



February 15, 2019

HOUSE BILL No. 1330

DIGEST OF HB 1330 (Updated February 13, 2019 10:25 am - DI 75)

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.
February 14, 2019, amended, reported — Do Pass.

HB 1330—LS 6658/DI 101



February 15, 2019

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 sixty (60) days; and**
17 (2) **for which the owner or operator of the aircraft has not**

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- 1 made, during the sixty (60) day period described in
 2 subdivision (1), any tie-down, hangaring, or rent payments for
 3 the use of the premises.
- 4 The term does not include an aircraft that is being repaired by a
 5 person providing services under IC 32-33-10-5.
- 6 Sec. 2. As used in this chapter, "aircraft" means any
 7 contrivance used or designed for navigation of or flight in the air.
 8 The term does not include unmanned aircraft or ultralight aircraft.
- 9 Sec. 3. As used in this chapter, "derelict aircraft" means any
 10 aircraft:
- 11 (1) that is located or stored on the premises of:
- 12 (A) a public-use airport; or
- 13 (B) a fixed-base operator;
- 14 for a period of at least thirty (30) days; and
- 15 (2) that, throughout the period described in subdivision (1):
- 16 (A) is not in a flyable condition;
- 17 (B) is not in compliance with applicable Federal Aviation
 18 Administration regulations allowing the aircraft to be
 19 operated in flight; and
- 20 (C) does not have a written repair plan approved and
 21 signed by:
- 22 (i) a Federal Aviation Administration certified airframe
 23 and power plant mechanic; or
- 24 (ii) a person authorized to perform maintenance on the
 25 aircraft in accordance with Federal Aviation
 26 Administration regulations.
- 27 Sec. 4. As used in this chapter, "fixed-base operator" means a
 28 person that provides on the premises of a public-use airport
 29 aeronautical services, including any of the following:
- 30 (1) Aircraft fueling.
- 31 (2) Hangaring.
- 32 (3) Tie-down and parking.
- 33 (4) Aircraft rental.
- 34 (5) Aircraft maintenance.
- 35 (6) Flight instruction.
- 36 (7) Other aeronautical services or accommodations.
- 37 Sec. 5. As used in this chapter, "person" includes a natural
 38 person, a firm, a partnership, an association, a corporation, a
 39 limited liability company, or a political subdivision.
- 40 Sec. 6. (a) If:
- 41 (1) the airport manager of a public-use airport; or
- 42 (2) the general manager of a fixed-base operator;



1 determines that an abandoned aircraft or a derelict aircraft is
 2 located on the premises of the public-use airport or of the
 3 fixed-base operator, as applicable, the airport manager (or the
 4 airport manager's designee) or the general manager (or the general
 5 manager's designee) may dispose of the abandoned aircraft or the
 6 derelict aircraft in the manner provided in this chapter.

7 (b) If a determination described in subsection (a) is made that
 8 an abandoned aircraft or a derelict aircraft is located on the
 9 premises of a public-use airport or of a fixed-base operator, and
 10 the airport manager or the general manager making the
 11 determination seeks to dispose of the abandoned aircraft or the
 12 derelict aircraft under this chapter, the airport manager (or the
 13 airport manager's designee) or the general manager (or the general
 14 manager's designee) must do the following:

15 (1) Determine, by contacting the Aircraft Registration Branch
 16 of the Federal Aviation Administration, the name and address
 17 of:

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

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

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

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

25 (B) is subject to:

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

28 (ii) the recovery, by the owner or operator of the
 29 public-use airport or by the fixed-base operator, of any
 30 accrued and unpaid fees or charges incurred with
 31 respect to the aircraft while located on the premises of
 32 the public-use airport or of the fixed-base operator; and

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

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

37 (1) The notice must include the following:

38 (A) A description of the aircraft by Federal Aviation
 39 Administration N-Number, manufacturer name, model
 40 designation, and serial number.

41 (B) The facts supporting the determination that the
 42 aircraft is abandoned or derelict and is subject to disposal



- 1 and removal from the premises of the public-use airport or
 2 of the fixed-base operator.
- 3 (C) The amount of any accrued and unpaid fees or
 4 charges:
- 5 (i) incurred with respect to the aircraft while located on
 6 the premises of the public-use airport or of the fixed-base
 7 operator; and
 8 (ii) for which a lien is being asserted.
- 9 (D) A statement that upon receipt of the notice, the aircraft
 10 owner has thirty (30) days to:
- 11 (i) remove the aircraft from the premises of the
 12 public-use airport or of the fixed-base operator; and
 13 (ii) pay any accrued and unpaid fees or charges
 14 identified under clause (C).
- 15 (E) A statement that the public-use airport's owner or
 16 operator, or the fixed-base operator, as applicable, may:
- 17 (i) assert a lien for any accrued and unpaid fees or
 18 charges identified under clause (C) that are not paid
 19 within the thirty (30) day period described in clause (D);
 20 (ii) remove and dispose of the aircraft from the premises
 21 of the public-use airport or of the fixed-base operator if
 22 the aircraft is not removed from the premises within the
 23 thirty (30) day period described in clause (D); and
 24 (iii) sell the aircraft at a public auction or bid on the
 25 aircraft if it is made available for disposal by means of a
 26 public auction.
- 27 (F) A statement that the public-use airport's owner or
 28 operator, or the fixed-base operator, as applicable, may
 29 scrap the aircraft if no bids are received for the aircraft
 30 during a public auction of the aircraft.
- 31 (G) The hand signature of an authorized signatory for:
- 32 (i) the owner or operator of the public-use airport; or
 33 (ii) the fixed-base operator;
 34 as applicable, located immediately above the title of the
 35 signatory.
- 36 (2) Not later than thirty (30) days after the determination is
 37 made that the aircraft is abandoned or derelict, the notice
 38 must:
- 39 (A) be delivered to the aircraft owner and any other person
 40 having a legal or equitable interest in the aircraft by:
- 41 (i) certified mail, return receipt requested, and by first
 42 class United States mail, postage prepaid;



