

Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1395

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AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-22-8-17, AS AMENDED BY P.L.184-2005, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 17. **(a)** A majority of the board members constitutes a quorum for a meeting. The board may act by an affirmative vote of a majority of ~~those present at the meeting: the board.~~

**(b) The corporation shall record memoranda from the meeting as required by IC 5-14-1.5-4.**

SECTION 2. IC 16-22-8-18, AS AMENDED BY P.L.184-2005, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18. The corporation shall keep the board's documents in the office of the corporation or in an electronic format. The ~~board corporation~~ shall record the aye and nay vote on the passage of an item of business that affects private rights and shall ~~record~~ the aye and nay vote on the **final** passage of any ~~other~~ item of business **and on any other item** if two (2) **board** members of the ~~board~~ request that the votes be recorded by ayes and nays.

SECTION 3. IC 16-22-8-21, AS AMENDED BY P.L.184-2005, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 21. (a) Not ~~more than seven (7) days after the introduction of a proposed ordinance nor~~ less than seven (7) days

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before a meeting considering the final passage of a proposed ordinance, the ~~board corporation~~ shall publish a notice that the proposed ordinance is pending final action. ~~by the board~~. The notice ~~shall must~~ be published one (1) time in two (2) newspapers ~~that have~~ a with general circulation in the ~~jurisdiction of the corporation~~ county. Notice of an ordinance establishing a budget ~~shall must~~ be in accordance with the general law relating to budgets of first class cities.

(b) The notice must state the following:

(1) The **general subject matter** of the proposed ordinance.

(2) The time and place of the ~~hearing~~ meeting.

(3) The proposed ordinance is available for public inspection at ~~the office of~~ from the corporation.

(c) The ~~board corporation~~ may ~~include~~ publish in one (1) notice a reference to the **general subject matter** of each ~~pending~~ ordinance **pending final action** for which notice has not been given.

(d) An ordinance is not invalid because the reference to the subject matter of the proposed ordinance was inadequate if the reference is sufficient to advise the public of the general subject matter.

SECTION 4. IC 16-22-8-31, AS AMENDED BY P.L.184-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 31. (a) The director of the division of public health has the powers, functions, and duties of a local health officer.

(b) Orders, citations, and administrative notices of violation issued by the director of the division of public health, the director's authorized representative, a supervisor in the division, or an environmental health specialist may be enforced by the corporation in a court with jurisdiction by filing a civil action in accordance with IC 16-42-5-28, IC 33-36-3-5(b), or IC 36-1-6-4.

(c) Orders, health directives, and restrictions issued by the state health commissioner, the state health commissioner's legally authorized agent, a designated health official, or the director of the division of public health may be enforced by the corporation in a court with jurisdiction by filing a civil action in accordance with IC 16-41-9-1 or IC 16-41-9-11.

(d) A change of venue from the county may not be granted for court proceedings initiated under this section.

**(e) A change of venue from a judge must meet the requirements in IC 34-35-3-3 for court proceedings initiated under this section.**

SECTION 5. IC 16-22-8-34, AS AMENDED BY P.L.184-2005, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 34. (a) The board or corporation may do all acts necessary or reasonably incident to carrying out the purposes of this

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chapter, including the following:

- (1) As a municipal corporation, sue and be sued in any court with jurisdiction.
- (2) To serve as the exclusive local board of health and local department of health within the county with the powers and duties conferred by law upon local boards of health and local departments of health.
- (3) To adopt and enforce ordinances consistent with Indiana law and administrative rules for the following purposes:
  - (A) To protect property owned or managed by the corporation.
  - (B) To determine, prevent, and abate public health nuisances.
  - (C) To establish quarantine regulations, impose restrictions on persons having infectious or contagious diseases and contacts of the persons, and regulate the disinfection of premises.
  - (D) To license, regulate, and establish minimum sanitary standards for the operation of a business handling, producing, processing, preparing, manufacturing, packing, storing, selling, distributing, or transporting articles used for food, drink, confectionery, or condiment in the interest of the public health.
  - (E) To control:
    - (i) rodents, mosquitos, and other animals, including insects, capable of transmitting microorganisms and disease to humans and other animals; and
    - (ii) the animal's breeding places.
  - (F) To require persons to connect to available sewer systems and to regulate the disposal of domestic or sanitary sewage by private methods. However, the board and corporation ~~has~~ **have** no jurisdiction over publicly owned or financed sewer systems or sanitation and disposal plants.
  - (G) To control rabies.
  - (H) For the sanitary regulation of water supplies for domestic use.
  - (I) To protect, promote, or improve public health. For public health activities and to enforce public health laws, the state health data center described in IC 16-19-10 shall provide health data, medical information, and epidemiological information to the corporation.
  - (J) To detect, report, prevent, and control disease affecting public health.
  - (K) To investigate and diagnose health problems and health hazards.

