



February 25, 2020

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# ENGROSSED SENATE BILL No. 340

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DIGEST OF SB 340 (Updated February 24, 2020 1:09 pm - DI 123)

**Citations Affected:** IC 9-22; IC 32-21; IC 32-24; IC 32-31.

**Synopsis:** Private property matters. Provides that a legislative body of a municipality may create an ordinance establishing a waiting period for removal of certain abandoned vehicles. Requires a conveyance, a mortgage, or an instrument of writing to be recorded to be: (1) acknowledged by the grantor; and (2) proven before certain specified individuals; in certain instances. Requires the summons accompanying a complaint for condemnation to include language regarding the defendants' right to object to the condemnation within 30 days from the date notice is served. Requires a court to award reasonable costs and attorney's fees to a defendant whose objection to a complaint for condemnation is sustained. Caps the amount of attorney's fees a court  
(Continued next page)

**Effective:** July 1, 2020.

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**Spartz, Koch, Buck, Raatz, Rogers,  
Randolph Lonnie M**  
(HOUSE SPONSOR — WOLKINS)

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January 13, 2020, read first time and referred to Committee on Judiciary.  
January 23, 2020, amended, reported favorably — Do Pass.  
January 27, 2020, read second time, amended, ordered engrossed.  
January 28, 2020, engrossed. Read third time, passed. Yeas 43, nays 7.

HOUSE ACTION

February 10, 2020, read first time and referred to Committee on Judiciary.  
February 25, 2020, amended, reported — Do Pass.

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ES 340—LS 6971/DI 137



## Digest Continued

may award if an objection to a condemnation is sustained at \$25,000. Exempts a condemnation action brought by a public utility or by a pipeline company from the bill's provisions requiring a court to award a defendant in a condemnation action the defendant's reasonable costs and attorney's fees if the defendant's objections to the proceedings are sustained in the proceedings or upon appeal. Requires a municipality to provide notice by mail to affected owners, both residents and nonresidents of the municipality, of a condemnation. Permits an affected owner to file an objection that a municipality does not have the right to exercise the power of eminent domain for the use sought. Amends the time for a remonstrance hearing for a municipal condemnation and the defendant's right to judicial review of the decision made at the hearing to 30 days. (Current law requires a remonstrance hearing to be set later than 10 days after notice and the defendant to appeal the decision within 20 days.) Provides parties the right to appeal a court's judgment in the judicial review of a municipal condemnation. Revises the statute allowing a municipality to condemn property for economic development to require a 3/4 affirmative vote of the municipality's legislative body to exercise the power of eminent domain. (Current law requires a 2/3 affirmative vote of the municipality's legislative body.) Allows a property owner to challenge a condemnation for economic development purposes by providing clear and convincing evidence that the owner's parcel is not necessary for the project. Prohibits a local unit from regulating certain aspects of a landlord-tenant relationship with respect to privately owned real property located in the unit unless the regulation is authorized by the general assembly. Prohibits a landlord from taking certain retaliatory actions in response to a tenant's engaging in one or more enumerated protected activities. Provides that if a landlord brings an eviction action or an action for possession of the rental premises, the tenant may assert as a defense that: (1) the landlord's suit constitutes a retaliatory act; or (2) the landlord has engaged in one or more other retaliatory acts. Provides that the burden for proving the landlord's retaliatory intent is on the tenant. Prohibits a local unit from adopting or enforcing any ordinance or regulation concerning retaliatory acts by landlords.



February 25, 2020

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.

## ENGROSSED SENATE BILL No. 340

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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 9-22-1-11, AS AMENDED BY P.L.54-2009,  
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2020]: Sec. 11. **(a)** An officer who finds or is notified of a  
4 vehicle or parts believed to be abandoned shall attach in a prominent  
5 place a notice tag containing the following information:  
6 (1) The date, time, officer's name, public agency, and address and  
7 telephone number to contact for information.  
8 (2) That the vehicle or parts are considered abandoned.  
9 (3) That the vehicle or parts will be removed after:  
10 (A) twenty-four (24) hours, if the vehicle is located on or  
11 within the right-of-way of an interstate highway or any  
12 highway that is designated as part of the state highway system  
13 under IC 8-23-4; or  
14 **(B) except as provided in subsection (b)**, seventy-two (72)  
15 hours, for any other vehicle.  
16 (4) That the person who owns the vehicle will be held responsible  
17 for all costs incidental to the removal, storage, and disposal of the

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1 vehicle.

