
SENATE BILL No. 255

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-31; IC 34-24-1-1.

Synopsis: Landlord-tenant agreements. Allows a landlord to terminate immediately the rental agreement of a person charged with a criminal offense committed on the rental premises. Authorizes the landlord to obtain an emergency possessory order to evict a tenant charged with committing a criminal offense on the rental property. Permits the civil forfeiture of rental property or receipts owned or possessed by a landlord if the landlord knowingly fails to report the commission of a criminal offense on the rental property or if the landlord receives rent that the landlord knows or reasonably should have known was derived from criminal activity committed on the rental property. Makes conforming amendments.

Effective: July 1, 2009.

Breaux

January 7, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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First Regular Session 116th General Assembly (2009)

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.

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SENATE BILL No. 255



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 32-31-2.9-2, AS AMENDED BY P.L.22-2007,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 2. As used in this chapter, "residential
4 landlord-tenant statute" refers to any of the following:

- 5 (1) IC 32-31-3.
- 6 (2) IC 32-31-4.
- 7 (3) IC 32-31-5.
- 8 (4) IC 32-31-6.
- 9 (5) IC 32-31-7.
- 10 (6) IC 32-31-8.
- 11 (7) IC 32-31-9.
- 12 **(8) IC 32-31-10.**

13 SECTION 2. IC 32-31-6-3 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The following may
15 file a petition for an emergency possessory order under this chapter:

- 16 (1) A tenant, if the landlord has violated IC 32-31-5-6.
- 17 (2) A landlord, if the tenant has:



- 1 (A) committed or threatens to commit waste to the rental unit;
- 2 or
- 3 (B) been charged with committing a felony or
- 4 misdemeanor on the rental premises.

5 SECTION 3. IC 32-31-6-4 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Except as
 7 provided in subsection (b), a petition for an order under this chapter
 8 must:

- 9 (1) include an allegation specifying:
 - 10 (A) the crime, violation, act, or omission caused or threatened
 - 11 by a landlord or tenant; and
 - 12 (B) the nature of the specific immediate and serious:
 - 13 (i) injury;
 - 14 (ii) loss; or
 - 15 (iii) damage;
 - 16 that the landlord or tenant has suffered or will suffer if the
 - 17 violation, act, or omission is not enjoined; and
 - 18 (2) be sworn to by the petitioner.

19 (b) A landlord who seeks an emergency possessory order on the
 20 grounds that the tenant has been charged with committing a felony
 21 or misdemeanor on the rental premises is not required to show that
 22 the landlord will suffer immediate and serious injury, loss, or
 23 damage.

24 SECTION 4. IC 32-31-6-7 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) As used in this
 26 section, "waste" does not include failure to pay rent.

- 27 (b) At the emergency hearing, if the court finds:
 - 28 (1) probable cause to believe that the tenant has:
 - 29 (A) committed or threatens to commit waste to the rental unit;
 - 30 or
 - 31 (B) been charged with a felony or misdemeanor committed
 - 32 on the rental premises; and
 - 33 (2) that the landlord has suffered or will suffer immediate and
 - 34 serious:
 - 35 (A) injury;
 - 36 (B) loss; or
 - 37 (C) damage;

38 the court shall issue an order under subsection (c). However, if the
 39 court finds probable cause to believe that the tenant has been
 40 charged with a felony or misdemeanor committed on the rental
 41 premises, the court shall issue an order under subsection (c)
 42 without a showing that the landlord will suffer immediate and

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serious injury, loss, or damage.

(c) If the court makes a finding under subsection (b), the court shall order the tenant to do either or both of the following:

- (1) Return possession of the dwelling unit to the landlord.
- (2) Refrain from committing waste to the dwelling unit.

(d) The court may make other orders that the court considers just under the circumstances, including setting a subsequent hearing at the request of a party to adjudicate related claims between the parties.

SECTION 5. IC 32-31-10 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 10. Criminal Activity on Rental Premises

Sec. 1. (a) This chapter applies only to a rental agreement for a dwelling unit that is entered into or renewed after June 30, 2009.

(b) This chapter applies to a landlord or tenant only with respect to a rental agreement for a dwelling unit that is entered into or renewed after June 30, 2009.

(c) A waiver of this chapter by a landlord or current or former tenant, by contract or otherwise, is void.

Sec. 2. Except as otherwise provided in this chapter, the definitions in IC 32-31-3 apply throughout this chapter.

