department with respect
 11 to the property;**

12 **subsections (c) through (e) and subsections (g) through (k) do not
 13 apply to unpaid user fees and penalties assessed against the
 14 property under this chapter.**

15 **(b) The board may defer enforcing the collection of unpaid fees and
 16 penalties assessed under this chapter until the unpaid fees and penalties
 17 have been due and unpaid for at least ninety (90) days. However, in
 18 the case of real property that is occupied by someone other than
 19 the owner and for which the owner has given the department
 20 written notice of an address to which to send notice of delinquent
 21 fees with respect to the property, this subsection does not relieve
 22 the department of its duty under section 29(d) of this chapter to
 23 notify the owner not later than twenty (20) days after the time user
 24 fees become sixty (60) days delinquent.**

25 **(~~b~~) (c) Except as provided in subsection (~~k~~), (m), the board shall
 26 enforce payment of fees imposed under this chapter. As often as the
 27 board determines necessary in a calendar year, the board shall prepare
 28 either of the following:**

29 **(1) A list of the delinquent fees and penalties that are enforceable
 30 under this section. The list must include the following:**

31 **(A) The name of the owner of each lot or parcel of real
 32 property on which fees are delinquent.**

33 **(B) A description of the premises, as shown by the records of
 34 the county auditor.**

35 **(C) The amount of the delinquent fees, together with the
 36 penalty.**

37 **(2) An individual instrument for each lot or parcel of real property
 38 on which the fees are delinquent.**

39 **(~~c~~) (d) An officer of the board shall record a copy of each list or
 40 each individual instrument with the county recorder who shall charge
 41 a fee for recording the list or each individual instrument in accordance
 42 with the fee schedule established in IC 36-2-7-10. The officer shall**

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1 mail by certified mail, or by another delivery service providing proof
 2 of delivery, to each property owner on the list or on an individual
 3 instrument a notice stating that a lien against the owner's property has
 4 been recorded. A service charge of five dollars (\$5), which is in
 5 addition to the recording fee charged under this subsection and under
 6 subsection ~~(e)~~; **(f)**, shall be added to each delinquent fee that is
 7 recorded.

8 ~~(d)~~ **(e)** Using the lists and instruments prepared under subsection ~~(b)~~
 9 **(c)** and recorded under subsection ~~(e)~~; **(d)**, the board shall, not later
 10 than ten (10) days after the list or each individual instrument is
 11 recorded under subsection ~~(e)~~; **(d)**, certify to the county auditor a list of
 12 the liens that remain unpaid for collection ~~in~~ **not later than the due**
 13 **date of the next May installment of property taxes, as specified in**
 14 **subsection (g).** The county and its officers and employees are not liable
 15 for any material error in the information on this list.

16 ~~(e)~~ **(f)** The board shall release any recorded lien when **either of the**
 17 **following occurs:**

18 **(1)** The delinquent fees, penalties, service charges, and recording
 19 fees have been fully paid. The county recorder shall charge a fee
 20 for releasing ~~the a~~ **lien under this subdivision** in accordance with
 21 IC 36-2-7-10.

22 **(2)** **A verified demand has been filed with the county auditor**
 23 **under section 29(e) or 29(f) of this chapter. The county**
 24 **recorder may not charge a fee for releasing a lien under this**
 25 **subdivision.**

26 ~~(f)~~ **(g)** Upon receipt of the list under subsection ~~(e)~~; **(e)**, the county
 27 auditor of each county shall add a fifteen dollar (\$15) certification fee
 28 for each lot or parcel of real property on which fees are delinquent. The
 29 fee is in addition to all other fees and charges. The county auditor shall
 30 immediately enter on the tax duplicate for the district the delinquent
 31 fees, penalties, service charges, recording fees, and certification fees,
 32 which are due not later than the due date of the next May installment
 33 of property taxes. The county treasurer shall include any unpaid
 34 charges for the delinquent fee, penalty, service charge, recording fee,
 35 and certification fee to the owner or owners of each lot or parcel of
 36 property, at the time the next cycle's property tax installment is billed.

37 ~~(g)~~ **(h)** After certification of liens under subsection ~~(d)~~; **(e)**, the
 38 board may not collect or accept delinquent fees, penalties, service
 39 charges, recording fees, or certification fees from property owners
 40 whose property has been certified to the county auditor.

