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# HOUSE BILL No. 1161

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-1-16-45; IC 8-4; IC 8-6-2.1-11; IC 10-18; IC 16-22; IC 20-5-23-2; IC 20-14-10-10; IC 21-5; IC 23-4-3-2; IC 23-14-69-7; IC 32-24; IC 36-9-13-29; IC 36-10-10-18.

**Synopsis:** Property appraisers. Removes the requirement that court appointed appraisers must be freeholders. Requires a simultaneous exchange of appraisals in eminent domain matters.

**Effective:** July 1, 2004.

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January 20, 2004, read first time and referred to Committee on Judiciary.

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Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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**HOUSE BILL No. 1161**



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 5-1-16-45 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 45. **(a)** A county  
3 desiring to have a building erected or renovated on land owned or to be  
4 acquired by the county may sell that land or building to the authority.  
5 Before the sale may take place, the county commissioners shall file a  
6 petition with the circuit court of the county requesting the appointment  
7 of three (3) disinterested ~~freeholders~~ **appraisers licensed under**  
8 **IC 25-34.1 who are residents** of the county ~~as appraisers~~ to determine  
9 the fair market value of the land or building. Upon appointment, the  
10 appraisers shall fix the fair market value of the land or building and  
11 shall report that value within two (2) weeks from the date of their  
12 appointment. The county may then sell the land or building to the  
13 authority for an amount not less than the amount fixed by the appraisers  
14 as the fair market value. The amount shall be paid in cash upon  
15 delivery of the deed by the county to the authority. If a cumulative  
16 building fund exists at the time of the sale, the proceeds from the sale  
17 shall be placed in that fund. If a cumulative building fund does not



1 exist at the time of the sale, the proceeds from the sale shall be paid  
 2 into the county hospital fund with the principal and interest on the fund  
 3 to be used solely by the county hospital for the purposes set forth in  
 4 IC 16-22-5-3 (or IC 16-12.1-4-4 before its repeal on July 1, 1993). A  
 5 sale of land or a building by a county to the authority shall be  
 6 authorized by the board of commissioners by an order that shall be  
 7 entered in the official records of the board. The deed shall be executed  
 8 on behalf of the county by the board of county commissioners.

9 ~~(c)~~ (b) A contract entered into under this chapter for a public work  
 10 (as defined in IC 5-16-7-4) is subject to IC 5-16-7.

11 SECTION 2. IC 8-4-1-16 IS AMENDED TO READ AS FOLLOWS  
 12 [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) A corporation formed under  
 13 this chapter is authorized to enter upon any land for the purpose of  
 14 examining and surveying its railroad line and may appropriate as much  
 15 land as is deemed necessary for its railroad, including necessary  
 16 side-tracks and water stations, materials for constructing, except  
 17 timber, a right-of-way over adjacent lands sufficient to enable the  
 18 company to construct and repair its road, and a right to conduct water  
 19 by aqueducts, and the right of making proper drains.

20 (b) The corporation shall deposit with the clerk of the circuit court  
 21 of the county where the land lies, a description of the rights and  
 22 interests intended to be appropriated. The land, rights, and interests  
 23 shall belong to the company, to use for the purpose specified, by  
 24 making or tendering payment as provided in this section.

25 (c) The corporation may, by its directors, purchase lands, materials,  
 26 rights-of-way, or interests of the owner of the land, or, in case the land  
 27 is owned by a mentally incompetent person or a person under eighteen  
 28 (18) years of age, at a price to be agreed upon by the guardian or parent  
 29 of the mentally incompetent person or person under eighteen (18) years  
 30 of age, if the land, material, right-of-way, or interest is appraised by the  
 31 court in which the description is filed. Upon agreement and approval,  
 32 the owner, guardian, or parent, as the case may be, shall convey the  
 33 premises purchased, in fee simple or otherwise, as the parties may  
 34 agree, to the railroad corporation. The deed, when made, shall be valid  
 35 in law.

36 (d) If the corporation does not agree with the owner of the land, or  
 37 with the owner's guardian, if the owner is incapable of contracting,  
 38 concerning the damages sustained by the appropriation, the corporation  
 39 shall deliver to the owner or guardian, if within the county, a copy of  
 40 the instrument of appropriation. If the owner or the owner's guardian,  
 41 in case the owner is incapable of contracting, is unknown or does not  
 42 reside within the county, the corporation shall publish, in a newspaper

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1 of general circulation in the county, for three (3) weeks, an  
2 advertisement, concerning the substance of the instrument of  
3 appropriation.

