



Reprinted
February 3, 2004

SENATE BILL No. 201

DIGEST OF SB 201 (Updated February 2, 2004 5:53 pm - DI 69)

Citations Affected: IC 32-24.

Synopsis: Eminent domain. Provides that, in an eminent domain proceeding, when the person seeking to acquire property does not agree with the owner of an interest in the property and files a complaint and a lis pendens notice, the filing of the complaint and lis pendens notice constitutes notice of the proceedings to all subsequent purchasers and persons taking encumbrances of the property.

Effective: July 1, 2004.

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January 8, 2004, read first time and referred to Committee on Judiciary.
January 29, 2004, amended, reported favorably — Do Pass.
February 2, 2004, read second time, amended, ordered engrossed.

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SB 201—LS 6812/DI 69+



Reprinted
February 3, 2004

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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SENATE BILL No. 201

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 32-24-1-4, AS ADDED BY P.L.2-2002, SECTION
2 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2004]: Sec. 4. (a) If the person seeking to acquire the property does not
4 agree with the owner of an interest in the property or with the guardian
5 of an owner concerning the damages sustained by the owner, the person
6 seeking to acquire the property may file a complaint for that purpose
7 with the clerk of the circuit court of the county where the property is
8 located.

9 (b) The complaint must state the following:
10 (1) The name of the person seeking to acquire the property. This
11 person shall be named as the plaintiff.
12 (2) The names of all owners, claimants to, and holders of liens on
13 the property, if known, or a statement that they are unknown.
14 These owners, claimants, and holders of liens shall be named as
15 defendants.
16 (3) The use the plaintiff intends to make of the property or right
17 sought to be acquired.

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1 (4) If a right-of-way is sought, the location, general route, width,
 2 and the beginning and end points of the right-of-way.
 3 (5) A specific description of each piece of property sought to be
 4 acquired and whether the property includes the whole or only part
 5 of the entire parcel or tract. If property is sought to be acquired by
 6 the state or by a county for a public highway or by a municipal
 7 corporation for a public use and the acquisition confers benefits
 8 on any other property of the owner, a specific description of each
 9 piece of property to which the plaintiff alleges the benefits will
 10 accrue. Plats of property alleged to be affected may accompany
 11 the descriptions.
 12 (6) That the plaintiff has been unable to agree for the purchase of
 13 the property with the owner, owners, or guardians, as the case
 14 may be, or that the owner is mentally incompetent or less than
 15 eighteen (18) years of age and has no legally appointed guardian,
 16 or is a nonresident of Indiana.
 17 (c) All parcels lying in the county and required for the same public
 18 use, whether owned by the same parties or not, may be included in the
 19 same or separate proceedings at the option of the plaintiff. However,
 20 the court may consolidate or separate the proceedings to suit the
 21 convenience of parties and the ends of justice. The filing of the
 22 complaint **and a lis pendens notice in any eminent domain action**
 23 **under this article** constitutes notice of proceedings to all subsequent
 24 purchasers and persons taking encumbrances of the property, who are
 25 bound by the notice.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 201, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 22, before "constitutes" insert "**in any eminent domain action under this article**".

Page 2, after line 24, begin a new paragraph and insert:

"SECTION 2. 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, **at least one (1) of whom is:**

- (1) a real estate broker licensed in Indiana;**
- (2) an appraiser certified or licensed in Indiana; or**
- (3) both;**

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 3. 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

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recorder of the county. After notice has been given, the court shall appoint three (3) resident freeholders of the county where the property is located, **at least one (1) of whom is:**

- (1) a real estate broker licensed in Indiana;**
- (2) an appraiser certified or licensed in Indiana; or**
- (3) both;**

to appraise the value of the property."

and when so amended that said bill do pass.

(Reference is to SB 201 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 2.

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SENATE MOTION

Madam President: I move that Senate Bill 201 be amended to read as follows:

Page 2, delete lines 26 through 42.

Delete page 3.

(Reference is to SB 201 as printed January 30, 2004.)

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