

HOUSE BILL No. 1013

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1-11.

Synopsis: Disposal of property acquired by tax default. Requires a political subdivision to offer to sell or transfer real property acquired by tax default to an abutting landowner.

Effective: July 1, 2020.

Saunders

January 6, 2020, read first time and referred to Committee on Local Government.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1013

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 36-1-11-5, AS AMENDED BY P.L.28-2017,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 5. (a) As used in this section, "abutting
4 landowner" means an owner of property that:
5 (1) touches, borders on, or is contiguous to the property that is the
6 subject of sale; and
7 (2) does not constitute a:
8 (A) public easement; or
9 (B) public right-of-way.
10 (b) As used in this section, "offering price" means the appraised
11 value of real property plus all costs associated with the sale, including:
12 (1) appraisal fees;
13 (2) title insurance;
14 (3) recording fees; and
15 (4) advertising costs.
16 (c) The disposing agent may proceed under this section if either of
17 the following applies:



- 1 (1) The assessed value of a tract of real property to be sold is less
 2 than:
 3 (A) except as provided in clause (B) and subsection (i), fifteen
 4 thousand dollars (\$15,000); or
 5 (B) an amount greater than fifteen thousand dollars (\$15,000)
 6 that is specified in an ordinance or a resolution adopted by the
 7 fiscal body of the political subdivision under subsection (i);
 8 based on the most recent assessment of the tract or of the tract of
 9 which it was a part before it was acquired.
 10 (2) If the property has not been assessed and the property was
 11 previously part of a public right-of-way.
 12 (d) The disposing agent may determine that:
 13 (1) the highest and best use of the tract is sale to an abutting
 14 landowner;
 15 (2) the cost to the public of maintaining the tract equals or
 16 exceeds the estimated fair market value of the tract; or
 17 (3) it is economically unjustifiable to sell the tract under section
 18 4 of this chapter.
 19 (e) Within ten (10) days after the disposing agent makes a
 20 determination under subsection (d), the disposing agent shall publish
 21 a notice in accordance with IC 5-3-1 identifying the tracts intended for
 22 sale by legal description and, if possible, by key number and street
 23 address. The notice must also include the offering price and a statement
 24 that:
 25 (1) the property may not be sold to a person who is ineligible
 26 under section 16 of this chapter; and
 27 (2) an offer to purchase the property submitted by a trust (as
 28 defined in IC 30-4-1-1(a)) must identify each:
 29 (A) beneficiary of the trust; and
 30 (B) settlor empowered to revoke or modify the trust.
 31 At the time of publication of notice under this subsection, the disposing
 32 agent shall send notice by certified mail to all abutting landowners.
 33 This notice shall contain the same information as the published notice.
 34 (f) The disposing agent shall also have each tract appraised. The
 35 appraiser must be professionally engaged in making appraisals, a
 36 person licensed under IC 25-34.1, or an employee of the political
 37 subdivision who is familiar with the value of the tract. However, if the
 38 assessed value of a tract is less than six thousand dollars (\$6,000),
 39 based on the most recent assessment of the tract or of the tract of which
 40 it was a part before it was acquired, the disposing agent is not required
 41 to have the tract appraised.
 42 (g) If, within ten (10) days after the date of publication of the notice



1 under subsection (e), the disposing agent receives an eligible offer to
 2 purchase a tract listed in the notice at or in excess of the offering price,
 3 the disposing agent shall conduct the negotiation and sale of the tract
 4 under section 4(c) through 4(g) of this chapter.

5 (h) Notwithstanding subsection (g), if within ten (10) days after the
 6 date of publication of the notice under subsection (e) the disposing
 7 agent does not receive from any person other than an abutting
 8 landowner an eligible offer to purchase the tract at or in excess of the
 9 offering price, the disposing agent shall conduct the negotiation and
 10 sale of the tract as follows:

11 (1) If only one (1) abutting landowner makes an eligible offer to
 12 purchase the tract, then subject to section 16 of this chapter and
 13 without further appraisal or notice, the disposing agent shall offer
 14 to negotiate for the sale of the tract with that abutting landowner.