- 1 (ii) a nationally recognized overnight courier service; or
- 2 (iii) personal delivery; and
- 3 **(B) be filed with the Aircraft Registration Branch of the**
- 4 **Federal Aviation Administration.**
- 5 **(3) If the registered owner of an aircraft cannot be found or**
- 6 **served, notice by publication may be used in lieu of personal**
- 7 **service, courier service, or certified mail.**
- 8 **Sec. 7. (a) A complaint for a declaratory judgment:**
- 9 **(1) finding that an aircraft is abandoned or derelict; and**
- 10 **(2) authorizing:**
 - 11 **(A) the removal and disposal of the aircraft from the**
 - 12 **premises of a public-use airport or of a fixed-base**
 - 13 **operator;**
 - 14 **(B) the recovery of any accrued and unpaid fees or charges**
 - 15 **incurred with respect to the aircraft while located on the**
 - 16 **premises of the public-use airport or of the fixed-base**
 - 17 **operator; and**
 - 18 **(C) the foreclosure of a lien for the fees and charges**
 - 19 **described in clause (B);**
- 20 **must be filed in the circuit or superior court of the county where**
- 21 **the aircraft is located.**
- 22 **(b) A complaint described in subdivision (a) must be filed not**
- 23 **later than sixty (60) days after the written notice described in**
- 24 **section 6 of this chapter is delivered in accordance with section**
- 25 **6(c)(2) of this chapter.**
- 26 **Sec. 8. (a) This section applies if a complaint is filed under**
- 27 **section 7 of this chapter and the plaintiff recovers:**
 - 28 **(1) a judgment in any sum; or**
 - 29 **(2) a judgment:**
 - 30 **(A) declaring that an aircraft is abandoned or derelict; and**
 - 31 **(B) authorizing the disposal of the aircraft by means of a**
 - 32 **public auction and removal of the aircraft from the**
 - 33 **premises of a public-use airport or of a fixed-base**
 - 34 **operator.**
- 35 **(b) Any net proceeds resulting from the sale or disposal of an**
- 36 **aircraft under this chapter shall be paid to:**
 - 37 **(1) the owner of the aircraft and any other person having a**
 - 38 **legal or equitable interest in the aircraft, in proportion to**
 - 39 **each person's legal or equitable interest in the aircraft; or**
 - 40 **(2) if the owner of the aircraft or any other person having a**
 - 41 **legal or equitable interest in the aircraft cannot be found, to**
 - 42 **the attorney general as unclaimed property under IC 32-34-1.**



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



COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1330, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 16, delete "forty-five (45)" and insert "**sixty (60)**".

Page 2, line 1, delete "forty-five (45)" and insert "**sixty (60)**".

Page 2, between lines 3 and 4, begin a new line blocked left and insert:

"The term does not include an aircraft that is being repaired by a person providing services under IC 32-33-10-5."

Page 2, line 5, after "air." insert "**The term does not include unmanned aircraft or ultralight aircraft."**

Page 2, delete lines 14 through 16, begin a new line double block indented and insert:

"(B) is not in compliance with applicable Federal Aviation Administration regulations allowing the aircraft to be operated in flight; and

(C) does not have a written repair plan approved and signed by:

(i) a Federal Aviation Administration certified airframe and power plant mechanic; or

(ii) a person authorized to perform maintenance on the aircraft in accordance with Federal Aviation Administration regulations."

Page 4, line 6, delete "intends" and insert "**may**".

Page 4, delete line 7.

Page 4, delete line 11.

Page 4, line 15, delete "(D)." and insert "**(D); and**

(iii) sell the aircraft at a public auction or bid on the aircraft if it is made available for disposal by means of a public auction.

(F) A statement that the public-use airport's owner or operator, or the fixed-base operator, as applicable, may scrap the aircraft if no bids are received for the aircraft during a public auction of the aircraft."

Page 4, line 16, delete "(F)" and insert "**(G)**".

Page 4, between lines 31 and 32, begin a new line block indented and insert:

"(3) If the registered owner of an aircraft cannot be found or served, notice by publication may be used in lieu of personal



service, courier service, or certified mail."

Page 5, line 13, after "disposal" insert "**of the aircraft by means of a public auction**".

Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1330 as introduced.)

SULLIVAN

Committee Vote: yeas 12, nays 0.