2 (5) That the person who owns the vehicle may avoid costs by  
3 removal of the vehicle or parts within:

4 (A) twenty-four (24) hours, if the vehicle is located on or  
5 within the right-of-way of an interstate highway or any  
6 highway that is designated as part of the state highway system  
7 under IC 8-23-4; or

8 (B) seventy-two (72) hours, for any other vehicle **except as**  
9 **provided under subsection (b).**

10 **(b) The legislative body of a municipality (as defined in**  
11 **IC 36-1-2-11) may adopt an ordinance that establishes a different**  
12 **waiting period for the removal of an abandoned vehicle, that must**  
13 **be at least seventy-two (72) hours but not more than fourteen (14)**  
14 **days, for the purpose of allowing a person to park their vehicle that**  
15 **is registered to their residence on the street outside of that**  
16 **residence.**

17 SECTION 2. IC 9-22-1-14, AS AMENDED BY P.L.125-2012,  
18 SECTION 121, IS AMENDED TO READ AS FOLLOWS  
19 [EFFECTIVE JULY 1, 2020]: Sec. 14. (a) If in the opinion of the  
20 officer the market value of the abandoned vehicle or parts is at least:

21 (1) one thousand dollars (\$1,000); or

22 (2) in a municipality that has adopted an ordinance under section  
23 13(b) of this chapter, the amount established by the ordinance;  
24 the officer, before placing a notice tag on the vehicle or parts, shall  
25 make a reasonable effort to ascertain the person who owns the vehicle  
26 or parts or who may be in control of the vehicle or parts.

27 **(b) Except as provided under section 11(b) of this chapter,** after  
28 seventy-two (72) hours, the officer shall require the vehicle or parts to  
29 be towed to a storage yard or towing service.

30 SECTION 3. IC 32-21-2-3, AS AMENDED BY P.L.14-2019,  
31 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2020]: Sec. 3. (a) Except as provided in subsection (c), a  
33 conveyance, a mortgage, or an instrument of writing to be recorded  
34 must be:

35 (1) acknowledged by the grantor; ~~or~~ **and**

36 (2) proved before a:

37 (A) judge;

38 (B) clerk of a court of record;

39 (C) county auditor;

40 (D) county recorder;

41 (E) notary public;

42 (F) mayor of a city in Indiana or any other state;



- 1 (G) commissioner appointed in a state other than Indiana by
- 2 the governor of Indiana;
- 3 (H) minister, charge d'affaires, or consul of the United States
- 4 in any foreign country;
- 5 (I) clerk of the city county council for a consolidated city, city
- 6 clerk for a second class city, or clerk-treasurer for a third class
- 7 city;
- 8 (J) clerk-treasurer for a town; or
- 9 (K) person authorized under IC 2-3-4-1.

10 (b) In addition to the requirements under subsection (a), a  
 11 conveyance may not be recorded after June 30, 2007, unless it meets  
 12 the requirements of this subsection. The conveyance must include a  
 13 statement containing substantially the following information:

14 "The mailing address to which statements should be mailed under  
 15 IC 6-1.1-22-8.1 is [insert proper mailing address]. The mailing  
 16 address of the grantee is [insert proper mailing address]."

17 The mailing address for the grantee must be a street address or a rural  
 18 route address. A conveyance complies with this subsection if it  
 19 contains the address or addresses required by this subsection at the end  
 20 of the conveyance and immediately preceding or following the  
 21 statements required by IC 36-2-11-15.

22 (c) This section does not apply to the Indiana department of  
 23 transportation.