4 (e) Upon filing an act of appropriation and delivery of a copy, or  
5 making the publication, the circuit court in the county where the land  
6 lies, upon the application of either party, shall appoint, by warrant,  
7 three (3) disinterested ~~freeholders~~ **appraisers licensed under**  
8 **IC 25-34.1 who are residents** of the county, to appraise the damages  
9 which the owner of the land may sustain by the appropriation. The  
10 appraisers shall be duly sworn. They shall consider the injury that the  
11 owner may sustain by reason of the railroad. The appraisers shall return  
12 their assessment of damages to the clerk of the court, setting forth the  
13 value of the property taken or injury to the property which they assess  
14 to the owner, or owners separately, to be filed and recorded by the  
15 clerk. The corporation shall pay to the clerk the amount thus assessed,  
16 or tender the amount to the party in whose favor the damages are  
17 awarded or assessed.

18 (f) On making payment or tender in the manner required, it is lawful  
19 for the corporation to hold the interests in the lands or materials  
20 appropriated, and to use the materials on the roadway and within fifty  
21 (50) feet on each side of the center of the roadway. The cost of the  
22 award shall be paid by the corporation. On notice by any interested  
23 party, the court may order payment and enforce the payment by  
24 execution.

25 (g) The award of the arbitrators may be reviewed by the court in  
26 which proceedings may be had, on written exceptions filed by either  
27 party in the clerk's office within twenty (20) days after the filing of the  
28 award. Notice of filing of the arbitrators' award shall be given by the  
29 clerk of the court to all known parties to the action and their attorneys  
30 of record by certified mail. The period of exceptions shall run from and  
31 after the date of mailing. The court shall make an order as right and  
32 justice may require by ordering a new appraisalment on good cause  
33 shown.

34 (h) Notwithstanding an appeal, the corporation may take possession  
35 of the property described in the exceptions, and the subsequent  
36 proceedings on the appeal only affect the amount of compensation to  
37 be allowed. If, prior to the assessment, the corporation shall tender to  
38 the owner (or the owner's guardian, if the owner is unable to contract)  
39 an amount equal to the award that was made, exclusive of costs, the  
40 costs of arbitration shall be paid equally by the corporation and the  
41 owner or guardian.

42 SECTION 3. IC 8-4-10-1 IS AMENDED TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The owner or owners or their  
 2 lessees of lands, mills, blast-furnaces, quarries, iron ore, coal mines, or  
 3 other minerals, or other real estate or any company of persons who  
 4 desire to construct a lateral railroad, not exceeding ten (10) miles in  
 5 length, may locate and construct the lateral railroad to any other  
 6 railroad, canal, or slack-water navigation on, over, through, or under  
 7 any intervening lands. Their engineers, agents, artists, and assistants  
 8 may enter upon any intervening lands, doing no unnecessary damage,  
 9 and survey, mark, and lay out a route for the proposed lateral railroad.

10 (b) A person described in subsection (a) may present a petition to  
 11 the circuit court of the county in which the intervening lands are  
 12 situated that sets forth the beginning, course, distance, and termination  
 13 of the proposed lateral railroad, together with a map or profile of the  
 14 route, indicating the excavations and embankments on the route, and  
 15 designating, particularly, the name or names of the owner, owners,  
 16 occupant or occupants, and agent or agents of such intervening lands,  
 17 with a particular description of the same. The petition must be filed in  
 18 the court.

19 (c) After the petition is filed, the court shall appoint three (3)  
 20 judicious and disinterested **frecholders appraisers licensed under**  
 21 **IC 25-34.1 who are residents** of the county, as viewers.

22 (d) After five (5) days notice, to be given by the applicant to each of  
 23 the owners, occupants, or agents of the intervening lands, of the time  
 24 and place, and after being duly sworn to discharge their duties fairly  
 25 and honorably as viewers, the viewers shall view the proposed route as  
 26 marked and laid out for the railroad. They, or a majority of them, shall  
 27 assess the damages, if any, that may be sustained by the owners,  
 28 separately, of the intervening lands by reason of the location,  
 29 construction, and use of the proposed lateral railroad, and report the  
 30 assessment in writing to the clerk of the court immediately after the  
 31 assessments are made. The report shall be filed in the office of the clerk  
 32 of the court.

33 (e) If a party does not reject the report within twenty (20) days after  
 34 the filing of the report, by writing on the report "not accepted" and  
 35 signing the report, the report shall be confirmed by the court. If any  
 36 party rejects the report, the report shall stand for trial.

