

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 2008 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1071

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 6-1.1-12.6-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.1. (a) This section applies only to a model residence that is first assessed as:**

- (1) a partially completed structure; or
- (2) a fully completed structure;

**for the assessment date in 2008 and was still a model residence on January 1, 2009.**

**(b) Except as provided in subsection (c) and sections 4, 5, and 6 of this chapter, and subject to sections 7 and 8 of this chapter, an owner of a model residence is entitled to a deduction from the assessed value of the model residence in the amount of fifty percent (50%) of the assessed value of the model residence for the 2008 assessment date. A deduction under this section counts as a deduction for an assessment date for purposes of section 2 of this chapter.**

**(c) A property owner that qualifies for the deduction under this section must file a statement containing the information required by subsection (d) with the county auditor to claim the deduction for the 2008 assessment date in the manner prescribed in emergency rules, which shall be adopted by the department of local government finance under IC 4-22-2. The township assessor shall**

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verify each statement filed under this section, and the county auditor shall:

- (1) make the deductions; and
- (2) notify the county property tax assessment board of appeals of all deductions approved;

under this section. If the property taxes due for the 2008 assessment date have been paid, the person that paid the property taxes is entitled to a refund of the amount that has been overpaid after applying the deduction under this section. A property owner is not required to apply for a refund due under this section. The county auditor shall, without an appropriation being required, issue a warrant to the property owner payable from the county general fund for the amount of the refund due the property owner. In the June or December settlement and apportionment of taxes, or both, immediately following a refund made under this section the county auditor shall deduct the amount refunded from the gross tax collections of the taxing units for which the refunded taxes were originally paid and shall pay the amount so deducted into the general fund of the county. However, the county auditor shall make the deductions and payments required by this subsection not later than the December settlement and apportionment.

(d) The statement referred to in subsection (c) must be verified under penalties for perjury and must contain the following information:

- (1) The assessed value of the real property for which the person is claiming the deduction.
- (2) The full name and complete business address of the person claiming the deduction.
- (3) The complete address and a brief description of the real property for which the person is claiming the deduction.
- (4) The name of any other county in which the person has applied for a deduction under this section for that assessment date.
- (5) The complete address and a brief description of any other real property for which the person has applied for a deduction under this section for the 2008 assessment date.

(e) This section expires January 1, 2011.

SECTION 2. IC 32-25.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

**ARTICLE 25.5. HOMEOWNERS ASSOCIATIONS**

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**Chapter 1. Applicability**

**Sec. 1. This article applies to the following:**

- (1) A homeowners association established after June 30, 2009.**
- (2) A homeowners association established before July 1, 2009:**
  - (A) if a majority of the members of the homeowners association elect to be governed by this article; or**
  - (B) if the number of members required by the homeowners association's governing documents elect to be governed by this article if a different number of members other than the number established in clause (A) is required by the governing documents.**

**Chapter 2. Definitions**

**Sec. 1. The definitions in this chapter apply throughout this article.**

**Sec. 2. "Board" refers to the board of directors of a homeowners association.**

**Sec. 3. "Governing documents" includes:**

- (1) the articles of incorporation and bylaws of a homeowners association and all adopted amendments to the articles of incorporation and bylaws; and**
- (2) any applicable declaration of plat.**

**Sec. 4. "Homeowners association" means a corporation or another entity that:**

- (1) is organized and operated exclusively for the benefit of two**
- (2) or more persons who each own a dwelling in fee simple;**
- (2) acts, in accordance with the articles, bylaws, or other documents governing the corporation or entity, to:**
  - (A) acquire, transfer, manage, repair, maintain, or engage in construction on or in the land and improvements on the land related to the use of the dwellings owned by the members of the corporation or entity;**
  - (B) purchase insurance to cover a casualty or an activity on or in the land and improvements on the land;**
  - (C) engage in an activity incidental to an activity described in clause (A) or (B); or**
  - (D) engage in more than one (1) of the activities described in clauses (A) through (C); and**
- (3) may be governed by a board that serves the purpose of setting policy and controlling or otherwise overseeing the activities or functional responsibilities of the corporation or entity.**

**Sec. 5. "Subdivision" means the division of a parcel of land into**

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lots, parcels, tracts, units, or interests in the manner defined and prescribed by a subdivision control ordinance adopted by a legislative body under IC 36-7-4.

