

HOUSE BILL No. 1330

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-33.

Synopsis: Disposal of abandoned or derelict aircraft. Specifies that a "person" includes a political subdivision for purposes of the statute concerning liens for the repair, storage, servicing, or furnishing of supplies for certain motor vehicles, airplanes, machinery, and equipment. Establishes a procedure for the disposal and removal of an abandoned aircraft or a derelict aircraft from the premises of: (1) a public-use airport; or (2) a fixed-base operator at a public-use airport.

Effective: July 1, 2019.

Speedy

January 14, 2019, read first time and referred to Committee on Roads and Transportation.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1330

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 32-33-10-4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. As used in this
3 chapter, "person" includes a natural person, a firm, a copartnership, an
4 association, a limited liability company, ~~and~~ a corporation, **and a**
5 **political subdivision.**

6 SECTION 2. IC 32-33-10.5 IS ADDED TO THE INDIANA CODE
7 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2019]:

9 **Chapter 10.5. Abandoned or Derelict Aircraft**
10 **Sec. 1. As used in this chapter, "abandoned aircraft" means an**
11 **aircraft:**

- 12 **(1) that is located or stored on the premises of:**
 - 13 **(A) a public-use airport; or**
 - 14 **(B) a fixed-base operator;**
- 15 **in a wrecked, inoperative, or partially dismantled condition**
- 16 **for a period of at least forty-five (45) days; and**
- 17 **(2) for which the owner or operator of the aircraft has not**



1 made, during the forty-five (45) day period described in
2 subdivision (1), any tie-down, hangaring, or rent payments for
3 the use of the premises.

4 **Sec. 2. As used in this chapter, "aircraft" means any**
5 **contrivance used or designed for navigation of or flight in the air.**

6 **Sec. 3. As used in this chapter, "derelict aircraft" means any**
7 **aircraft:**

- 8 (1) that is located or stored on the premises of:
9 (A) a public-use airport; or
10 (B) a fixed-base operator;
11 for a period of at least thirty (30) days; and
12 (2) that, throughout the period described in subdivision (1):
13 (A) is not in a flyable condition;
14 (B) does not have a current, effective airworthiness
15 certificate from the Federal Aviation Administration; and
16 (C) is not in the process of actively being repaired.

17 **Sec. 4. As used in this chapter, "fixed-base operator" means a**
18 **person that provides on the premises of a public-use airport**
19 **aeronautical services, including any of the following:**

- 20 (1) Aircraft fueling.
21 (2) Hangaring.
22 (3) Tie-down and parking.
23 (4) Aircraft rental.
24 (5) Aircraft maintenance.
25 (6) Flight instruction.
26 (7) Other aeronautical services or accommodations.

27 **Sec. 5. As used in this chapter, "person" includes a natural**
28 **person, a firm, a partnership, an association, a corporation, a**
29 **limited liability company, or a political subdivision.**

30 **Sec. 6. (a) If:**

- 31 (1) the airport manager of a public-use airport; or
32 (2) the general manager of a fixed-base operator;
33 determines that an abandoned aircraft or a derelict aircraft is
34 located on the premises of the public-use airport or of the
35 fixed-base operator, as applicable, the airport manager (or the
36 airport manager's designee) or the general manager (or the general
37 manager's designee) may dispose of the abandoned aircraft or the
38 derelict aircraft in the manner provided in this chapter.

39 (b) If a determination described in subsection (a) is made that
40 an abandoned aircraft or a derelict aircraft is located on the
41 premises of a public-use airport or of a fixed-base operator, and
42 the airport manager or the general manager making the



1 determination seeks to dispose of the abandoned aircraft or the
 2 derelict aircraft under this chapter, the airport manager (or the
 3 airport manager's designee) or the general manager (or the general
 4 manager's designee) must do the following:

5 (1) Determine, by contacting the Aircraft Registration Branch
 6 of the Federal Aviation Administration, the name and address
 7 of:

8 (A) the last registered owner of the aircraft; and

9 (B) any other person that has a legal or equitable interest
 10 in the aircraft.

11 (2) Subject to subsection (c), deliver to the aircraft owner and
 12 any other person having a legal or equitable interest in the
 13 aircraft a written notice stating that the aircraft:

14 (A) has been determined to be abandoned or derelict; and

15 (B) is subject to:

16 (i) disposal and removal from the premises of the
 17 public-use airport or of the fixed-base operator;

18 (ii) the recovery, by the owner or operator of the
 19 public-use airport or by the fixed-base operator, of any
 20 accrued and unpaid fees or charges incurred with
 21 respect to the aircraft while located on the premises of
 22 the public-use airport or of the fixed-base operator; and

23 (iii) the foreclosure of a lien with respect to any fees and
 24 charges described in item (ii).