37 (f) At trial, the general denial to the petition and report shall be  
 38 taken as filed, and all matters of defense and reply may be given in  
 39 evidence under the general denial. The party rejecting the report has  
 40 the affirmative of the issues. The viewers or jury trying the cause shall,  
 41 in assessing damages, take into consideration the advantages that may  
 42 be derived by the owner or owners of the lands passed on, over,

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1 through, or under by the proposed lateral road by its location and  
2 construction.

3 (g) Upon the filing of the report by the viewers in the court, the  
4 damages assessed by them shall be paid to the clerk, to be tendered to  
5 the party in whose favor the damages are awarded or assessed.

6 (h) After payment or tender is made under this section, the person,  
7 persons, or company of persons, and their lessees described in  
8 subsection (a), may hold and take possession of the interests in the  
9 intervening lands or materials appropriated, and the privileges of using  
10 any materials on the roadway within fifty (50) feet on each side of the  
11 center of the roadway for the use described in subsection (a).

12 (i) The costs of the assessments by the viewers and the costs in case  
13 of trial shall be paid as in other cases.

14 SECTION 4. IC 8-4-12-2 IS AMENDED TO READ AS FOLLOWS  
15 [EFFECTIVE JULY 1, 2004]: Sec. 2. Any company that ~~now~~ is or that  
16 may be organized under the general laws of this state providing for the  
17 incorporation of railroad companies may complete any such abandoned  
18 road or part thereof, and shall, for such purpose, be invested with all  
19 the rights, privileges, interests, rights of way, franchises, properties,  
20 and immunities of such derelict railroad company, and shall proceed to  
21 construct the same, as is hereafter provided. ~~Provided, That~~ However, ~~That~~  
22 before any such new company shall succeed to said rights, privileges,  
23 interests, rights of way, franchises, properties and immunities, and  
24 before it shall proceed to complete such road or part of such road, the  
25 value of the same shall be ascertained by three (3) disinterested  
26 ~~freeholders~~ **appraisers licensed under IC 25-34.1 who are** residents  
27 in any county through which the line of such road may run, one (1) of  
28 whom shall be selected by said new company, and one (1) by the old  
29 company, or the assignee or purchaser of the franchises thereof, and the  
30 other by the auditor of such county, and these three (3) shall constitute  
31 a board of appraisers; and in the event that the said old company, or the  
32 assignee or purchaser of the franchises thereof, shall fail or refuse,  
33 upon request, to name such appraiser, then ~~he~~ **the appraiser** shall be  
34 named by the said auditor. Such board of appraisers shall take an oath  
35 to faithfully discharge their duties, and make a true and impartial  
36 appraisal of such rights, privileges, interests, rights of way,  
37 franchises, properties and immunities. Such board shall report their  
38 appraisal to said auditor, and, upon the payment of the same by  
39 such new company to the treasurer of such county, it shall succeed to  
40 and be invested as aforesaid. ~~Provided, That~~ Nothing in this chapter  
41 shall authorize or permit any railroad company which has constructed  
42 and is operating its road to change its line of road from that now used

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1 and occupied so as to avoid any point named in their charter or articles  
2 of association.

3 SECTION 5. IC 8-6-2.1-11 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) When the land  
5 or any part of it is to be acquired by purchase, the resolution shall also  
6 state the maximum proposed cost, and the board may at any time prior  
7 to the adoption of the resolution obtain from the owner or owners of the  
8 land an option for its purchase, or the board may enter into a contract  
9 for the purchase of ~~it~~ **the land** upon the terms and conditions ~~it~~ **the**  
10 **board** considers best. The option or contract is subject to final  
11 confirmation or rescission of the resolution, and subject further to the  
12 condition that the land be paid for only out of the special fund resulting  
13 from the sale of grade separation district bonds and the collection of  
14 benefit assessments, or out of funds coming to the city from equitable  
15 settlements between the parties. If the board desires to acquire any lots  
16 or parcels of land by purchase, it shall appoint three (3) ~~freeholders~~  
17 **appraisers licensed under IC 25-34.1** residing in the city, or in the  
18 county in which the city is located, who are not interested in any land  
19 to be acquired or in land which may incur local benefits under such  
20 resolution, to appraise the value of the land. The appraisers shall take  
21 an oath that they have no interest in the matter and that they will  
22 honestly and impartially make the valuation. The appraisers shall then  
23 proceed to view the land and consider and determine its true market  
24 value at that time.