15 (2) If more than one (1) eligible abutting landowner submits an
 16 offer to purchase the tract, the other eligible abutting landowners
 17 who submit offers shall be informed of the highest offer received
 18 and be given an opportunity to submit one (1) additional offer.
 19 The tract shall be sold to the eligible abutting landowner who
 20 submits the highest offer for the tract and who complies with any
 21 requirement under subsection (e)(2).

22 (3) If no eligible abutting landowner submits an offer to purchase
 23 the tract, the disposing agent may sell the tract to any person who
 24 submits the highest offer for the tract, except a person who is
 25 ineligible to purchase the tract under section 16 of this chapter.

26 (i) The fiscal body of a political subdivision may adopt an ordinance
 27 (in the case of a county or municipality) or a resolution (in the case of
 28 any other political subdivision) to increase the threshold that applies
 29 under subsection (c)(1) to an amount greater than fifteen thousand
 30 dollars (\$15,000).

31 **(j) This section does not apply to the disposal of real property**
 32 **acquired by tax default under section 5.9 of this chapter.**

33 SECTION 2. IC 36-1-11-5.9, AS ADDED BY P.L.27-2008,
 34 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2020]: Sec. 5.9. (a) As used in this section, "abutting
 36 landowner" has the meaning set forth in section 5(a) of this chapter.

37 (b) As used in this section, "real property acquired by tax default"
 38 means the following:

39 (1) Real property for which a county holds a tax deed issued
 40 under IC 6-1.1-25.

41 (2) Real property acquired by a political subdivision from a
 42 county under section 8 of this chapter if at the time of transfer the



- 1 county held a tax deed issued under IC 6-1.1-25 for the real
 2 property.
- 3 (c) ~~Notwithstanding sections 4, 4.1, 4.2, and 5 of this chapter, and~~
 4 Subject to the procedures described in subsections (d) and (e), a
 5 disposing agent of a political subdivision ~~may~~ **shall offer to** sell or
 6 transfer real property acquired by tax default without consideration or
 7 for a nominal consideration to an abutting landowner.
- 8 (d) A disposing agent ~~who desires to transfer real property acquired~~
 9 ~~by tax default to an abutting landowner~~ shall send notice by certified
 10 mail to all abutting landowners. The notice must identify the tracts
 11 intended for sale **or transfer** by legal description and, if possible, by
 12 key number and street address. The notice must also include a
 13 statement that:
- 14 (1) the disposing agent is authorized to **sell or** transfer the
 15 property for no consideration or for nominal consideration;
 - 16 (2) the property may not be sold to a person who is ineligible
 17 under section 16 of this chapter; and
 - 18 (3) an offer to purchase the property submitted by a trust (as
 19 defined in IC 30-4-1-1(a)) must identify each:
 - 20 (A) beneficiary of the trust; and
 - 21 (B) settlor empowered to revoke or modify the trust.
- 22 (e) Not earlier than fourteen (14) days after a disposing agent sends
 23 the notice described in subsection (d) to the abutting landowners of a
 24 tract, the disposing agent shall conduct the negotiation ~~and of the sale~~
 25 **or transfer** of the tract under this section as follows:
- 26 (1) If only one (1) eligible abutting landowner makes an offer to
 27 purchase the tract, then subject to section 16 of this chapter and
 28 without appraisal or further notice, the disposing agent shall offer
 29 to negotiate for the sale of the tract with that abutting landowner.
 - 30 (2) If more than one (1) eligible abutting landowner submits an
 31 offer to purchase the tract, the other eligible abutting landowners
 32 who submit offers shall be informed of the highest offer received
 33 and be given an opportunity to submit one (1) additional offer.
 34 The tract shall be sold to the eligible abutting landowner who
 35 submits the highest offer for the tract and who complies with any
 36 requirement under subsection (d)(3).