**Chapter 3. Homeowners Associations**

**Sec. 1. (a) A homeowners association shall maintain:**

- (1) a current roster of all members of the association; and**
- (2) the mailing address and legal description for each member of the association.**

**(b) The homeowners association shall also maintain any electronic mail addresses or facsimile (fax) numbers of those members who have consented to receive notice by electronic mail or facsimile (fax). Electronic mail addresses and facsimile (fax) numbers provided by a member to receive notice by electronic mail or facsimile (fax) shall be removed from the association's records when the member revokes consent to receive notice by electronic mail or facsimile (fax). However, the association is not liable for an erroneous disclosure of an electronic mail address or a facsimile (fax) number for receiving notices.**

**(c) The mailing addresses and legal descriptions maintained by a homeowners association under subsection (a):**

- (1) shall be made available to a member of the homeowners association upon request;**
- (2) may be used by a member of the homeowners association only for a purpose related to the operation of the homeowners association; and**
- (3) may not be used by a member of the homeowners association for personal reasons.**

**(d) Except as provided in subsection (c), a homeowners association may not sell, exchange, or otherwise transfer information maintained by the homeowners association under this section to any person.**

**Sec. 2. (a) In addition to any other meeting held by a board, a board shall hold a special meeting of the members of a homeowners association if at least ten percent (10%) of the members of the homeowners association submit to the board at least one (1) written demand for the special meeting that:**

- (1) describes the purpose for which the meeting is to be held; and**
- (2) is signed by the members requesting the special meeting.**

**(b) If a board does not send out a notice of the date, time, and the place for a special meeting not more than thirty (30) days after the date the board receives a valid written demand for the special**

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meeting under subsection (a), a member of the homeowners association who signed the written demand may:

- (1) set the date, time, and place for the special meeting; and
- (2) send out the notice for the special meeting to the other members.

**Sec. 3. (a) A homeowners association shall prepare an annual budget.**

**(b) The annual budget must reflect:**

- (1) the estimated revenues and expenses for the budget year; and
- (2) the estimated surplus or deficit as of the end of the current budget year.

**(c) The homeowners association shall provide each member of the homeowners association with:**

**(1) a:**

- (A) copy of the proposed annual budget; or
- (B) written notice that a copy of the proposed annual budget is available upon request at no charge to the member; and

**(2) a written notice of the amount of any increase or decrease in a regular annual assessment paid by the members that would occur if the proposed annual budget is approved; before the homeowners association meeting held under subsection (d).**

**(d) Subject to subsection (f), a homeowners association budget must be approved at a meeting of the homeowners association members by a majority of the members of the homeowners association in attendance at a meeting called and conducted in accordance with the requirements of the homeowners association's governing documents.**

**(e) For purposes of this section, a member of a homeowners association is considered to be in attendance at a meeting if the member attends:**

- (1) in person;
- (2) by proxy; or
- (3) by any other means allowed under:
  - (A) state law; or
  - (B) the governing documents of the homeowners association.

**(f) If the number of members of the homeowners association in attendance at a meeting held under subsection (d) does not constitute a quorum as defined in the governing documents of the**

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homeowners association, the board may adopt an annual budget for the homeowners association for the ensuing year in an amount that does not exceed one hundred percent (100%) of the amount of the last approved homeowners association annual budget. However, the board may adopt an annual budget for the homeowners association for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved homeowners association annual budget if the governing documents of the homeowners association allow the board to adopt an annual budget under this subsection for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved homeowners association annual budget.

Sec. 4. (a) This section does not apply to a contract entered into by a board that would resolve, settle, or otherwise satisfy an act of enforcement against a homeowners association for violating a state or local law.

(b) A board may not enter into any contract that would result in a new assessment or the increase in an existing assessment payable by the affected members of the homeowners association in the amount of more than five hundred dollars (\$500) per year for each affected member of the homeowners association unless:

- (1) the board holds at least two (2) homeowners association meetings concerning the contract; and
- (2) the contract is approved by the affirmative vote of at least two-thirds (2/3) of the affected members of the homeowners association.