25 (b) The appraisers shall submit a written report of their  
26 appraisement to the board and the report shall be filed with and become  
27 a part of the record of the proceeding. The board may not exercise any  
28 option on the land or enter into a contract to purchase the land at a  
29 higher price than the value named in the report.

30 SECTION 6. IC 10-18-2-16, AS ADDED BY P.L.2-2003,  
31 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2004]: Sec. 16. (a) A county executive, acting jointly with the  
33 board of public works of a city located in the county to acquire  
34 grounds, real property, and interests in real property, by purchase or  
35 condemnation for any of the purposes authorized by this chapter, may  
36 proceed under IC 32-24, together with all the powers of eminent  
37 domain granted under this chapter.

38 (b) Before a county executive may purchase real property or  
39 interests in real property, by the county, jointly by the county and a city  
40 located in the county, by the county executive or board of trustees, as  
41 provided in section 11 of this chapter, or by the county executive acting  
42 jointly with the board of public works of any city located in the county,

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the county executive must:

(1) have the real property appraised at its true cash value by at least three (3) disinterested ~~freeholders~~ **appraisers licensed under IC 25-34.1 who are residents** of the county; and

(2) may not pay more than the appraised value for any real property and interests in real property.

(c) If an owner refuses to sell real property at the appraised value, the property must be acquired by condemnation. If a county acts alone, an attorney representing the county shall conduct all the legal proceedings necessary in the purchase or condemnation of real property. The legal department of a city and an attorney representing the county, if the county and city act jointly under this chapter, shall conduct all the necessary legal proceedings, without additional compensation, for the purchase or condemnation of real property.

(d) If a county acquires real property for any of the purposes provided for by this chapter or joins with a city located in the county in the acquisition of real property for any of the purposes provided for in this chapter, the county, acting by and through its county executive, or the county, by and through its county executive acting jointly with any city located in the county, by and through its board of public works, with the approval of the mayor, may sell the buildings and improvements on the real property.

(e) The net rent or proceeds of the sale of the building and improvements on the real property at a war memorial, if the real property was acquired by the county, shall be added to and become a part of the county world war memorial fund. If the real property was acquired by the county and any city located in the county jointly, the rent and proceeds of sale shall be added to the county world war memorial fund and the city world war memorial fund in the same proportions that the city and county contributed to the acquisition of the real property, buildings, and improvements, or the county.

(f) The county and a city located in the county acting jointly, as provided in this chapter, may convey any real property acquired to the state. The contract with the state must provide for the rent of buildings and improvements on real property, until necessary to remove the buildings and improvements, and for the sale of the buildings and improvements if the real property is needed by the board of trustees for world war memorial and other public purposes. The contract must provide how the net rent or proceeds will be applied.

(g) If a county institutes proceedings to condemn any real property or interests in real property or other property under this chapter, the suit must be brought:

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1 (1) in the name of the county;  
 2 (2) by an attorney representing the county; and  
 3 (3) at the direction of the county executive.  
 4 (h) If the joint condemnation of real property under this chapter is  
 5 by a county and by a city located in the county, the suit must be brought  
 6 in the name of the county, as provided in this section, and in the name  
 7 of the city by its legal department, without additional compensation, at  
 8 the direction of the board of public works. The county, or the county  
 9 and the city jointly, may:  
 10 (1) join in one (1) action naming as defendants the owners and all  
 11 persons interested in one (1) or more tracts of real property to be  
 12 condemned; or  
 13 (2) institute proceedings to condemn separate tracts of real  
 14 property.  
 15 SECTION 7. IC 10-18-4-13, AS ADDED BY P.L.2-2003,  
 16 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2004]: Sec. 13. (a) The board of public works of a city, acting  
 18 for the city or acting jointly with the board of commissioners of the  
 19 county in which the city is located, may proceed under IC 32-24 and  
 20 has all powers of eminent domain granted in this chapter or any other  
 21 statute to acquire interests in real property by purchase or  
 22 condemnation for any of the purposes authorized by this chapter.  
 23 (b) Before the board of public works may purchase an interest in  
 24 real property, either by the city or jointly by the city and the county in  
 25 which it is located:  
 26 (1) the board of public works;  
 27 (2) the board of trustees, as provided in section 12 of this chapter;  
 28 or  
 29 (3) the board of public works acting jointly with the board of  
 30 commissioners of the county in which the city is located;  
 31 must have the real property appraised at its true cash value by at least  
 32 three (3) disinterested ~~freeholders~~ **appraisers licensed under**  
 33 **IC 25-34.1 who are residents** of the city and may not pay more than  
 34 the appraised value for any interest in real property. If an owner refuses  
 35 to sell the owner's interest in real property at the appraised value, the  
 36 interest in real property must be acquired by condemnation. The legal  
 37 department of the city shall conduct all necessary proceedings for the  
 38 purchase or condemnation of an interest in real property by the city and  
 39 county jointly, for any purpose under this chapter, without additional  
 40 compensation.  
 41 (c) If a city institutes proceedings to condemn an interest in real  
 42 property under this chapter, the suit must be brought in the name of the