41 ~~(h)~~ **(i)** If a delinquent fee, penalty, service charge, recording fee, and
 42 certification fee are not paid, they shall be collected by the county

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1 treasurer in the same way that delinquent property taxes are collected.

2 ~~(i)~~ **(j)** At the time of each semiannual tax settlement, the county
3 treasurer shall certify to the county auditor all fees, charges, and
4 penalties that have been collected. The county auditor shall deduct the
5 service charges and certification fees collected by the county treasurer
6 and pay over to the officer the remaining fees and penalties due the
7 district. The county treasurer shall retain the service charges and
8 certification fees that have been collected and shall deposit them in the
9 county general fund.

10 ~~(j)~~ **(k)** Fees, penalties, and service charges that were not recorded
11 before a recorded conveyance shall be removed from the tax roll for a
12 purchaser who, in the manner prescribed by section 29(e) of this
13 chapter, files a verified demand with the county auditor.

14 **(l) User fees, penalties, and service charges assessed against real
15 property occupied by someone other than the owner, regardless of
16 whether the department has notice under section 29(d)(1) or
17 29(d)(2) of this chapter that real property is occupied by someone
18 other than the owner, shall be removed from the tax roll for an
19 owner who, in the manner prescribed by section 29(f) of this
20 chapter, files a verified demand with the county auditor.**

21 ~~(k)~~ **(m)** A board may write off a fee or penalty under subsection ~~(a)~~
22 **(b)** that is:

23 **(1)** less than forty dollars (\$40); or

24 **(2) removed from the tax roll under subsection (k) or (l).**

25 SECTION 5. IC 8-1.5-5-31, AS ADDED BY P.L.131-2005,
26 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2013]: Sec. 31. (a) A district may foreclose a lien, **other than
28 a lien required to be released under section 30(f) of this chapter,**
29 established by this chapter in order to collect fees and penalties. The
30 district shall recover the amount of the fees and penalties, and a
31 reasonable attorney's fee. The court shall order the sale to be made
32 without relief from valuation or appraisal laws.

33 (b) Except as otherwise provided by this chapter, actions under this
34 chapter are subject to the general statutes regarding municipal public
35 improvement assessments.

36 SECTION 6. IC 36-9-23-25, AS AMENDED BY P.L.114-2008,
37 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2013]: Sec. 25. (a) Subject to section 37 of this chapter, the
39 municipal legislative body shall, by ordinance, establish just and
40 equitable fees for the services rendered by the sewage works, and
41 provide the dates on which the fees are due.

42 (b) Just and equitable fees are the fees required to maintain the

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1 sewage works in the sound physical and financial condition necessary
2 to render adequate and efficient service. The fees must be sufficient to:

- 3 (1) pay all expenses incidental to the operation of the works,
4 including legal expenses, maintenance costs, operating charges,
5 repairs, lease rentals, and interest charges on bonds or other
6 obligations;
7 (2) provide the sinking fund required by section 21 of this
8 chapter;
9 (3) provide adequate money to be used as working capital; and
10 (4) provide adequate money for improving and replacing the
11 works.

12 Fees established after notice and hearing under this chapter are
13 presumed to be just and equitable.

14 (c) **Subject to section 25.1 of this chapter**, the fees are payable by
15 the owner of each lot, parcel of real property, or building that:

- 16 (1) is connected with the sewage works by or through any part of
17 the municipal sewer system; or
18 (2) uses or is served by the works.

19 Unless the municipal legislative body finds otherwise, the works are
20 considered to benefit every lot, parcel of real property, or building
21 connected or to be connected with the municipal sewer system as a
22 result of construction work under the contract, and the fees shall be
23 billed and collected accordingly.