24 SECTION 4. IC 32-24-1-6 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 6. (a) Upon the filing  
 26 of a complaint under this chapter, the circuit court clerk shall issue a  
 27 notice requiring the defendants to appear before the court on the day to  
 28 be fixed by the plaintiff by indorsement on the complaint at the time of  
 29 filing the complaint, and to show cause, if any, why the property sought  
 30 to be condemned should not be acquired. **The notice must also**  
 31 **provide notice to defendants of their right to object under section**  
 32 **8 of this chapter not later than thirty (30) days from the date the**  
 33 **notice is served. The notice must include, either as an attachment**  
 34 **or as part of the language of the notice, the full text of section 8 of**  
 35 **this chapter.** The notice shall be substantially in the following form:

36 In the \_\_\_\_\_ Court of Indiana.  
 37 To the Sheriff of \_\_\_\_\_ County, Indiana:  
 38 You are hereby commanded to notify \_\_\_\_\_,  
 39 defendants, to appear before the \_\_\_\_\_ Court of \_\_\_\_\_  
 40 County, Indiana on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at  
 41 \_\_\_\_\_ o'clock, \_\_ M. ~~to show cause, if any, they have why the to~~  
 42 **object to the condemnation of** property sought to be acquired in the  
 43 complaint of \_\_\_\_\_. ~~should not be acquired. If defendants object~~



1 **to the acquisition of the property, defendants must file objections**  
 2 **with the court under IC 32-24-1-8 not later than thirty (30) days**  
 3 **after the date this notice is served. The court may extend the period**  
 4 **for filing objections by an additional thirty (30) days upon written**  
 5 **motion of the defendants.**

6 Witness my hand and the seal of the court affixed at  
 7 \_\_\_\_\_, Indiana, this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
 8 Clerk of \_\_\_\_\_ Court.

9 (b) The notice shall be served in the same manner as a summons is  
 10 served in civil actions. Upon a showing by affidavit that any defendant  
 11 is a nonresident of Indiana or that the defendant's name or residence is  
 12 unknown, publication and proof of the notice may be made as provided  
 13 in section 7 of this chapter.

14 SECTION 5. IC 32-24-1-8, AS AMENDED BY P.L.146-2017,  
 15 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2020]: Sec. 8. (a) A defendant may object to the proceedings:

- 17 (1) because the court does not have jurisdiction either of the  
 18 subject matter or of the person;  
 19 (2) because the plaintiff does not have the right to exercise the  
 20 power of eminent domain for the use sought; or  
 21 (3) for any other reason disclosed in the complaint or set up in the  
 22 objections.

23 (b) Objections under subsection (a) must be:

- 24 (1) in writing;  
 25 (2) separately stated and numbered; and  
 26 (3) filed not later than thirty (30) days after the date the notice  
 27 required in section 6 of this chapter is served on the defendant.  
 28 However, the court may extend the period for filing objections by  
 29 not more than thirty (30) days upon written motion of the  
 30 defendant.

31 (c) The court may not allow pleadings in the cause other than the  
 32 complaint, any objections, and the written exceptions provided for in  
 33 section 11 of this chapter. However, the court may permit amendments  
 34 to the pleadings.

35 (d) If an objection is sustained, the plaintiff may amend the  
 36 complaint or may appeal from the decision in the manner that appeals  
 37 are taken from final judgments in civil actions. All the parties shall take  
 38 notice and are bound by the judgment in an appeal.

39 (e) If the objections are overruled, the court shall appoint appraisers  
 40 as provided for in this chapter. Any defendant may appeal the  
 41 interlocutory order overruling the objections and appointing appraisers  
 42 in the manner that appeals are taken from final judgments in civil  
 43 actions.



1 (f) All the parties shall take notice of and be bound by the judgment  
2 in the appeal.

3 (g) The transcript must be filed in the office of the clerk of the  
4 supreme court not later than thirty (30) days after the notice of the  
5 defendant's appeal is filed. The appeal does not stay proceedings in the  
6 cause.