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1 city by the legal department of the city, without additional  
 2 compensation, at the direction of the board of public works. If there is  
 3 a joint condemnation of an interest in real property by a city and the  
 4 county in which it is located, the suit must be brought in the name of  
 5 the city as provided in this section and in the name of the county, by an  
 6 attorney representing the county, at the direction of the board of county  
 7 commissioners of the county. The city or the city and county jointly  
 8 may:

9 (1) join in one (1) action as defendants the owners and all persons  
 10 interested in one (1) or more interests in real property to be  
 11 condemned; or

12 (2) institute proceedings to condemn separate interests in real  
 13 property.

14 SECTION 8. IC 16-22-6-26 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 26. (a) A county  
 16 desiring to erect or renovate a building on land owned or to be acquired  
 17 by the county may sell land or a building, or both to the authority.  
 18 Before the sale may take place, the county executive, with the approval  
 19 of the county fiscal body, shall file a petition with the circuit court of  
 20 the county requesting the appointment of three (3) disinterested  
 21 **freeholders appraisers licensed under IC 25-34.1 who are residents**  
 22 of the county ~~as appraisers~~ to determine the fair market value of the  
 23 land and buildings. The appraisers shall fix the fair market value of the  
 24 land and buildings and report not more than two (2) weeks after the  
 25 date of the appraisers' appointment. The county may sell the land and  
 26 buildings to the authority for an amount not less than the amount fixed  
 27 as the fair market value by the appraisers. The amount shall be paid in  
 28 cash upon delivery of the deed by the county to the authority.

29 (b) If a cumulative building fund exists at the time of the sale under  
 30 IC 16-12-16 (before its repeal on July 1, 1993), IC 16-12.1-4-4 (before  
 31 its repeal on July 1, 1993), or IC 16-22-5, the proceeds from the sale  
 32 shall be placed in the fund. If a cumulative building fund does not exist  
 33 at the time of the sale, the proceeds from the sale shall be paid into the  
 34 county hospital fund and the principal and interest shall be used for the  
 35 purposes set forth in IC 16-22-5. A sale of land or buildings, or both,  
 36 by a county to the authority shall be authorized by the county executive  
 37 by an order entered in the official records of the county executive. The  
 38 deed shall be executed on behalf of the county by the county executive.

39 SECTION 9. IC 16-22-7-29 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 29. (a) The city  
 41 hospital, city, or county desiring to erect buildings on land owned or  
 42 acquired by the city hospital, city, or county may lease land to the

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1 authority for a nominal rental for the same period, including renewal  
 2 periods, that the lessee proposes to lease the particular land or  
 3 buildings to be constructed from the authority. The city hospital, city,  
 4 or county may grant an option to the authority to purchase the land not  
 5 more than six (6) months after the expiration of the lease from the  
 6 authority on the land or buildings if the city hospital or lessee does not  
 7 exercise an option to purchase the buildings within the terms of the  
 8 lease. If the option price on the land is not fixed in the original lease,  
 9 the price shall be determined by an appraisal made by three (3)  
 10 disinterested ~~freetholders~~ **appraisers licensed under IC 25-34.1**  
 11 residing in the county appointed by the judge of the circuit court.

12 (b) A lease of land by the city hospital, city, or county must be  
 13 authorized by the city legislative body, the county executive, or  
 14 governing board of the hospital, respectively, and a resolution, an  
 15 order, or an ordinance must be entered in the official records of the  
 16 governing body. Authorization may be given before or concurrently  
 17 with the authorization of the lease from the authority to the lessee. The  
 18 authorization to lease land to the authority is contingent upon the  
 19 authorization to lease land from the authority. The lease to the authority  
 20 shall be executed on behalf of the following:

- 21 (1) The city by the city executive and the recording officer.
- 22 (2) The county by the county executive and auditor.
- 23 (3) The authority by the president or vice president and secretary  
 24 of the governing board.