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- (L) To regulate the sanitary and structural conditions of residential and nonresidential buildings and unsafe premises.
  - (M) To license and regulate the design, construction, and operation of public pools, spas, and beaches.
  - (N) To regulate the storage, containment, handling, use, and disposal of hazardous materials.
  - (O) To license and regulate tattoo parlors and body piercing facilities.
- (4) To manage the corporation's hospitals, medical facilities, and mental health facilities.
  - (5) To furnish health and nursing services to elementary and secondary schools within the county.
  - (6) To furnish medical care to the indigent within the county unless medical care is furnished to the indigent by the division of family and children.
  - (7) To determine the public health policies and programs to be carried out and administered by the corporation.
  - (8) To adopt an annual budget ordinance and levy taxes.
  - (9) To incur indebtedness in the name of the corporation.
  - (10) To organize the personnel and functions of the corporation into divisions and subdivisions to carry out the corporation's powers and duties and to consolidate, divide, or abolish the divisions and subdivisions.
  - (11) To acquire and dispose of property.
  - (12) To receive **charitable contributions** and **make gifts as provided in 26 U.S.C 170.**
  - (13) To make charitable contributions and gifts.**
  - (14) To establish a charitable foundation as provided in 26 U.S.C. 501.**
  - ~~(13)~~ **(15) To receive and distribute federal, state, local, or private grants.**
  - (16) To receive and distribute grants from charitable foundations.**
  - (17) To establish nonprofit corporations to carry out the purposes of the corporation.**
  - ~~(14)~~ **(18) To erect buildings or structures or improvements to existing buildings or structures.**
  - ~~(15)~~ **(19) To determine matters of policy regarding internal organization and operating procedures.**
  - ~~(16)~~ **(20) To do the following:**
    - (A) Adopt a schedule of reasonable charges for nonresidents of the county for medical and mental health services.

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(B) Collect the charges from the patient or from the governmental unit where the patient resided at the time of the service.

(C) Require security for the payment of the charges.

~~(17)~~ **(21)** To adopt a schedule of and to collect reasonable charges for patients able to pay in full or in part.

~~(18)~~ **(22)** To enforce Indiana laws, administrative rules, and the code of the health and hospital corporation of the county.

~~(19)~~ **(23)** To purchase supplies, materials, and equipment for the corporation.

~~(20)~~ **(24)** To employ personnel and establish personnel policies to carry out the duties, functions, and powers of the corporation.

~~(21)~~ **(25)** To employ attorneys admitted to practice law in Indiana.

~~(22)~~ **(26)** To acquire, erect, equip, and operate the corporation's hospitals, medical facilities, and mental health facilities.

~~(23)~~ **(27)** To dispose of surplus property in accordance with a policy by the board.

~~(24)~~ **(28)** To determine the duties of officers and division directors.

~~(25)~~ **(29)** To fix the compensation of the officers and division directors.

~~(26)~~ **(30)** To carry out the purposes and object of the corporation.

~~(27)~~ **(31)** To obtain loans for hospital expenses in amounts and upon terms agreeable to the board. The board may secure the loans by pledging accounts receivable or other security in hospital funds.

~~(28)~~ **(32)** To establish fees for licenses, services, and records. The corporation may accept payment by credit card for fees.

(b) The board shall exercise the board's powers and duties in a manner consistent with Indiana law, administrative rules, and the code of the health and hospital corporation of the county.

SECTION 6. IC 16-22-8-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 35. The ~~board~~ **corporation** shall keep accounts and records of receipts and disbursements as prescribed by the state board of accounts.

