



February 22, 2008

**ENGROSSED
HOUSE BILL No. 1061**

DIGEST OF HB 1061 (Updated February 20, 2008 11:39 am - DI 106)

Citations Affected: IC 32-31.

Synopsis: Application of landlord-tenant statutes. Provides that the residential landlord-tenant statutes apply to a rental agreement that gives the tenant an option to purchase and that is entered into after June 30, 2008.

Effective: July 1, 2008.

Day, Foley

(SENATE SPONSORS — BRAY, LANANE)

January 8, 2008, read first time and referred to Committee on Judiciary.
January 22, 2008, reported — Do Pass.
January 28, 2008, read second time, amended, ordered engrossed.
January 29, 2008, engrossed. Read third time, passed. Yeas 83, nays 12.

SENATE ACTION

January 29, 2008, read first time and referred to Committee on Judiciary.
February 21, 2008, amended, reported favorably — Do Pass.

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EH 1061—LS 6516/DI 75+



February 22, 2008

Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1061



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 32-31-2.9-4 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. The residential
- 3 landlord-tenant statutes do not apply to any of the following
- 4 arrangements unless the arrangement was created to avoid application
- 5 of the residential landlord-tenant statutes:
- 6 (1) Residence at a rental unit owned or operated by an institution
- 7 that is directly related to detention or the provision of medical
- 8 care, maternity home care, education, counseling, religious
- 9 service, geriatric service, or a similar service.
- 10 (2) Occupancy under a contract of sale of a rental unit or the
- 11 property of which the rental unit is a part if the occupant is the
- 12 purchaser or a person who succeeds to the purchaser's interest.
- 13 **However, the residential landlord-tenant statutes apply to**
- 14 **occupancy of a rental unit under a rental agreement described**
- 15 **in IC 32-31-3-7(b).**
- 16 (3) Occupancy by a member of a fraternal or social organization
- 17 in the part of a structure operated for the benefit of the

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1 organization.

2 (4) Transient occupancy in a hotel, motel, or other lodging.

3 (5) Occupancy by an employee of a landlord whose right to

4 occupancy is conditional upon employment in or about the

5 premises.

6 (6) Occupancy by an owner of a condominium unit or a holder of

7 a proprietary lease in a cooperative.

8 (7) Occupancy under a rental agreement covering property used

9 by the occupant primarily for agricultural purposes.

10 SECTION 2. IC 32-31-3-7 IS AMENDED TO READ AS

11 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) As used in this

12 chapter, "rental agreement" means an agreement together with any

13 modifications, embodying the terms and conditions concerning the use

14 and occupancy of a rental unit.

15 (b) **The term includes an agreement, regardless of what the**

16 **agreement is called, that satisfies the following:**

17 (1) **The agreement is entered into after June 30, 2008.**

18 (2) **The agreement provides for a rental period, explicitly or**

19 **implicitly, regardless of the term of the rental period.**

20 (3) **The agreement contains an option to purchase.**

21 SECTION 3. IC 32-31-7-1 IS AMENDED TO READ AS

22 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as

23 provided in subsection (b), this chapter applies only to dwelling units

24 that are let for rent **under a rental agreement entered into** after June

25 30, 2002.

26 (b) This chapter does not apply to dwelling units that are let for rent

27 with an option to purchase **under an agreement entered into before**

28 **July 1, 2008.**

29 SECTION 4. IC 32-31-8-1 IS AMENDED TO READ AS

30 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as

31 provided in subsection (b), this chapter applies only to dwelling units

32 that are let for rent **under a rental agreement entered into** after June

33 30, 2002.

34 (b) This chapter does not apply to dwelling units that are let for rent

35 with an option to purchase **under an agreement entered into before**

36 **July 1, 2008.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1061, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LAWSON L, Chair

Committee Vote: yeas 8, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1061 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

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

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

(c) 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 the conveyance to the subsequent owner. If property is conveyed before a lien is filed, the department 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 more 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 expensed as a bad debt loss."

(d) A lien ~~attaches~~ **does not attach** against real property occupied by someone other than the owner. ~~only if the department notifies the owner within twenty (20) days after the time the user fees became sixty (60) days delinquent. However, the department must give notice to the~~

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owner only if the owner has given the department written notice of the address to which to send notice:

(e) The department 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."

Page 2, after line 36, begin a new paragraph and insert:

"SECTION 6. IC 36-9-23-32, AS AMENDED BY P.L.131-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. (a) **Except as otherwise provided in this chapter**, fees assessed against real property under this chapter or under any statute repealed by IC 19-2-5-30 constitute a lien against the property assessed. The lien is superior to all other liens except tax liens. Except as provided in ~~subsections~~ **subsection (b) and (c)**, the lien attaches when notice of the lien is filed in the county recorder's office under section 33 of this chapter.

(b) 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 the conveyance to the subsequent owner. If the property is conveyed before the lien can be filed, the municipality 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 more 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 expensed as a bad debt loss.

(c) A lien ~~attaches~~ **does not attach** against real property occupied by someone other than the owner. ~~only if the utility notified the owner within twenty (20) days after the time the utility fees became sixty (60) days delinquent. However, the utility is required to give notice to the owner only if the owner has given the general office of the utility written notice of the address to which the owner's notice is to be sent.~~

(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

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purchaser as a user, lessee, or previous owner, and that the purchaser has not been paid by the seller for the delinquent fees.

SECTION 7. [EFFECTIVE UPON PASSAGE] IC 8-1.5-5-29 and IC 36-9-23-32, both as amended by this act, apply only to fees and penalties incurred by an occupant of real property after the effective date of this SECTION. A reference in any law to the collection or enforcement of rates, fees, charges, or penalties in the manner provided by IC 36-9-23 or IC 36-9-23-32 shall be treated as not imposing a lien for the collection or enforcement of rates, fees, charges, or penalties in cases described in IC 36-9-23-32(c).

SECTION 8. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1061 as printed January 23, 2008.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1061, 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 1, delete lines 1 through 17.

Page 2, delete lines 1 through 18.

Page 3, delete lines 30 through 42.

Delete page 4.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1061 as reprinted January 29, 2008.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