24 (d) The municipal legislative body may use one (1) or more of the
25 following factors to establish the fees:

- 26 (1) A flat charge for each sewer connection.
27 (2) The amount of water used on the property.
28 (3) The number and size of water outlets on the property.
29 (4) The amount, strength, or character of sewage discharged into
30 the sewers.
31 (5) The size of sewer connections.
32 (6) Whether the property has been or will be required to pay
33 separately for any part of the sewage works.
34 (7) Whether the property, although vacant or unimproved, is
35 benefited by a local or lateral sewer because of the availability of
36 that sewer. However, the owner must have been notified, by
37 recorded covenants and restrictions or deed restrictions in the
38 chain of title of his property, that a fee or assessment for sewer
39 availability may be charged, and the fee may reflect only the
40 capital cost of the sewer and not the cost of operation and
41 maintenance of the sewage works.
42 (8) The cost of collecting, treating, and disposing of garbage in a

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1 sanitary manner, including equipment and wages.
 2 (9) The amount of money sufficient to compensate the
 3 municipality for the property taxes that would be paid on the
 4 sewage works if the sewage works were privately owned.
 5 (10) Any other factors the legislative body considers necessary.
 6 Fees collected under subdivision (8) may be spent for that purpose only
 7 after compliance with all provisions of the ordinance authorizing the
 8 issuance of the revenue bonds for the sewage works. The board may
 9 transfer fees collected in lieu of taxes under subdivision (9) to the
 10 general fund of the municipality.

11 (e) The municipal legislative body may exercise reasonable
 12 discretion in adopting different schedules of fees, or making
 13 classifications in schedules of fees, based on variations in:

- 14 (1) the costs, including capital expenditures, of furnishing
- 15 services to various classes of users or to various locations; or
- 16 (2) the number of users in various locations.

17 SECTION 7. IC 36-9-23-25.1 IS ADDED TO THE INDIANA
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2013]: **Sec. 25.1. (a) This section applies to**
 20 **real property that is served by a municipality's sewage works and**
 21 **occupied by someone other than the owner.**

22 (b) **If either the owner of real property to which this section**
 23 **applies or the person occupying the property submits to the utility**
 24 **a copy of a rental agreement, a lease, or a contract that:**

- 25 (1) **is executed by the property owner and the person**
- 26 **occupying the property;**
- 27 (2) **identifies the person occupying the property by name; and**
- 28 (3) **indicates that the person occupying the property is**
- 29 **responsible for paying the user fees assessed by the utility**
- 30 **with respect to the property;**

31 **the utility shall establish or continue service to the property in the**
 32 **name of the person occupying the property, as identified under**
 33 **subdivision (2), and shall ensure that the account or other customer**
 34 **or billing records maintained by the utility for the property are in**
 35 **the name of the person occupying the property, subject to any**
 36 **requirement for a deposit to ensure the payment of user fees**
 37 **imposed under section 28 of this chapter, or to any requirement to**
 38 **ensure the creditworthiness of the account holder or customer that**
 39 **the municipality may lawfully impose.**

40 SECTION 8. IC 36-9-23-32, AS AMENDED BY P.L.113-2010,
 41 SECTION 153, IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2013]: **Sec. 32. (a) Except as provided in**

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1 **subsection (c)**, fees assessed against real property under this chapter
 2 or under any statute repealed by IC 19-2-5-30 constitute a lien against
 3 the property assessed. The lien is superior to all other liens except tax
 4 liens. Except as provided in subsections (b) and (c), the lien attaches
 5 when notice of the lien is filed in the county recorder's office under
 6 section 33 of this chapter.

7 (b) A fee is not enforceable as a lien against a subsequent owner of
 8 property unless the lien for the fee was recorded with the county
 9 recorder before the conveyance to the subsequent owner. If the property
 10 is conveyed before the lien can be filed, the municipality shall notify
 11 the person who owned the property at the time the fee became payable.
 12 The notice must inform the person that payment, including penalty fees
 13 for delinquencies, is due not more than fifteen (15) days after the date
 14 of the notice. If payment is not received within one hundred eighty
 15 (180) days after the date of the notice, the amount due may be
 16 expensed as a bad debt loss.