7 **(h) This subsection does not apply to a condemnation action**  
8 **brought by a public utility (as defined in section 5.9(a) of this**  
9 **chapter) or by a pipeline company. Notwithstanding section 14 of**  
10 **this chapter, if an objection:**

11 **(1) is sustained, and no appeal is filed; or**

12 **(2) is sustained in the judgment in the appeal;**

13 **the court shall award the defendant the reasonable costs and**  
14 **attorney's fees incurred for the objection, in an amount not to**  
15 **exceed twenty-five thousand dollars (\$25,000).**

16 SECTION 6. IC 32-24-2-6, AS AMENDED BY P.L.172-2009,  
17 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2020]: Sec. 6. (a) This chapter applies if the works board of  
19 a municipality wants to acquire property for the use of the municipality  
20 or to open, change, lay out, or vacate a street, an alley, or a public place  
21 in the municipality, including a proposed street or alley crossings of  
22 railways or other rights-of-way. However, this chapter does not apply  
23 if a municipality wants to acquire the property of a public utility (as  
24 defined in IC 8-1-2-1).

25 (b) The works board must adopt a resolution that the municipality  
26 wants to acquire the property. The resolution must describe the  
27 property that may be injuriously or beneficially affected. The board  
28 shall have notice of the resolution:

29 **(1) published in a newspaper of general circulation published in**  
30 **the municipality once each week for two (2) consecutive weeks;**

31 **and**

32 **(2) mailed to the owner of each piece of property affected by**  
33 **the proposed acquisition.**

34 The notice must name a date, at least ~~ten (10)~~ **thirty (30)** days after the  
35 last publication, at which time the board will receive or hear  
36 remonstrances from persons interested in or affected by the proceeding.

37 (c) The works board shall consider the remonstrances, if any, and  
38 then take final action, confirming, modifying, or rescinding its original  
39 resolution. ~~This action is conclusive as to all persons.~~

40 SECTION 7. IC 32-24-2-8 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. (a) Upon the  
42 completion of the list, the works board shall award the damages  
43 sustained and assess the benefits accruing to each piece of property on



- 1 the list.
- 2 (b) When the assessments or awards are completed, the works board  
3 shall have a written notice served upon the owner of each piece of  
4 property, showing the amount of the assessment or award, by:
- 5 **(1) if the owner is a resident of the municipality,** leaving a copy  
6 of the notice at the owner's last usual place of residence in the  
7 municipality or by delivering a copy to the owner personally **and**  
8 **mailing a copy of the notice to the owner's address of record;**  
9 **or**
- 10 **(2) if the owner is not a resident of the municipality, by**  
11 **sending the notice to the owner's address of record by**  
12 **certified mail.**
- 13 (c) ~~If the owner is a nonresident,~~ or If the owner's residence is  
14 unknown, the municipality shall notify the owner by publication in a  
15 daily newspaper of general circulation in the municipality once each  
16 week for three (3) successive weeks.
- 17 (d) The notices must also name a day, at least ~~ten (10)~~ **thirty (30)**  
18 days after service of notice or after the last publication, on which the  
19 works board will receive or hear remonstrances from ~~persons~~ **owners**  
20 with regard to:
- 21 **(1) the amount of their respective awards or assessments; and**  
22 **(2) objections to the municipality's right to exercise the power**  
23 **of eminent domain for the use sought.**
- 24 (e) Persons not included in the list of the assessments or awards and  
25 claiming to be entitled to them are considered to have been notified of  
26 the pendency of the proceedings by the original notice of the resolution  
27 of the works board.
- 28 **(f) The notice required by this section must provide the full text**  
29 **of subsection (d) to provide notice to the property owners of their**  
30 **right to object to the condemnation and be in substantially the**  
31 **same form as the notice required under IC 32-24-1-6(a).**
- 32 SECTION 8. IC 32-24-2-10 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10. (a) A person  
34 notified or considered to be notified under this chapter may appear  
35 before the works board on the day fixed for hearing remonstrances to  
36 awards and assessments **and the municipality's right to exercise the**  
37 **power of eminent domain for the use sought** and remonstrate in  
38 writing against them.
- 39 (b) After the remonstrances have been received, the works board  
40 shall either sustain or modify the awards or assessments in the case of  
41 remonstrances that have been filed **that are based on the amount of**  
42 **the awards or assessments.** The works board shall sustain the award  
43 or assessment in the case of an award or assessment against which a





1 remonstrance has not been filed.