25 SECTION 10. IC 16-22-7-30 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 30. (a) The city  
 27 hospital, city, or county desiring to have buildings erected on land  
 28 owned or acquired by the city hospital, city, or county may sell the land  
 29 to the authority. Before the sale may take place, the legislative body of  
 30 the city, the governing board of the hospital, or executive of the county  
 31 having authorized the sale shall file a petition with the circuit court of  
 32 the county requesting the appointment of three (3) disinterested  
 33 ~~freetholders~~ **appraisers licensed under IC 25-34.1 who are residents**  
 34 of the county ~~as appraisers~~ to determine the fair market value of the  
 35 land. Upon appointment, the appraisers shall fix the fair market value  
 36 of the land and shall report not more than two (2) weeks after the date  
 37 of the appraisers' appointment. The city hospital, city, or county may  
 38 sell the land to the authority for an amount not less than the amount  
 39 fixed as the fair market value by the appraisers. The amount may be  
 40 paid from proceeds of bonds of the authority.

41 (b) The city legislative body must authorize the sale of land owned  
 42 by the city by resolution or ordinance and the deed shall be executed by

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1 the city executive and city clerk.

2 (c) The governing board must authorize the sale of land owned by  
3 the city hospital by resolution and the deed shall be executed by the  
4 president or vice president and the secretary of the governing board.

5 (d) The county executive must authorize the sale of land owned by  
6 the county by resolution or order, and the deed shall be executed by the  
7 county executive and the county auditor.

8 SECTION 11. IC 20-5-23-2 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Upon said petition  
10 being filed, the owner or owners of said real estate, having had ten (10)  
11 days notice of the pendency thereof, the court shall appoint three (3)  
12 ~~freeholders resident appraisers licensed under IC 25-34.1 who are~~  
13 ~~residents in said the~~ school corporation or ~~said the~~ township where  
14 ~~said the~~ real estate is ~~situate~~, **situated**, to appraise and assess the value  
15 thereof.

16 SECTION 12. IC 20-14-10-10 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) The lessor  
18 corporation shall hold in fee simple the real property on which the  
19 building or buildings exists or will be constructed. Any public  
20 corporation or corporations proposing to lease the library building or  
21 buildings, either alone or jointly with another public corporation that  
22 owns the property, may sell the property to the lessor corporation in fee  
23 simple.

24 (b) Before this sale may take place, the governing authority of the  
25 public corporation shall file a petition with the circuit court of the  
26 county in which the public corporation is located requesting the  
27 appointment of three (3) disinterested ~~freeholders of the public~~  
28 ~~corporation as~~ appraisers **licensed under IC 25-34.1** to determine the  
29 fair market value of the real property. Upon their appointment, the  
30 three (3) appraisers shall fix the fair market value of the real property  
31 and report this amount to the circuit court within two (2) weeks from  
32 the date of their appointment. The public corporation may then sell the  
33 real property to the lessor corporation for an amount not less than the  
34 amount so fixed as the fair market value by the appraisers. This amount  
35 shall be paid in cash upon delivery of the deed by the public  
36 corporation to the lessor corporation.

37 SECTION 13. IC 21-5-11-8 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The lessor  
39 corporation shall acquire, own, and hold in fee simple the land on  
40 which such building or buildings ~~is~~ **are** to be erected. Any school  
41 corporation proposing to lease such school building or buildings, either  
42 alone or jointly with another school corporation, and owning the land

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1 on which it desires that such building or buildings be erected, may and  
 2 is hereby authorized to sell and transfer to the lessor corporation such  
 3 land in fee simple. Before such sale may take place, the governing body  
 4 of the school corporation shall file a petition with the circuit court of  
 5 the county in which the school corporation is located, requesting the  
 6 appointment of three (3) disinterested ~~freeholders of the school~~  
 7 ~~corporation as~~ appraisers **licensed under IC 25-34.1** to determine the  
 8 fair market value of such land. Upon their appointment, the three (3)  
 9 appraisers shall proceed to fix the fair market value of such land and  
 10 shall report the amount so fixed to the circuit court within two (2)  
 11 weeks from the date of their appointment. The school corporation may  
 12 then sell such land to the lessor corporation for an amount not less than  
 13 the amount so fixed as the fair market value by the three (3) appraisers,  
 14 which amount shall be paid in cash upon delivery of the deed by the  
 15 school corporation to the lessor corporation. ~~Provided; However, That~~  
 16 if such land was acquired by the school corporation within three (3)  
 17 years immediately preceding the date of the filing of the petition with  
 18 the circuit court, such land may not be sold for an amount less than the  
 19 amount paid by the school corporation for such land.

