**IC 32-23-11**

Chapter 11. Abandoned Railroad Rights-of-Way

**IC 32-23-11-1**

**Nonapplicability of chapter**

Sec. 1. This chapter does not apply to a railroad right-of-way that is abandoned as part of a demonstration project for the relocation of railroad lines from the central area of a city as provided under Section 163 of the Federal-Aid Highway Act of 1973 (P.L.93-87, Title I, Section 163).

*As added by P.L.2-2002, SEC.8.*

**IC 32-23-11-2**

**"Public utility" defined**

Sec. 2. As used in this chapter, "public utility" has the meaning set forth in IC 8-1-8.5-1.

*As added by P.L.2-2002, SEC.8.*

**IC 32-23-11-3**

**"Railroad" defined**

Sec. 3. (a) As used in this chapter, "railroad" refers to a railroad company.

(b) The term includes a person to whom any part of a right-of-way was transferred under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

*As added by P.L.2-2002, SEC.8.*

**IC 32-23-11-4**

**"Right-of-way" defined**

Sec. 4. (a) As used in this chapter, "right-of-way" means a strip or parcel of real property in which a railroad has acquired an interest for use as a part of the railroad's transportation corridor.

(b) The term does not refer to any real property interest in the strip or parcel.

*As added by P.L.2-2002, SEC.8.*

**IC 32-23-11-5**

**"Right-of-way fee" defined**

Sec. 5. "Right-of-way fee" refers to the fee simple interest in the real property through which a right-of-way runs.

*As added by P.L.2-2002, SEC.8.*

**IC 32-23-11-6**

**Abandoned right-of-way**

Sec. 6. (a) Except as provided in subsection (b) and in sections 7 and 8 of this chapter, a right-of-way is considered abandoned if any of subdivisions (1) through (3) apply:

(1) Before February 28, 1920, both of the following occurred:

(A) The railroad discontinued use of the right-of-way for railroad purposes.

(B) The rails, switches, ties, and other facilities were removed from the right-of-way.

(2) After February 27, 1920, both of the following occur:

(A) The Interstate Commerce Commission or the United States Surface Transportation Board issues a certificate of public convenience and necessity relieving the railroad of the railroad's common carrier obligation on the right-of-way.

(B) The earlier of the following occurs:

(i) Rails, switches, ties, and other facilities are removed from the right-of-way, making the right-of-way unusable for continued rail traffic.

(ii) At least ten (10) years have passed from the date on which the Interstate Commerce Commission or the United States Surface Transportation Board issued a certificate of public convenience and necessity relieving the railroad of its common carrier obligation on the right-of-way.

(3) The right-of-way was abandoned under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

(b) A right-of-way is not considered abandoned if:

(1) rail service continues on the right-of-way; or

(2) the railroad has entered into an agreement preserving rail service on the right-of-way.

*As added by P.L.2-2002, SEC.8.*

**IC 32-23-11-7**

**Trail use condition imposed**

Sec. 7. A right-of-way is not considered abandoned if the Interstate Commerce Commission or the United States Surface Transportation Board imposes on the right-of-way a trail use condition under 16 U.S.C. 1247(d).

*As added by P.L.2-2002, SEC.8.*

**IC 32-23-11-8**

**Sale of railroad's interest**

Sec. 8. (a) A right-of-way is not considered abandoned if the following conditions are met:

(1) The railroad sells the railroad's rights in the right-of-way before abandoning the right-of-way.

(2) The purchaser of the railroad's rights in the right-of-way is not a railroad.

(3) The purchaser purchases the right-of-way for use by the purchaser to transport goods or materials by rail.

(b) A railroad may discontinue rail service on the right-of-way without abandoning the right-of-way.