Sec. 3. As used in this chapter, "criminal activity" means the commission of a felony or misdemeanor.

Sec. 4. As used in this chapter, "dwelling unit" has the meaning set forth in IC 32-31-5-3.

Sec. 5. A landlord who receives notice that a tenant has been charged with a felony or misdemeanor that is alleged to have been committed on the rental premises may terminate immediately the rental agreement. The landlord may seek an emergency possessory order under IC 32-31-6.

SECTION 6. IC 34-24-1-1, AS AMENDED BY P.L.114-2008, SECTION 2, AND AS AMENDED BY P.L.119-2008, SECTION 13, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The following may be seized:

- (1) All vehicles (as defined by IC 35-41-1), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:
 - (A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:
 - (i) Dealing in or manufacturing cocaine or a narcotic drug

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- 1 (IC 35-48-4-1).
- 2 (ii) Dealing in methamphetamine (IC 35-48-4-1.1).
- 3 (iii) Dealing in a schedule I, II, or III controlled substance
- 4 (IC 35-48-4-2).
- 5 (iv) Dealing in a schedule IV controlled substance
- 6 (IC 35-48-4-3).
- 7 (v) Dealing in a schedule V controlled substance
- 8 (IC 35-48-4-4).
- 9 (vi) Dealing in a counterfeit substance (IC 35-48-4-5).
- 10 (vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).
- 11 (viii) Possession of methamphetamine (IC 35-48-4-6.1).
- 12 (ix) Dealing in paraphernalia (IC 35-48-4-8.5).
- 13 (x) Dealing in marijuana, hash oil, or hashish
- 14 (IC 35-48-4-10).
- 15 (B) Any stolen (IC 35-43-4-2) or converted property
- 16 (IC 35-43-4-3) if the retail or repurchase value of that property
- 17 is one hundred dollars (\$100) or more.
- 18 (C) Any hazardous waste in violation of ~~IC 13-30-10-4~~
- 19 *IC 13-30-10-1.5*.
- 20 (D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass
- 21 destruction (as defined in IC 35-41-1-29.4) used to commit,
- 22 used in an attempt to commit, or used in a conspiracy to
- 23 commit an offense under IC 35-47 as part of or in furtherance
- 24 of an act of terrorism (as defined by IC 35-41-1-26.5).
- 25 (2) All money, negotiable instruments, securities, weapons,
- 26 communications devices, or any property used to commit, used in
- 27 an attempt to commit, or used in a conspiracy to commit an
- 28 offense under IC 35-47 as part of or in furtherance of an act of
- 29 terrorism or commonly used as consideration for a violation of
- 30 IC 35-48-4 (other than items subject to forfeiture under
- 31 IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):
- 32 (A) furnished or intended to be furnished by any person in
- 33 exchange for an act that is in violation of a criminal statute;
- 34 (B) used to facilitate any violation of a criminal statute; or
- 35 (C) traceable as proceeds of the violation of a criminal statute.
- 36 (3) Any portion of real or personal property purchased with
- 37 money that is traceable as a proceed of a violation of a criminal
- 38 statute.
- 39 (4) A vehicle that is used by a person to:
- 40 (A) commit, attempt to commit, or conspire to commit;
- 41 (B) facilitate the commission of; or
- 42 (C) escape from the commission of;