20 SECTION 14. IC 21-5-12-8 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The lessor  
 22 corporation shall acquire, own, and hold in fee simple the land on  
 23 which such building or buildings ~~is are~~ to be erected. Any school  
 24 corporation proposing to lease such school building or buildings, either  
 25 alone or jointly with another school corporation, and owning the land  
 26 on which it desires that such building or buildings be erected, may and  
 27 is hereby authorized to sell and transfer to the lessor corporation such  
 28 land in fee simple. Before such sale may take place, the governing body  
 29 of the school corporation shall file a petition with the circuit court of  
 30 the county in which the school corporation is located, requesting the  
 31 appointment of three (3) disinterested ~~freeholders~~ **appraisers licensed**  
 32 **under IC 25-34.1 who are residents** of the school corporation ~~as~~  
 33 ~~appraisers~~ to determine the fair market value of such land. Upon their  
 34 appointment, the three (3) appraisers shall proceed to fix the fair  
 35 market value of such land and shall report the amount so fixed to the  
 36 circuit court within two (2) weeks from the date of their appointment.  
 37 The school corporation may then sell such land to the lessor  
 38 corporation for an amount not less than the amount so fixed as the fair  
 39 market value by the three (3) appraisers, which amount shall be paid in  
 40 cash upon delivery of the deed by the school corporation to the lessor  
 41 corporation. ~~Provided; However, That~~ if such land was acquired by the  
 42 school corporation within three (3) years immediately preceding the

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1 date of the filing of the petition with the circuit court, such land may  
2 not be sold for an amount less than the amount paid by the school  
3 corporation for such land.

4 SECTION 15. IC 23-4-3-2 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Such surviving  
6 partner or partners, within sixty (60) days after such death, shall  
7 proceed to make a full, true, and complete inventory of the estate,  
8 goods, chattels, rights, credits, moneys, and effects within ~~his or their~~  
9 **the partner's or partners' knowledge**, and shall cause the same to be  
10 appraised by two (2) competent ~~freeholders or landholders of the~~  
11 ~~neighborhood~~, **appraisers licensed under IC 25-34.1**, one (1) of  
12 whom shall be selected by the surviving partner or partners and the  
13 other by the clerk of the court having probate jurisdiction, making a full  
14 and complete schedule thereof; which said schedule and appraisalment  
15 shall be sworn to by said appraisers before the clerk of such court,  
16 specifying that the property described in said schedule is appraised at  
17 its true cash value; which schedule shall, by said appraisers, be filed in  
18 the office of the clerk of the court having probate jurisdiction,  
19 immediately after the completion thereof.

20 SECTION 16. IC 23-14-69-7 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) When a township  
22 acquires title to land by donation, purchase, or otherwise for a public  
23 cemetery, the trustee of the township shall:

- 24 (1) lay out the land in lots with streets and walks;  
25 (2) plat the land; and  
26 (3) record the plat in the office of the recorder of the county.

27 (b) For recording a plat under subsection (a), the recorder shall  
28 collect the same fees as are allowed for similar recordings.

29 (c) The lots laid out and platted under subsection (a) must be  
30 numbered. A specific part of the lots must be:

- 31 (1) set apart; and  
32 (2) designated on the plat;

33 for a potter's field.

34 (d) After the plat has been recorded, the township trustee shall  
35 appoint two (2) ~~freeholders of the township~~ **appraisers licensed under**  
36 **IC 25-34.1** to appraise and fix the value of all the lots on the plat,  
37 except the part assigned to the potter's field under subsection (c). The  
38 appraisal shall be filed with and preserved by the township trustee.

39 SECTION 17. IC 32-24-1-5.5 IS ADDED TO THE INDIANA  
40 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
41 [EFFECTIVE JULY 1, 2004]: **Sec. 5.5. (a) Within ninety (90) days**  
42 **after receiving a condemnor's offer under section 5 of this chapter,**

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the owner shall accept or reject the condemnor's offer.

(b) If the owner rejects the condemnor's offer, the owner may obtain an appraisal on the property. The owner shall deliver the appraisal to the condemnor.

(c) Upon receipt of the owner's appraisal, the condemnor shall immediately submit copies of the condemnor's appraisal to the owner.

SECTION 18. IC 32-24-1-7, AS ADDED BY P.L.2-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) The notice, upon its return, must show its:

- (1) service for ten (10) days; or
- (2) proof of publication for three (3) successive weeks in a weekly newspaper of general circulation printed and published in the English language in the county in which the property sought to be acquired is located.

The last publication of the notice must be five (5) days before the day set for the hearing.