2 **(c) If a person remonstrates in writing an objection to the**  
 3 **municipality's right to exercise the power of eminent domain for**  
 4 **the use sought, the works board shall consider the remonstrance**  
 5 **and confirm, modify, or rescind its original resolution.**

6 ~~(c)~~ **(d)** A person remonstrating in writing who is aggrieved by the  
 7 decision of the works board may, not later than ~~twenty (20)~~ **thirty (30)**  
 8 days after the decision is made, take an appeal to a court that has  
 9 jurisdiction in the county in which the municipality is located. The  
 10 appeal affects only the assessment or award of the person appealing.

11 SECTION 9. IC 32-24-2-11 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 11. (a) The appeal may  
 13 be taken by filing an original complaint in the court against the  
 14 municipality within the time required by section ~~10(c)~~ **10(d)** of this  
 15 chapter, setting forth the action of the works board with respect to the  
 16 assessment and stating the facts relied upon as showing an error on the  
 17 part of the board. The court shall rehear the matter of the assessment  
 18 de novo and confirm, reduce, or increase the assessment. If the court  
 19 reduces the amount of benefit assessed or increases the amount of  
 20 damages awarded, the plaintiff may recover costs. If the court confirms  
 21 the amount of the assessment, the plaintiff may not recover costs. ~~The~~  
 22 ~~judgment of the court is conclusive, and an appeal may not be taken~~  
 23 ~~from the court's judgment.~~

24 (b) If upon appeal the benefits assessed or damages awarded by the  
 25 works board are reduced or increased, the municipality may, upon the  
 26 payment of costs, discontinue the proceedings. It may also, through the  
 27 works board, make and adopt an additional assessment against all the  
 28 property originally assessed in the proceeding, or that part that is  
 29 benefitted, in the manner provided for the original assessment.  
 30 However, such an assessment against any one (1) piece of property may  
 31 not exceed ten percent (10%) of the original assessment against it.

32 (c) If the municipality decides to discontinue the proceedings upon  
 33 payment of costs and if assessments for benefits have already been  
 34 paid, the amounts paid shall be paid back to the person or persons  
 35 paying them.

36 **(d) The parties may appeal a court's judgment under this**  
 37 **section in the manner that appeals are taken from final judgments**  
 38 **in civil actions. All of the parties shall take notice of and be bound**  
 39 **by the judgment of the appeal.**

40 SECTION 10. IC 32-24-4.5-11, AS ADDED BY P.L.163-2006,  
 41 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2020]: Sec. 11. (a) This section applies to a parcel of real  
 43 property located in a project area:



1 (1) that is located in only one (1) county;  
 2 (2) that is at least ten (10) acres in size; and  
 3 (3) in which a condemnor or its agents has acquired clear title to  
 4 at least ninety percent (90%) of the parcels in the project area.  
 5 (b) As used in this section, "project area" means an area designated  
 6 by a condemnor and the legislative body for the condemnor for  
 7 economic development.  
 8 (c) Notwithstanding sections 7 and 8 of this chapter, a condemnor  
 9 may acquire a parcel of real property by the exercise of eminent  
 10 domain under this section only if all of the following conditions are  
 11 met:  
 12 (1) The parcel of real property is not occupied by the owner of the  
 13 parcel as a residence.  
 14 (2) The legislative body for the condemnor adopts a resolution by  
 15 a ~~two-thirds (2/3)~~ **three-fourths (3/4)** vote that authorizes the  
 16 condemnor to exercise eminent domain over a particular parcel of  
 17 real property.  
 18 (d) A condemnor that acquires a parcel of real property through the  
 19 exercise of eminent domain under this section shall compensate the  
 20 owner of the parcel as follows:  
 21 (1) Payment to the owner equal to one hundred twenty five  
 22 percent (125%) of the fair market value of the parcel as  
 23 determined under IC 32-24-1.  
 24 (2) Payment of any other damages as determined under  
 25 IC 32-24-1 and any loss incurred in a trade or business that is  
 26 attributable to the exercise of eminent domain.  
 27 (3) Payment of the owner's relocation costs, if any.  
 28 (e) The condemnor may not acquire a parcel of real property  
 29 through the exercise of eminent domain under this section if the owner  
 30 of the parcel demonstrates by clear and convincing evidence that:  
 31 (1) the location of the parcel is essential to the viability of the  
 32 owner's commercial activity and **the payment of damages and**  
 33 **relocation costs cannot adequately compensate the owner of**  
 34 **the parcel; or**  
 35 (2) ~~the payment of damages and relocation costs cannot~~  
 36 ~~adequately compensate the owner of the parcel.~~ **the parcel is not**  
 37 **necessary for the economic development project for which it**  
 38 **is sought.**  
 39 (f) The court shall award the payment of reasonable attorney's fees  
 40 to the owner of a parcel in accordance with this chapter.  
 41 SECTION 11. IC 32-31-1-20, AS AMENDED BY P.L.266-2017,  
 42 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 43 JULY 1, 2020]: Sec. 20. (a) Subject to IC 36-1-3-8.5, this section does