17 (c) A lien attaches against real property occupied by someone other
 18 than the owner only if the utility ~~notified~~ **notifies** the owner ~~within not~~
 19 **later than** twenty (20) days after the time the utility fees ~~became~~
 20 **become** sixty (60) days delinquent. However, the utility is required to
 21 give notice **of the delinquency** to the owner **only** if the owner has
 22 given the general office of the utility written notice of the address to
 23 which the owner's notice is to be sent. A notice sent to the owner under
 24 this subsection must be sent by certified mail, return receipt requested,
 25 or an equivalent service permitted under IC 1-1-7-1 to ~~(1) the owner of~~
 26 **record of real property with a single owner; or (2) at least one (1) of the**
 27 **owners of real property with multiple owners; at the last address of the**
 28 **owner for the property as indicated in the records of the county auditor**
 29 **on the date of the notice: the address specified by the owner in the**
 30 **owner's written notice to the utility.** The cost of sending notice under
 31 this subsection is an administrative cost that may be billed to the
 32 owner. **A lien does not attach for user fees assessed against real**
 33 **property occupied by someone other than the owner if either of the**
 34 **following applies:**

35 **(1) The utility:**

36 **(A) has received a copy of a rental agreement, a lease, or a**
 37 **contract described in section 25.1(b) of this chapter with**
 38 **respect to the property; and**

39 **(B) maintains the account or other customer or billing**
 40 **records for the property in the name of the person**
 41 **occupying the property, as required by section 25.1 of this**
 42 **chapter.**

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(2) The account or other customer or billing records maintained by the utility for the property otherwise indicate that:

(A) the property is occupied by someone other than the owner; and

(B) the person occupying the property is responsible for paying the user fees assessed by the utility with respect to the property.

(d) The municipality shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a verified demand in writing from the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner, and that the purchaser has not been paid by the seller for the delinquent fees.

(e) Regardless of whether the utility has notice under subsection (c)(1) or (c)(2) that real property is occupied by someone other than the owner, the utility shall release:

(1) any lien filed with the county recorder for user fees assessed against real property occupied by someone other than the owner; and

(2) delinquent user fees incurred by the tenant or person who occupies the property and is responsible for paying the user fees assessed by the utility with respect to the property;

upon receipt of a verified demand in writing from the owner of the property. The demand must state that the delinquent fees were not incurred by the owner as a user of the sewage works and that the owner has not been paid by the tenant or person occupying the property for the delinquent user fees.

SECTION 9. IC 36-9-23-33, AS AMENDED BY P.L.39-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 33. (a) **With respect to real property for which the account or other customer or billing records maintained by the utility indicate under section 32(c)(1) or 32(c)(2) of this chapter that:**

(1) the property is occupied by someone other than the owner; and

(2) the person occupying the property is responsible for paying the user fees assessed by the utility with respect to the property;

as described in section 32(c) of this chapter, subsections (c) through

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1 **(f) and subsections (h) through (l) do not apply to unpaid user fees**
 2 **and penalties assessed against the property under this chapter.**

3 **(b)** An officer described in subsection ~~(b)~~ **(c)** may defer enforcing
 4 the collection of unpaid fees and penalties assessed under this chapter
 5 until the unpaid fees and penalties have been due and unpaid for at
 6 least ninety (90) days. **However, in the case of real property that is**
 7 **occupied by someone other than the owner and for which the**
 8 **owner has given the utility written notice of an address to which to**
 9 **send notice of delinquent fees with respect to the property, this**
 10 **subsection does not relieve the department of its duty under section**
 11 **32(c) of this chapter to notify the owner not later than twenty (20)**
 12 **days after the time user fees become sixty (60) days delinquent.**

13 ~~(b)~~ **(c)** Except as provided in subsection ~~(f)~~; **(n)**, the officer charged
 14 with the collection of fees and penalties assessed under this chapter
 15 shall enforce their payment. As often as the officer determines is
 16 necessary in a calendar year, the officer shall prepare either of the
 17 following:

18 (1) A list of the delinquent fees and penalties that are enforceable
 19 under this section, which must include the following:

- 20 (A) The name or names of the owner or owners of each lot or
 21 parcel of real property on which fees are delinquent.
 22 (B) A description of the premises, as shown by the records of
 23 the county auditor.
 24 (C) The amount of the delinquent fees, together with the
 25 penalty.

26 (2) An individual instrument for each lot or parcel of real property
 27 on which the fees are delinquent.

