
HOUSE BILL No. 1071

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-25.5; IC 32-28-14.

Synopsis: Homeowners associations. Prohibits a homeowners association from incurring indebtedness or liability on behalf of the homeowners association in an amount that exceeds \$5,000 during any calendar year unless incurring the indebtedness or liability is approved by the affirmative vote of a majority of members of the homeowners association. Specifies the procedures that must be followed when conducting the vote. Provides that all sums assessed by a homeowners association but unpaid for the share of the common expenses chargeable to an owner of real estate are not enforceable as a homeowners association lien on the real estate. Voids liens established and recorded under the law concerning homeowners association liens after the law became effective. Repeals other provisions concerning establishment and enforcement of homeowners association liens.

Effective: July 1, 2009.

Cheatham

January 7, 2009, read first time and referred to Committee on Judiciary.

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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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HOUSE BILL No. 1071



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 32-25.5 IS ADDED TO THE INDIANA CODE AS
 2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 3 2009]:
 4 **ARTICLE 25.5. HOMEOWNERS ASSOCIATIONS**
 5 **Chapter 1. Homeowners Associations**
 6 **Sec. 1. This chapter applies to the following:**
 7 (1) **A homeowners association established after June 30, 2009.**
 8 (2) **A homeowners association established before July 1, 2009,**
 9 **unless fulfilling the requirements of this chapter would impair**
 10 **the obligation of a contract in existence on July 1, 2009.**
 11 **Sec. 2. As used in this chapter, "homeowners association"**
 12 **means all the owners of real estate in a subdivision acting as an**
 13 **entity in accordance with any:**
 14 (1) **bylaws;**
 15 (2) **covenants; or**
 16 (3) **other written instruments;**
 17 **of the homeowners association.**



1 **Sec. 3. As used in this chapter, "real estate" means a right, a**
2 **title, or an interest in real property.**

3 **Sec. 4. As used in this chapter, "subdivision" means the division**
4 **of a parcel of land into lots, parcels, tracts, units, or interests in the**
5 **manner defined and prescribed by a subdivision control ordinance**
6 **adopted by a legislative body under IC 36-7-4.**

7 **Sec. 5. (a) A homeowners association may not incur**
8 **indebtedness or liability on behalf of the homeowners association**
9 **in an amount that exceeds five thousand dollars (\$5,000) during**
10 **any calendar year unless incurring the indebtedness or liability is**
11 **approved by the affirmative vote of a majority of the members of**
12 **the homeowners association voting under this section.**

13 **(b) A person who owns a lot, parcel, tract, unit, or interest in**
14 **land in a subdivision may cast only one (1) vote under this section**
15 **regardless of the:**

16 **(1) total number of lots, parcels, tracts, units, or interests in**
17 **land the person owns in the subdivision; or**

18 **(2) total number of people who reside on any lot, parcel, tract,**
19 **unit, or interest in land the person owns in the subdivision.**

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

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

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

27 **SECTION 2. IC 32-28-14-5, AS ADDED BY P.L.135-2007,**
28 **SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
29 **JULY 1, 2009]: Sec. 5. ~~(a)~~ All sums assessed by a homeowners**
30 **association but unpaid for the share of the common expenses**
31 **chargeable to an owner of real estate in a subdivision ~~constitute~~ are not**
32 **enforceable as a homeowners association lien on the real estate.**
33 **effective as provided in section 6 of this chapter.**

34 **(b) The priority of a homeowners association lien is established on**
35 **the date the notice of the lien is recorded under section 6 of this**
36 **chapter.**

37 **(c) A notice of lien may not be recorded under subsection (a) unless**
38 **the notice of lien:**

39 **(+) contains:**

40 **(A) the name and address of the homeowners association;**

41 **(B) the address and legal description of the property that is**
42 **subject to the lien;**

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- 1 (C) the name of the owner of the property that is subject to the
- 2 lien; and
- 3 (D) the amount of the lien; and
- 4 (2) is:
- 5 (A) signed by an officer of the homeowners association; and
- 6 (B) acknowledged as in the case of deeds.

7 SECTION 3. IC 32-28-14-6, AS ADDED BY P.L.135-2007,
 8 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2009]: Sec. 6. (a) A homeowners association lien **established**
 10 **or recorded** under this chapter attaches to real estate upon the
 11 recording of a notice of lien by the homeowners association in the
 12 office of the recorder of the county in which the real estate is located:

13 (b) A homeowners association lien under this chapter attaches on
 14 the date of the recording of the notice of the lien under subsection (a)
 15 and does not relate back to:

- 16 (1) a date specified in the bylaws, the covenants, or another
- 17 written instrument of the homeowners association; or
- 18 (2) the date the common expenses were assessed.

19 **after June 30, 2007, and before July 1, 2009:**

- 20 (1) is void; and
- 21 (2) may not be enforced as a homeowners association lien on
- 22 real estate.

23 SECTION 4. THE FOLLOWING ARE REPEALED [EFFECTIVE
 24 JULY 1, 2009]: IC 32-28-14-7; IC 32-28-14-8; IC 32-28-14-9.

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