25 (c) The following requirements apply to the notice required
 26 under subsection (b)(2):

27 (1) The notice must include the following:

28 (A) A description of the aircraft by Federal Aviation
 29 Administration N-Number, manufacturer name, model
 30 designation, and serial number.

31 (B) The facts supporting the determination that the
 32 aircraft is abandoned or derelict and is subject to disposal
 33 and removal from the premises of the public-use airport or
 34 of the fixed-base operator.

35 (C) The amount of any accrued and unpaid fees or
 36 charges:

37 (i) incurred with respect to the aircraft while located on
 38 the premises of the public-use airport or of the fixed-base
 39 operator; and

40 (ii) for which a lien is being asserted.

41 (D) A statement that upon receipt of the notice, the aircraft
 42 owner has thirty (30) days to:



- 1 (i) remove the aircraft from the premises of the
 2 public-use airport or of the fixed-base operator; and
 3 (ii) pay any accrued and unpaid fees or charges
 4 identified under clause (C).
 5 (E) A statement that the public-use airport's owner or
 6 operator, or the fixed-base operator, as applicable, intends
 7 to:
 8 (i) assert a lien for any accrued and unpaid fees or
 9 charges identified under clause (C) that are not paid
 10 within the thirty (30) day period described in clause (D);
 11 and
 12 (ii) remove and dispose of the aircraft from the premises
 13 of the public-use airport or of the fixed-base operator if
 14 the aircraft is not removed from the premises within the
 15 thirty (30) day period described in clause (D).
 16 (F) The hand signature of an authorized signatory for:
 17 (i) the owner or operator of the public-use airport; or
 18 (ii) the fixed-base operator;
 19 as applicable, located immediately above the title of the
 20 signatory.
 21 (2) Not later than thirty (30) days after the determination is
 22 made that the aircraft is abandoned or derelict, the notice
 23 must:
 24 (A) be delivered to the aircraft owner and any other person
 25 having a legal or equitable interest in the aircraft by:
 26 (i) certified mail, return receipt requested, and by first
 27 class United States mail, postage prepaid;
 28 (ii) a nationally recognized overnight courier service; or
 29 (iii) personal delivery; and
 30 (B) be filed with the Aircraft Registration Branch of the
 31 Federal Aviation Administration.
 32 **Sec. 7. (a) A complaint for a declaratory judgment:**
 33 (1) finding that an aircraft is abandoned or derelict; and
 34 (2) authorizing:
 35 (A) the removal and disposal of the aircraft from the
 36 premises of a public-use airport or of a fixed-base
 37 operator;
 38 (B) the recovery of any accrued and unpaid fees or charges
 39 incurred with respect to the aircraft while located on the
 40 premises of the public-use airport or of the fixed-base
 41 operator; and
 42 (C) the foreclosure of a lien for the fees and charges



1 described in clause (B);
2 **must be filed in the circuit or superior court of the county where**
3 **the aircraft is located.**

4 **(b) A complaint described in subdivision (a) must be filed not**
5 **later than sixty (60) days after the written notice described in**
6 **section 6 of this chapter is delivered in accordance with section**
7 **6(c)(2) of this chapter.**

8 **Sec. 8. (a) This section applies if a complaint is filed under**
9 **section 7 of this chapter and the plaintiff recovers:**

10 **(1) a judgment in any sum; or**

11 **(2) a judgment:**

12 **(A) declaring that an aircraft is abandoned or derelict; and**

13 **(B) authorizing the disposal and removal of the aircraft**
14 **from the premises of a public-use airport or of a fixed-base**
15 **operator.**

16 **(b) Any net proceeds resulting from the sale or disposal of an**
17 **aircraft under this chapter shall be paid to:**

18 **(1) the owner of the aircraft and any other person having a**
19 **legal or equitable interest in the aircraft, in proportion to**
20 **each person's legal or equitable interest in the aircraft; or**

21 **(2) if the owner of the aircraft or any other person having a**
22 **legal or equitable interest in the aircraft cannot be found, to**
23 **the attorney general as unclaimed property under IC 32-34-1.**

24 **(c) In an action brought under section 7 of this chapter, the**
25 **plaintiff may also recover as part of the judgment in the action**
26 **reasonable attorney's fees incurred by the plaintiff in bringing and**
27 **prosecuting the action.**