1 not apply to privately owned real property for which government funds  
2 or benefits have been allocated from the United States government, the  
3 state, or a political subdivision for the express purpose of providing  
4 reduced rents to low or moderate income tenants.

5 (b) A unit (as defined in IC 36-1-2-23) may not regulate rental rates  
6 for privately owned real property, through a zoning ordinance or  
7 otherwise, unless the regulation is authorized by an act of the general  
8 assembly.

9 (c) **A unit (as defined in IC 36-1-2-23) may not regulate, through  
10 an ordinance or otherwise, any of the following aspects of a  
11 landlord-tenant relationship with respect to privately owned real  
12 property located in the unit unless the regulation is authorized by  
13 an act of the general assembly:**

- 14 (1) **The screening process used by a landlord in approving**
- 15 **tenants to lease privately owned real property.**
- 16 (2) **Security deposits.**
- 17 (3) **Lease applications.**
- 18 (4) **Leasing terms and conditions.**
- 19 (5) **Disclosures concerning the:**
- 20 (A) **property;**
- 21 (B) **lease; or**
- 22 (C) **rights and responsibilities of the parties;**
- 23 **involved in a landlord-tenant relationship.**
- 24 (6) **The rights of the parties to a lease.**
- 25 (7) **Any fees charged by a landlord.**
- 26 (8) **Any other aspects of the landlord-tenant relationship.**

27 **Any ordinance or regulation adopted before July 1, 2020, that**  
28 **violates this subsection is void and unenforceable.**

29 SECTION 12. IC 32-31-8.5 IS ADDED TO THE INDIANA CODE  
30 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2020]:

32 **Chapter 8.5. Retaliatory Acts by Landlords**

33 **Sec. 1. The definitions in IC 32-31-3 apply throughout this**  
34 **chapter.**

35 **Sec. 2. As used in this chapter, "protected activity" means any**  
36 **of the following actions taken by a tenant:**

- 37 (1) **Complaining to a governmental entity responsible for**
- 38 **enforcing an applicable building or housing code about a**
- 39 **violation with respect to the rental premises that materially**
- 40 **affects health or safety.**
- 41 (2) **Making a written complaint:**
- 42 (A) **to the landlord; and**
- 43 (B) **in accordance with the rental agreement or an**
- 44 **applicable state statute;**