28 ~~(e)~~ **(d)** The officer shall record a copy of each list or each individual
 29 instrument with the county recorder who shall charge a fee for
 30 recording the list or each individual instrument in accordance with the
 31 fee schedule established in IC 36-2-7-10. The officer shall then mail to
 32 each property owner on the list or on an individual instrument a notice
 33 stating that a lien against the owner's property has been recorded.
 34 Except for a county having a consolidated city, a service charge of five
 35 dollars (\$5), which is in addition to the recording fee charged under
 36 this subsection and under subsection ~~(f)~~; **(g)**, shall be added to each
 37 delinquent fee that is recorded.

38 ~~(f)~~ **(e)** This subsection applies only to a county containing a
 39 consolidated city. Using the lists and instruments prepared under
 40 subsection ~~(b)~~ **(c)** and recorded under subsection ~~(e)~~; **(d)**, the officer
 41 shall certify to the county auditor a list of the liens that remain unpaid
 42 according to a schedule agreed upon by the county treasurer and the

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1 officer for collection with the next cycle's property tax installment. The
 2 county and its officers and employees are not liable for any material
 3 error in the information on the list.

4 ~~(e)~~ **(f) This subsection applies to a county not described in**
 5 **subsection (e).** Using the lists and instruments prepared under
 6 subsection ~~(b)~~ **(c)** and recorded under subsection ~~(e)~~; **(d)**, the officer
 7 shall, not later than ten (10) days after the list or each individual
 8 instrument is recorded under subsection ~~(e)~~; **(d)**, certify to the county
 9 auditor a list of the liens that remain unpaid for collection **in not later**
 10 **than the due date of the next May installment of property taxes.** The
 11 county and its officers and employees are not liable for any material
 12 error in the information on this list.

13 ~~(f)~~ **(g)** The officer shall release any recorded lien when **either of the**
 14 **following occurs:**

15 **(1)** The delinquent fees, penalties, service charges, and recording
 16 fees have been fully paid. The county recorder shall charge a fee
 17 for releasing ~~the a~~ **a lien under this subdivision** in accordance with
 18 IC 36-2-7-10.

19 **(2) A verified demand has been filed with the county auditor**
 20 **under section 32(d) or 32(e) of this chapter. The county**
 21 **recorder may not charge a fee for releasing a lien under this**
 22 **subdivision.**

23 ~~(g)~~ **(h)** On receipt of the list under subsection ~~(e)~~; **(f)**, the county
 24 auditor of each county shall add a fifteen dollar (\$15) certification fee
 25 for each lot or parcel of real property on which fees are delinquent,
 26 which fee is in addition to all other fees and charges. The county
 27 auditor shall immediately enter on the tax duplicate for the
 28 municipality the delinquent fees, penalties, service charges, recording
 29 fees, and certification fees, which are due not later than the due date of
 30 the next **cycle's** installment of property taxes. The county treasurer
 31 shall then include any unpaid charges for the delinquent fee, penalty,
 32 service charge, recording fee, and certification fee to the owner or
 33 owners of each lot or parcel of property, at the time the next cycle's
 34 property tax installment is billed.

35 ~~(h)~~ **(i)** After certification of liens under subsection ~~(e)~~ **(f)**, the officer
 36 may not collect or accept delinquent fees, penalties, service charges,
 37 recording fees, or certification fees from property owners whose
 38 property has been certified to the county auditor. This subsection does
 39 not apply to a county containing a consolidated city.

40 ~~(i)~~ **(j)** If a delinquent fee, penalty, service charge, recording fee, and
 41 certification fee are not paid, they shall be collected by the county
 42 treasurer in the same way that delinquent property taxes are collected.

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1 (†) (k) At the time of each semiannual tax settlement, the county
2 treasurer shall certify to the county auditor all fees, charges, and
3 penalties that have been collected. The county auditor shall deduct the
4 service charges and certification fees collected by the county treasurer
5 and pay over to the officer the remaining fees and penalties due the
6 municipality. The county treasurer shall retain the service charges and
7 certification fees that have been collected, and shall deposit them in the
8 county general fund.

9 (†) (l) Fees, penalties, and service charges that were not recorded
10 before a recorded conveyance shall be removed from the tax roll for a
11 purchaser who, in the manner prescribed by section 32(d) of this
12 chapter, files a verified demand with the county auditor.

