



Reprinted
January 29, 2008

HOUSE BILL No. 1061

DIGEST OF HB 1061 (Updated January 28, 2008 4:37 pm - DI 51)

Citations Affected: IC 8-1.5; IC 32-31; IC 36-9; noncode.

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. Eliminates the lien on property for delinquent sewer and water charges incurred by a tenant who is not the owner of the property.

Effective: Upon passage; July 1, 2008.

Day, Foley

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.

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HB 1061—LS 6516/DI 75+



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.

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

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

12 (c) A fee is not enforceable as a lien against a subsequent owner of
13 property unless the lien for the fee was recorded with the county
14 recorder before the conveyance to the subsequent owner. If property is
15 conveyed before a lien is filed, the department shall notify the person
16 who owned the property at the time the fee became payable. The notice
17 must inform the person that payment, including penalty fees for

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1 delinquencies, is due not more than fifteen (15) days after the date of
2 the notice. If payment is not received within one hundred eighty (180)
3 days after the date of the notice, the amount due may be expensed as a
4 bad debt loss."

5 (d) A lien ~~attaches~~ **does not attach** against real property occupied
6 by someone other than the owner. ~~only if the department notifies the~~
7 ~~owner within twenty (20) days after the time the user fees became sixty~~
8 ~~(60) days delinquent. However, the department must give notice to the~~
9 ~~owner only if the owner has given the department written notice of the~~
10 ~~address to which to send notice.~~

11 (e) The department shall release:
12 (1) liens filed with the county recorder after the recorded date of
13 conveyance of the property; and
14 (2) delinquent fees incurred by the seller;
15 upon receipt of a verified demand in writing from the purchaser. The
16 demand must state that the delinquent fees were not incurred by the
17 purchaser as a user, lessee, or previous owner and that the purchaser
18 has not been paid by the seller for the delinquent fees.

19 SECTION 2. IC 32-31-2.9-4 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. The residential
21 landlord-tenant statutes do not apply to any of the following
22 arrangements unless the arrangement was created to avoid application
23 of the residential landlord-tenant statutes:

- 24 (1) Residence at a rental unit owned or operated by an institution
25 that is directly related to detention or the provision of medical
26 care, maternity home care, education, counseling, religious
27 service, geriatric service, or a similar service.
- 28 (2) Occupancy under a contract of sale of a rental unit or the
29 property of which the rental unit is a part if the occupant is the
30 purchaser or a person who succeeds to the purchaser's interest.
31 **However, the residential landlord-tenant statutes apply to**
32 **occupancy of a rental unit under a rental agreement described**
33 **in IC 32-31-3-7(b).**
- 34 (3) Occupancy by a member of a fraternal or social organization
35 in the part of a structure operated for the benefit of the
36 organization.
- 37 (4) Transient occupancy in a hotel, motel, or other lodging.
- 38 (5) Occupancy by an employee of a landlord whose right to
39 occupancy is conditional upon employment in or about the
40 premises.
- 41 (6) Occupancy by an owner of a condominium unit or a holder of
42 a proprietary lease in a cooperative.

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1 (7) Occupancy under a rental agreement covering property used
2 by the occupant primarily for agricultural purposes.

3 SECTION 3. IC 32-31-3-7 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) As used in this
5 chapter, "rental agreement" means an agreement together with any
6 modifications, embodying the terms and conditions concerning the use
7 and occupancy of a rental unit.

8 (b) **The term includes an agreement, regardless of what the**
9 **agreement is called, that satisfies the following:**

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

11 (2) **The agreement provides for a rental period, explicitly or**
12 **implicitly, regardless of the term of the rental period.**

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

14 SECTION 4. IC 32-31-7-1 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as
16 provided in subsection (b), this chapter applies only to dwelling units
17 that are let for rent **under a rental agreement entered into** after June
18 30, 2002.

19 (b) This chapter does not apply to dwelling units that are let for rent
20 with an option to purchase **under an agreement entered into before**
21 **July 1, 2008.**

22 SECTION 5. IC 32-31-8-1 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) Except as
24 provided in subsection (b), this chapter applies only to dwelling units
25 that are let for rent **under a rental agreement entered into** after June
26 30, 2002.

27 (b) This chapter does not apply to dwelling units that are let for rent
28 with an option to purchase **under an agreement entered into before**
29 **July 1, 2008.**

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

39 (b) A fee is not enforceable as a lien against a subsequent owner of
40 property unless the lien for the fee was recorded with the county
41 recorder before the conveyance to the subsequent owner. If the property
42 is conveyed before the lien can be filed, the municipality shall notify

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1 the person who owned the property at the time the fee became payable.
2 The notice must inform the person that payment, including penalty fees
3 for delinquencies, is due not more than fifteen (15) days after the date
4 of the notice. If payment is not received within one hundred eighty
5 (180) days after the date of the notice, the amount due may be
6 expensed as a bad debt loss.

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

13 (d) The municipality shall release:
14 (1) liens filed with the county recorder after the recorded date of
15 conveyance of the property; and
16 (2) delinquent fees incurred by the seller;
17 upon receipt of a verified demand in writing from the purchaser. The
18 demand must state that the delinquent fees were not incurred by the
19 purchaser as a user, lessee, or previous owner, and that the purchaser
20 has not been paid by the seller for the delinquent fees.

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

29 SECTION 8. **An emergency is declared for this act.**

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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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