- 1 concerning the habitability of the rental premises.
- 2 (3) Bringing an action against the landlord under IC 32-31-8.
- 3 (4) Organizing or becoming a member of a tenant's
- 4 organization.
- 5 (5) Testifying in a court proceeding or an administrative
- 6 hearing against the landlord.
- 7 Sec. 3. As used in this chapter, "rental premises" has the
- 8 meaning set forth in IC 32-31-7-3.
- 9 Sec. 4. As used in this chapter, "retaliatory act" means any of
- 10 the following actions taken by a landlord in response to a tenant's
- 11 engaging in a protected activity:
- 12 (1) Increasing the amount of the tenant's rent.
- 13 (2) Decreasing, terminating, or interfering with services
- 14 provided to the rental premises.
- 15 (3) Bringing or threatening to bring an action for possession
- 16 of the rental premises.
- 17 (4) Bringing or threatening to bring an action to:
- 18 (A) evict the tenant from the rental premises; or
- 19 (B) otherwise terminate the tenant's rental agreement
- 20 before the expiration of the term of the rental agreement.
- 21 Sec. 5. (a) Subject to subsection (b), and except as provided in
- 22 subsection (c), a landlord may not engage in a retaliatory act in
- 23 response to a tenant's engaging in one (1) or more protected
- 24 activities.
- 25 (b) Subsection (a) does not prohibit a landlord from doing any
- 26 of the following:
- 27 (1) Declining to renew a rental agreement at the conclusion of
- 28 the term of the rental agreement.
- 29 (2) Increasing a tenant's rent to that which is charged for
- 30 comparable market rentals, regardless of whether the
- 31 increase is effective:
- 32 (A) at the conclusion of the term of the rental agreement;
- 33 or
- 34 (B) if provided for in the rental agreement, during the term
- 35 of the rental agreement.
- 36 (3) Subject to applicable law, decreasing or terminating one
- 37 (1) or more services provided to the rental premises, if those
- 38 services are decreased or terminated to all tenants on an equal
- 39 basis.
- 40 (c) A landlord may bring an action described in section 4(3) or
- 41 4(4) of this chapter (including as a petition for an emergency
- 42 possessory order under IC 32-31-6) under the following
- 43 circumstances, or as otherwise authorized by law:
- 44 (1) A violation described in section 2(1) of this chapter is



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caused primarily by the intentional or negligent acts of, or a lack of reasonable care by:

- (A) the tenant;
- (B) an authorized occupant of the rental premises; or
- (C) a guest or invitee of the tenant.

(2) The tenant is in default with respect to rent due and has failed to cure the default within the time set forth in:

- (A) IC 32-31-1-6; or
- (B) the rental agreement.

(3) Compliance with an applicable building or housing code requires alteration, remodeling, or demolition of the rental premises, such that the tenant would be effectively deprived of use of the rental premises.

(4) The tenant is in noncompliance with a provision of the rental agreement, and the noncompliance materially affects the health or safety of the tenant or others.

(5) The tenant's rental agreement is for a definite term, and the tenant holds over after expiration of the term.

(6) The landlord's action for possession of the rental premises is made:

- (A) in good faith; and
- (B) before the tenant engages in a protected activity.

(7) The landlord seeks in good faith to take possession of the rental premises at the end of the term of the tenant's rental agreement in order to:

- (A) use the rental premises as the landlord's own abode;
- (B) alter, remodel, or demolish the rental premises in a manner that requires the complete displacement of the tenant's household; or
- (C) terminate for a period of at least six (6) months the use of the property as a rental unit.

Sec. 6. (a) If a landlord brings an action described in section 4(3) or 4(4) of this chapter, the tenant may assert as a defense that:

- (1) the landlord's suit constitutes a retaliatory act; or
- (2) the landlord has engaged in one (1) or more other retaliatory acts.

The burden for proving the landlord's retaliatory intent is on the tenant.

(b) If the court finds that the landlord has engaged in a retaliatory act, the tenant is entitled to:

- (1) the repayment or credit of up to one (1) month's rent; and
- (2) possession of the rental premises under the terms of the rental agreement in effect at the time the action was commenced.



1           (c) If the court finds that the tenant's asserted defense under this  
2 section is without merit or was asserted in bad faith or for the  
3 purpose of delaying the landlord's possession of the rental  
4 premises, the landlord is entitled to recover actual damages and  
5 attorney fees.  
6           Sec. 7. A unit (as defined in IC 36-1-2-23) may not adopt or  
7 enforce any:  
8           (1) ordinance; or  
9           (2) regulation;  
10 concerning retaliatory acts by landlords. Any ordinance or  
11 regulation adopted before July 1, 2020, that violates this subsection  
12 is void and unenforceable.



## COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 340, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 6, strike "and to show cause, if any, why the property sought".

Page 1, line 7, strike "to be condemned should not be acquired." and insert "**to object to the condemnation.**".

Page 1, line 8, delete "to the".