13 **(m) User fees, penalties, and service charges assessed against**
14 **real property occupied by someone other than the owner,**
15 **regardless of whether the utility has notice under section 32(c)(1)**
16 **or 32(c)(2) of this chapter that real property is occupied by**
17 **someone other than the owner, shall be removed from the tax roll**
18 **for an owner who, in the manner prescribed by section 32(e) of this**
19 **chapter, files a verified demand with the county auditor.**

20 (†) (n) A board may write off a fee or penalty under subsection (a)
21 (b) that is:

- 22 (1) for less than forty dollars (\$40); or
- 23 (2) removed from the tax roll under subsection (l) or (m).

24 SECTION 10. IC 36-9-23-34 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 34. (a) A municipality
26 or board may foreclose a lien, **other than a lien required to be**
27 **released under section 33(g) of this chapter,** established by this
28 chapter in order to collect fees and penalties. The municipality or board
29 shall recover the amount of the fees and penalties, and a reasonable
30 attorney's fee. The court shall order the sale to be made without relief
31 from valuation or appraisal laws.

32 (b) Except as otherwise provided by this chapter, actions under this
33 chapter are subject to the general statutes regarding municipal public
34 improvement assessments.

35 SECTION 11. IC 36-9-25-11, AS AMENDED BY P.L.168-2009,
36 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2013]: Sec. 11. (a) In connection with its duties, the board
38 may fix fees for the treatment and disposal of sewage and other waste
39 discharged into the sewerage system, collect the fees, and establish and
40 enforce rules governing the furnishing of and payment for sewage
41 treatment and disposal service. The fees must be just and equitable and
42 shall be paid by any user of the sewage works and the owner of every

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1 lot, parcel of real property, or building that is connected with and uses
2 the sewage works of the district by or through any part of the sewerage
3 system. This section applies to owners of property that is partially or
4 wholly exempt from taxation, as well as owners of property subject to
5 full taxation.

6 (b) The board may change fees from time to time. The fees, together
7 with the taxes levied under this chapter, must at all times be sufficient
8 to produce revenues sufficient to pay operation, maintenance, and
9 administrative expenses, to pay the principal and interest on bonds as
10 they become due and payable, and to provide money for the revolving
11 fund authorized by this chapter.

12 (c) Fees may not be established until a public hearing has been held
13 at which all the users of the sewage works and owners of property
14 served or to be served by the works, including interested parties, have
15 had an opportunity to be heard concerning the proposed fees. After
16 introduction of the resolution fixing fees, and before they are finally
17 adopted, notice of the hearing setting forth the proposed schedule of
18 fees shall be given by publication in accordance with IC 5-3-1. After
19 the hearing the resolution establishing fees, either as originally
20 introduced or as amended, shall be passed and put into effect.
21 However, fees related to property that is subject to full taxation do not
22 take effect until they have been approved by ordinance of the municipal
23 legislative body or, in the case of a district described in section 3(b)(2)
24 of this chapter, under section 11.3 of this chapter.

25 (d) A copy of the schedule of the fees shall be kept on file in the
26 office of the board and must be open to inspection by all interested
27 parties. The fees established for any class of users or property served
28 shall be extended to cover any additional premises thereafter served
29 that fall within the same class, without the necessity of hearing or
30 notice.

31 (e) A change of fees may be made in the same manner as fees were
32 originally established. However, if a change is made substantially pro
33 rata for all classes of service, hearing or notice is not required, but
34 approval of the change by ordinance of the municipal legislative body
35 is required, and, in the case of a district described in section 3(b)(2) of
36 this chapter, approval under section 11.3 of this chapter is required.

37 (f) **Subject to subsection (i)**, if a fee established is not paid within
38 thirty (30) days after it is due, the amount, together with a penalty of
39 ten percent (10%) and a reasonable attorney's fee, may be recovered by
40 the board from the delinquent user or owner of the property served in
41 a civil action in the name of the municipality.

42 (g) **Except as provided in subsections (h) and (j)**, fees assessed

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1 against real property under this section also constitute a lien against the
 2 property assessed. The lien attaches at the time of the filing of the
 3 notice of lien in the county recorder's office. The lien is superior to all
 4 other liens except tax liens, and shall be enforced and foreclosed in the
 5 same manner as is provided for liens under IC 36-9-23-33 and
 6 IC 36-9-23-34.