*As added by P.L.2-2002, SEC.8.*

**IC 32-23-11-9**

**Size of interest conveyed**

Sec. 9. If a railroad conveys its interest in a right-of-way, the railroad conveys not more than the interest it holds at the time of the

conveyance.
*As added by P.L.2-2002, SEC.8.*

**IC 32-23-11-10**
**Abandoned interest to vest in fee owner**

Sec. 10. (a) This section applies if a railroad does not own the right-of-way fee.

(b) If a railroad abandons its right to a railroad right-of-way, the railroad's interest vests in the owner of the right-of-way fee with a deed that contains a description of the real property that includes the right-of-way.

(c) If a deed described in subsection (b) does not exist, then the railroad's interest vests in the owner of the adjoining fee. The interest of the railroad that vests in the owner of the adjoining fee is for the part of the right-of-way from the center line of the right-of-way to the adjoining property line.
*As added by P.L.2-2002, SEC.8.*

**IC 32-23-11-11**
**Effect of interest vesting on other easement and license holders**

Sec. 11. (a) The vesting of a railroad's interest under section 10 of this chapter does not divest a valid public utility, communication, cable television, fiber optic, or pipeline easement, license, or legal occupancy if the railroad granted the easement before the date on which the railroad abandoned the right-of-way.

(b) This chapter does not deprive a public utility, communication company, cable television company, fiber optic company, or pipeline company of the use of all or part of a right-of-way if, at the time of abandonment, the company:

(1) is occupying and using all or part of the right-of-way for the location and operation of the company's facilities; or

(2) has acquired an interest for use of all or part of the right-of-way.

(c) This chapter does not do the following:

(1) Limit the right of the owner of a right-of-way fee to demand compensation from a railroad or a utility for the value of an interest taken and used or occupied after abandonment.

(2) Grant to the owner of a right-of-way fee the right to obtain duplicative compensation from a utility or pipeline company for the value of the use of any portion of the right-of-way that is subject to the terms of an agreement previously entered into between the utility or pipeline company and the owner of the right-of-way fee. For purposes of this subdivision, "pipeline" does not include a coal slurry pipeline.

*As added by P.L.2-2002, SEC.8.*

**IC 32-23-11-12**
**Limitation on commencement of action**

Sec. 12. (a) A person may bring an action to establish full rights of possession of the person's right-of-way fee in any part of a

right-of-way that is burdened by an easement for railroad purposes not more than thirty (30) years after the right-of-way is abandoned under this chapter.

(b) A person may commence an action to establish the person's ownership of a right-of-way fee in any part of a right-of-way by enforcing a possibility of reverter or a right of entry under IC 32-17-10.

*As added by P.L.2-2002, SEC.8.*

**IC 32-23-11-13**

**Determination of ownership**

Sec. 13. Except as provided in section 14 of this chapter, the ownership of a right-of-way fee is determined under the same principles that fee simple ownership in property is otherwise determined under Indiana law.

*As added by P.L.2-2002, SEC.8.*

**IC 32-23-11-14**

**Adverse possessions or prescriptive easements not establishing title or rights to property**

Sec. 14. For purposes of this chapter, the following are not adverse possessions or prescriptive easements to the owner and do not establish title or rights to the real property:

(1) Possession of a right-of-way by a nonrailroad purchaser under section 8 of this chapter.

(2) Possession of a right-of-way by a public utility or under a communication, cable television, fiber optic, or pipeline easement, license, or legal occupancy under section 11 of this chapter.

(3) Possession of a right-of-way by a responsible party (as defined in IC 8-4.5-1-17).

*As added by P.L.2-2002, SEC.8.*

**IC 32-23-11-15**

**Easement of necessity**

Sec. 15. If a railroad owns a right-of-way fee that becomes landlocked after the right-of-way is abandoned, the railroad retains an easement of necessity in the abandoned right-of-way:

(1) from the landlocked property to the nearest public highway, road, or street; and

(2) to the extent necessary to reach and use the landlocked fee interest for its intended purpose.

*As added by P.L.2-2002, SEC.8.*