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- 1 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
- 2 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
- 3 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
- 4 under IC 35-47 as part of or in furtherance of an act of terrorism.
- 5 (5) Real property owned by a person who uses it to commit any of
- 6 the following as a Class A felony, a Class B felony, or a Class C
- 7 felony:
- 8 (A) Dealing in or manufacturing cocaine or a narcotic drug
- 9 (IC 35-48-4-1).
- 10 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
- 11 (C) Dealing in a schedule I, II, or III controlled substance
- 12 (IC 35-48-4-2).
- 13 (D) Dealing in a schedule IV controlled substance
- 14 (IC 35-48-4-3).
- 15 (E) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
- 16 (6) Equipment and recordings used by a person to commit fraud
- 17 under IC 35-43-5-4(10).
- 18 (7) Recordings sold, rented, transported, or possessed by a person
- 19 in violation of IC 24-4-10.
- 20 (8) Property (as defined by IC 35-41-1-23) or an enterprise (as
- 21 defined by IC 35-45-6-1) that is the object of a corrupt business
- 22 influence violation (IC 35-45-6-2).
- 23 (9) Unlawful telecommunications devices (as defined in
- 24 IC 35-45-13-6) and plans, instructions, or publications used to
- 25 commit an offense under IC 35-45-13.
- 26 (10) Any equipment, *including computer equipment and cellular*
- 27 *telephones*, used *for* or intended for use in preparing,
- 28 photographing, recording, videotaping, digitizing, printing,
- 29 copying, or disseminating matter in violation of ~~IC 35-42-4-4~~
- 30 *IC 35-42-4*.
- 31 (11) Destructive devices used, possessed, transported, or sold in
- 32 violation of IC 35-47.5.
- 33 (12) Tobacco products that are sold in violation of IC 24-3-5,
- 34 tobacco products that a person attempts to sell in violation of
- 35 IC 24-3-5, and other personal property owned and used by a
- 36 person to facilitate a violation of IC 24-3-5.
- 37 (13) Property used by a person to commit counterfeiting or
- 38 forgery in violation of IC 35-43-5-2.
- 39 (14) After December 31, 2005, if a person is convicted of an
- 40 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
- 41 following real or personal property:
- 42 (A) Property used or intended to be used to commit, facilitate,

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or promote the commission of the offense.
(B) Property constituting, derived from, or traceable to the gross proceeds that the person obtained directly or indirectly as a result of the offense.

(15) Except as provided in subsection (e), a motor vehicle used by a person who operates the motor vehicle:

(A) while intoxicated, in violation of IC 9-30-5-1 through IC 9-30-5-5, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

- (i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or
- (ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction; or

(B) on a highway while the person's driver's license is suspended in violation of IC 9-24-19-2 through IC 9-24-19-4, if in the previous five (5) years the person has two (2) or more prior unrelated convictions:

- (i) for operating a motor vehicle while intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5; or
- (ii) for an offense that is substantially similar to IC 9-30-5-1 through IC 9-30-5-5 in another jurisdiction.

If a court orders the seizure of a motor vehicle under this subdivision, the court shall transmit an order to the bureau of motor vehicles recommending that the bureau not permit a motor vehicle to be registered in the name of the person whose motor vehicle was seized until the person possesses a current driving license (as defined in IC 9-13-2-41).

(16) The following property owned by a landlord:

(A) Real property owned by a landlord if the landlord knowingly fails to report to a law enforcement agency criminal activity committed on the rental premises.

(B) Money or other property received in exchange for the provision of rental property if the landlord knows or reasonably should have known that the money or other property was derived from the commission of a felony or misdemeanor committed on the rental premises.

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

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1 (c) Equipment under subsection (a)(10) may not be seized unless it
 2 can be proven by a preponderance of the evidence that the owner of the
 3 equipment knowingly permitted the equipment to be used to engage in
 4 conduct that subjects it to seizure under subsection (a)(10).

5 (d) Money, negotiable instruments, securities, weapons,
 6 communications devices, or any property commonly used as
 7 consideration for a violation of IC 35-48-4 found near or on a person
 8 who is committing, attempting to commit, or conspiring to commit any
 9 of the following offenses shall be admitted into evidence in an action
 10 under this chapter as prima facie evidence that the money, negotiable
 11 instrument, security, or other thing of value is property that has been
 12 used or was to have been used to facilitate the violation of a criminal
 13 statute or is the proceeds of the violation of a criminal statute:

14 (1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a
 15 narcotic drug).

16 (2) IC 35-48-4-1.1 (dealing in methamphetamine).

17 (3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled
 18 substance).

19 (4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

20 (5) IC 35-48-4-4 (dealing in a schedule V controlled substance)
 21 as a Class B felony.

22 (6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a
 23 Class A felony, Class B felony, or Class C felony.

24 (7) IC 35-48-4-6.1 (possession of methamphetamine) as a Class
 25 A felony, Class B felony, or Class C felony.

26 (8) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as
 27 a Class C felony.

28 (e) A motor vehicle operated by a person who is not:

29 (1) an owner of the motor vehicle; or

30 (2) the spouse of the person who owns the motor vehicle;

31 is not subject to seizure under subsection (a)(15) unless it can be
 32 proven by a preponderance of the evidence that the owner of the
 33 vehicle knowingly permitted the vehicle to be used to engage in
 34 conduct that subjects it to seizure under subsection (a)(15).

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