7 (h) A fee assessed against real property under this section
 8 constitutes a lien against the property assessed only when the fee is
 9 delinquent for no more than three (3) years from the day after the fee
 10 is due.

11 **(i) This subsection applies to real property that is served by a
 12 district's sewage works and occupied by someone other than the
 13 owner. If either the owner of real property to which this subsection
 14 applies or the person occupying the property submits to the board
 15 a copy of a rental agreement, a lease, or a contract that:**

16 **(1) is executed by the property owner and the person
 17 occupying the property;**

18 **(2) identifies the person occupying the property by name; and**

19 **(3) indicates that the person occupying the property is
 20 responsible for paying the user fees assessed by the board
 21 with respect to the property;**

22 **the board shall establish or continue service to the property in the
 23 name of the person occupying the property, as identified under
 24 subdivision (2), and shall ensure that the account or other customer
 25 or billing records maintained by the board for the property are in
 26 the name of the person occupying the property, subject to any
 27 requirement for a deposit to ensure the payment of user fees, or to
 28 any requirement to ensure the creditworthiness of the account
 29 holder or customer, that the board may lawfully impose.**

30 **(j) A lien attaches for user fees assessed against real property
 31 occupied by someone other than the owner only if the board
 32 provides the notice required under section 11.2 of this chapter to
 33 the owner at the latest address of the owner as shown on the
 34 property tax records of the county in which the property is located.
 35 However, a lien does not attach for user fees assessed against real
 36 property occupied by someone other than the owner if either of the
 37 following applies:**

38 **(1) The board:**

39 **(A) has received a copy of a rental agreement, a lease, or a
 40 contract described in subsection (i) with respect to the
 41 property; and**

42 **(B) maintains the account or other customer or billing**

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1 records for the property in the name of the person
 2 occupying the property, as required by subsection (i).
 3 **(2) The account or other customer or billing records**
 4 **maintained by the board for the property otherwise indicate**
 5 **that:**
 6 **(A) the property is occupied by someone other than the**
 7 **owner; and**
 8 **(B) the person occupying the property is responsible for**
 9 **paying the user fees assessed by the board with respect to**
 10 **the property.**
 11 **(k) Regardless of whether the board has notice under subsection**
 12 **(i)(1) or (i)(2) that real property is occupied by someone other than**
 13 **the owner, the board shall release:**
 14 **(1) any lien filed with the county recorder for user fees**
 15 **assessed against real property occupied by someone other**
 16 **than the owner; and**
 17 **(2) delinquent user fees incurred by the tenant or person who**
 18 **occupies the property and is responsible for paying the user**
 19 **fees assessed by the board with respect to the property;**
 20 **upon receipt of a verified demand in writing from the owner of the**
 21 **property. The demand must state that the delinquent fees were not**
 22 **incurred by the owner as a user of the sewage works and that the**
 23 **owner has not been paid by the tenant or person occupying the**
 24 **property for the delinquent user fees.**
 25 **(j) (l) In addition to the:**
 26 **(1) penalties under subsections (f) and (g); and or**
 27 **(2) alternative penalty available under section 11.5 of this**
 28 **chapter;**
 29 a delinquent user may not discharge water into the public sewers and
 30 may have the property disconnected from the public sewers.
 31 **(j) (m) The authority to establish a user fee under this section**
 32 **includes fees to recover the cost of construction of sewage works from**
 33 **industrial users as defined and required under federal statute or rule.**
 34 **Any industrial users' cost recovery fees may become a lien upon the**
 35 **real property and shall be collected in the manner provided by law. In**
 36 **addition, the imposition of the fees, the use of the amounts collected,**
 37 **and the criteria for the fees must be consistent with the regulations of**
 38 **the federal Environmental Protection Agency.**
 39 **(k) (n) The authority to establish a user fee under this section**
 40 **includes fees to recover the costs associated with providing financial**
 41 **assistance under section 42 of this chapter. A fee that is:**
 42 **(1) established under this subsection or any other law; and**

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1 (2) used to provide financial assistance under section 42 of this
2 chapter;
3 is considered just and equitable if the project for which the financial
4 assistance is provided otherwise complies with the requirements of this
5 chapter.

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