SECTION 7. IC 36-1-6-2, AS AMENDED BY P.L.131-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) If a condition violating an ordinance of a municipal corporation exists on real property, ~~officers~~ **employees or contractors** of ~~the a~~ a municipal corporation may enter onto that property and take appropriate action to bring the property into compliance with the ordinance. However, before action to bring

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compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity of at least ten (10) days but not more than sixty (60) days to bring the property into compliance. If the municipal corporation takes action to bring compliance, the expenses incurred by the municipal corporation to bring compliance constitute a lien against the property. The lien attaches when notice of the lien is recorded in the office of the county recorder in which the property is located. The lien is superior to all other liens except liens for taxes, in an amount that does not exceed:

(1) two thousand five hundred dollars (\$2,500) for real property that:

- (A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or
- (B) is unimproved; or

(2) ten thousand dollars (\$10,000) for all other real property not described in subdivision (1).

(b) The municipal corporation may issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

(c) A bill issued under subsection (b) is delinquent if the owner of the real property fails to pay the bill within thirty (30) days after the date of the issuance of the bill.

(d) Whenever a municipal corporation determines it necessary, the officer charged with the collection of fees and penalties for the municipal corporation shall prepare:

(1) a list of delinquent fees and penalties that are enforceable under this section, including:

- (A) the name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;
- (B) a description of the premises, as shown on the records of the county auditor; and
- (C) the amount of the delinquent fees and the penalty; or

(2) an instrument for each lot or parcel of real property on which the fees are delinquent.

(e) The officer shall record a copy of each list or each instrument with the county recorder, who shall charge a fee for recording the list or instrument under the fee schedule established in IC 36-2-7-10.

(f) The amount of a lien shall be placed on the tax duplicate by the auditor. The total amount, including any accrued interest, shall be collected in the same manner as delinquent taxes are collected and

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shall be disbursed to the general fund of the municipal corporation.

(g) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the municipal corporation shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not later than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be considered a bad debt loss.

(h) The municipal corporation 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 written demand from the purchaser or a representative of the title insurance company or the title insurance company's agent that issued a title insurance policy to 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.

(i) The county auditor shall remove the fees, penalties, and service charges that were not recorded before a recorded conveyance to a subsequent owner upon receipt of a copy of the written demand under subsection (h).

SECTION 8. IC 36-7-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) The enforcement authority may issue an order requiring action relative to any unsafe premises, including:

- (1) vacating of an unsafe building;
- (2) sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;
- (3) extermination of vermin in and about the unsafe premises;
- (4) removal of trash, debris, or fire hazardous material, **or a public health hazard** in and about the unsafe premises;
- (5) repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under IC 4-22-2, or an ordinance;
- (6) removal of part of an unsafe building;
- (7) removal of an unsafe building; and

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(8) requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:

(A) sealing against intrusion by unauthorized persons and the effects of weather;

(B) exterior improvements to make the building compatible in appearance with other buildings in the area; and

(C) continuing maintenance and upkeep of the building and premises;

in accordance with standards established by ordinance.

Notice of the order must be given under section 25 of this chapter. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(b) The order must contain:

(1) the name of the person to whom the order is issued;

(2) the legal description or address of the unsafe premises that are the subject of the order;

(3) the action that the order requires;

(4) the period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;

(5) if a hearing is required, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;

(6) if a hearing is not required, a statement that an order under subsection (a)(2), (a)(3), (a)(4), or (a)(5) becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten (10) day period;

(7) a statement briefly indicating what action can be taken by the enforcement authority if the order is not complied with;

(8) a statement indicating the obligation created by section 27 of this chapter relating to notification of subsequent interest holders and the enforcement authority; and

(9) the name, address, and telephone number of the enforcement authority.

(c) The order must allow a sufficient time, of at least ten (10) days,

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but not more than sixty (60) days, from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within thirty (30) days.

(d) The order expires two (2) years from the day the notice of the order is given, unless one (1) or more of the following events occurs within that two (2) year period:

- (1) A complaint requesting judicial review is filed under section 9 of this chapter.
- (2) A contract for action required by the order is let at public bid under section 11 of this chapter.
- (3) A civil action is filed under section 17 of this chapter.

SECTION 9. IC 33-36-3-4 IS REPEALED [EFFECTIVE JULY 1, 2006].

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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