(b) The clerk of the court in which the proceedings are pending, upon the first publication of the notice, shall send to the post office address of each nonresident owner whose property will be affected by the proceedings a copy of the notice, if the post office address of the owner or owners can be ascertained by inquiry at the office of the treasurer of the county.

(c) The court, being satisfied of the regularity of the proceedings and the right of the plaintiff to exercise the power of eminent domain for the use sought, shall appoint three (3) disinterested ~~freeholders of the county~~ **appraisers licensed under IC 25-34.1** to assess the damages, or the benefits and damages, as the case may be, that the owner or owners severally may sustain, or be entitled to, by reason of the acquisition.

SECTION 19. IC 32-24-3-2, AS ADDED BY P.L.2-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Upon filing the petition, the attorney general shall provide the owners of the property the notice required by law in the commencement of a civil action. It is sufficient to make defendants to the petition all persons who are in possession of the property and those who appear to be the owners or to have any interest in the property by the tax duplicates and the records in the offices of the auditor and recorder of the county. After notice has been given, the court shall appoint three (3) ~~resident freeholders~~ **appraisers licensed under IC 25-34.1 who are residents** of the county where the property is located to appraise the value of the property.

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1 SECTION 20. IC 36-9-13-29 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 29. (a) An eligible  
3 entity that wants to have all or part of a government building  
4 constructed, reconstructed, or renovated on land owned or to be  
5 acquired by it may:

- 6 (1) sell that land or building to a building authority; or
- 7 (2) lease the land or building to the authority for the same period  
8 of years that the eligible entity proposes to lease all or part of the  
9 building, and may grant an option to the authority to purchase the  
10 land or building within six (6) months after the expiration of the  
11 lease on the building if the eligible entity does not exercise an  
12 option to purchase the land or building within the terms of the  
13 lease.

14 If the option price of the land or building is not fixed in the lease, then  
15 the price to be paid for the land or building under the option shall be  
16 determined by an appraisal by three (3) appraisers, who must be  
17 residents of the county, and who shall be appointed by the circuit court  
18 for the county.

19 (b) A sale or lease of land or a building under this section must be  
20 authorized by resolution or ordinance of the governing body of the  
21 eligible entity, which shall be entered in the official records of the  
22 governing body. This authorization must be given concurrently with the  
23 authorization by the eligible entity of a lease of the building, or part of  
24 it, to be constructed, reconstructed, or renovated wholly or in part on  
25 the land.

26 (c) The deed, in the case of a sale of the land, or the lease, must be  
27 executed on behalf of the eligible entity by the officer or officers  
28 authorized by law to execute contracts on behalf of the entity, and on  
29 behalf of the authority by the president or vice president and secretary  
30 of its board of directors.

31 (d) Before the sale of any land or building under this section, a  
32 petition must be filed with the circuit court of the county requesting the  
33 appointment of three (3) appraisers **licensed under IC 25-34.1** who  
34 must be residents of the eligible entity selling the land or building. ~~and~~  
35 ~~disinterested freeholders~~. The appraisers shall fix the fair market value  
36 of the land or building and report their decision within three (3) weeks  
37 after their appointment. The eligible entity may then sell the land or  
38 building to the authority for an amount not less than the fair market  
39 value fixed by the appraisers, which amount may be paid from  
40 proceeds of bonds of the authority.

41 SECTION 21. IC 36-10-10-18 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. (a) A city desiring

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1 to have a convention center erected on land owned or to be acquired by  
 2 it may sell or lease the land to the authority. The land may be leased at  
 3 a nominal lease rental, but the term of the lease may not be less than  
 4 the term of the lease of the convention center to the city.

5 (b) Before a sale may take place, the city executive, with the  
 6 approval of the city legislative body, shall file a petition with the circuit  
 7 court of that county requesting the appointment of three (3)  
 8 ~~disinterested freeholders of the city as~~ appraisers **licensed under**  
 9 **IC 25-34.1** to determine the fair market value of the land. Upon their  
 10 appointment, the appraisers shall fix the fair market value of the land  
 11 and report within two (2) weeks from the date of their appointment.  
 12 The city may then sell the land to the authority for an amount not less  
 13 than the amount fixed as the fair market value by the appraisers, the  
 14 amount to be paid in cash upon delivery of the deed by the city to the  
 15 authority. A sale of land by a city to the authority shall be authorized  
 16 by the city executive and city legislative body by ordinance, which  
 17 shall be entered in the official records of the legislative body. The deed  
 18 shall be executed on behalf of the city by the executive and attested by  
 19 the city clerk.

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