(c) A board shall give notice of the first homeowners association meeting held under subsection (b):

- (1) to each member of the homeowners association; and
- (2) at least seven (7) calendar days before the date the meeting occurs.

Sec. 5. (a) This section does not apply to money borrowed by a homeowners association that is needed to:

- (1) resolve, settle, or otherwise satisfy an act of enforcement against the homeowners association for violating a state or local law; or
- (2) address an emergency that affects the public health, safety, or welfare.

(b) A homeowners association may not borrow money during any calendar year on behalf of the homeowners association in an amount that exceeds the greater of:

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- (1) five thousand dollars (\$5,000) during any calendar year;**
- or**
- (2) if the homeowners association operated under an annual budget in the previous calendar year, an amount equal to at least ten percent (10%) of the previous annual budget of the homeowners association;**

**unless borrowing the money is approved by the affirmative vote of a majority of the members of the homeowners association voting under this section.**

**(c) A person who owns a lot, parcel, tract, unit, or interest in land in a subdivision may cast one (1) vote under this section for each lot, parcel, tract, unit, or interest in land in the subdivision that is owned by the person unless the governing documents provide for a different voting procedure.**

**(d) A vote held under this section must be conducted by paper ballot.**

**(e) A homeowners association shall distribute paper ballots to persons eligible to vote under this section at least thirty (30) days before the date the votes are to be opened and counted.**

**(f) Votes cast under this section shall be opened and counted at a public meeting held by the homeowners association.**

**Sec. 6. The governing documents must include grievance resolution procedures that apply to all members of the homeowners association and the board.**

**Sec. 7. A homeowners association may not suspend the voting rights of a member for nonpayment of any assessments unless:**

- (1) the governing documents provide for suspension; and**
- (2) the assessments are delinquent for more than six (6) months.**

**SECTION 3. IC 32-28-14-8, AS ADDED BY P.L.135-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) A homeowners association may enforce a homeowners association lien by filing a complaint in the circuit or superior court of the county where the real estate that is the subject of the lien is located. The complaint:**

- (1) may not be filed earlier than one (1) year; and**
- (2) must be filed not later than ~~one (1) year~~ five (5) years;**

**after the date the statement and notice of intention to hold a lien was recorded under section 6 of this chapter.**

**(b) If a lien is not enforced within the time set forth in subsection (a), the lien is void.**

**(c) If a lien is foreclosed under this chapter, the court rendering**

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judgment shall order a sale to be made of the real estate subject to the lien. The officers making the sale shall sell the real estate without any relief from valuation or appraisal laws.

SECTION 4. IC 32-28-14-9, AS ADDED BY P.L.135-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) A homeowners association lien under this chapter is void if both of the following occur:

(1) The owner of the real estate subject to the homeowners association lien or any person or corporation having an interest in the real estate, including a mortgagee or a lienholder, provides written notice to the owner or holder of the lien to file an action to foreclose the lien.

(2) The owner or holder of the lien fails to file an action to foreclose the lien in the county where the real estate is located within ~~thirty (30) days~~ **one (1) year** after the date the owner or holder of the lien received the notice described in subdivision (1). However, this section does not prevent the claim from being collected as other claims are collected by law.

(b) A person who gives notice under subsection (a)(1) by registered or certified mail to the owner or holder of the homeowners association lien at the address given in the recorded statement may file an affidavit of service of the notice to file an action to foreclose the lien with the recorder of the county in which the real estate is located. The affidavit must state the following:

- (1) The facts of the notice.
- (2) That more than ~~thirty (30) days~~ **have one (1) year** has passed since the notice was received by the owner or holder of the lien.
- (3) That an action for foreclosure of the lien is not pending.
- (4) That an unsatisfied judgment has not been rendered on the lien.

(c) The recorder shall record the affidavit of service in the miscellaneous record book of the recorder's office. When the recorder records the affidavit under this subsection, the real estate described in the homeowners association lien is released from the lien.

(d) An affidavit recorded under subsection (c) must cross reference the lien.

**SECTION 5. An emergency is declared for this act.**

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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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