Page 1, line 9, delete "acquisition of the property".

Page 1, line 10, after "is served." insert "**The notice must include, either as an attachment or as part of the language of the notice, the full text of section 8 of this chapter.**".

Page 1, line 17, strike "to show cause, if any, they have why the" and insert "**to object to the condemnation of**".

Page 2, line 1, delete "of \_\_\_\_\_" and insert "of \_\_\_\_\_".

Page 2, line 1, strike "should not".

Page 2, line 2, strike "be acquired".

Page 4, between lines 25 and 26, begin a new paragraph and insert:

**"(f) The notice required by this section must provide the full text of subsection (d) to provide notice to the property owners of their right to object to the condemnation and be in substantially the same form as the notice required under IC 32-24-1-6(a)."**

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 340 as introduced.)

KOCH, Chairperson

Committee Vote: Yeas 9, Nays 1.

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 SENATE MOTION

Madam President: I move that Senate Bill 340 be amended to read as follows:

Page 6, delete lines 8 through 13.



Renumber all SECTIONS consecutively.

(Reference is to SB 340 as printed January 24, 2020.)

SPARTZ

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 340, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-22-1-11, AS AMENDED BY P.L.54-2009, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 11. **(a)** An officer who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:

- (1) The date, time, officer's name, public agency, and address and telephone number to contact for information.
- (2) That the vehicle or parts are considered abandoned.
- (3) That the vehicle or parts will be removed after:
  - (A) twenty-four (24) hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or
  - (B) **except as provided in subsection (b)**, seventy-two (72) hours, for any other vehicle.
- (4) That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.
- (5) That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within:
  - (A) twenty-four (24) hours, if the vehicle is located on or within the right-of-way of an interstate highway or any highway that is designated as part of the state highway system under IC 8-23-4; or
  - (B) seventy-two (72) hours, for any other vehicle **except as provided under subsection (b)**.

**(b) The legislative body of a municipality (as defined in IC 36-1-2-11) may adopt an ordinance that establishes a different waiting period for the removal of an abandoned vehicle, that must**

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**be at least seventy-two (72) hours but not more than fourteen (14) days, for the purpose of allowing a person to park their vehicle that is registered to their residence on the street outside of that residence.**

SECTION 2. IC 9-22-1-14, AS AMENDED BY P.L.125-2012, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 14. (a) If in the opinion of the officer the market value of the abandoned vehicle or parts is at least:

- (1) one thousand dollars (\$1,000); or
- (2) in a municipality that has adopted an ordinance under section

13(b) of this chapter, the amount established by the ordinance; the officer, before placing a notice tag on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts.

(b) **Except as provided under section 11(b) of this chapter**, after seventy-two (72) hours, the officer shall require the vehicle or parts to be towed to a storage yard or towing service.

SECTION 3. IC 32-21-2-3, AS AMENDED BY P.L.14-2019, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) Except as provided in subsection (c), a conveyance, a mortgage, or an instrument of writing to be recorded must be:

- (1) acknowledged by the grantor; ~~or~~ **and**
- (2) proved before a:
  - (A) judge;
  - (B) clerk of a court of record;
  - (C) county auditor;
  - (D) county recorder;
  - (E) notary public;
  - (F) mayor of a city in Indiana or any other state;
  - (G) commissioner appointed in a state other than Indiana by the governor of Indiana;
  - (H) minister, charge d'affaires, or consul of the United States in any foreign country;
  - (I) clerk of the city county council for a consolidated city, city clerk for a second class city, or clerk-treasurer for a third class city;
  - (J) clerk-treasurer for a town; or
  - (K) person authorized under IC 2-3-4-1.

(b) In addition to the requirements under subsection (a), a conveyance may not be recorded after June 30, 2007, unless it meets the requirements of this subsection. The conveyance must include a statement containing substantially the following information:



"The mailing address to which statements should be mailed under IC 6-1.1-22-8.1 is [insert proper mailing address]. The mailing address of the grantee is [insert proper mailing address]."

The mailing address for the grantee must be a street address or a rural route address. A conveyance complies with this subsection if it contains the address or addresses required by this subsection at the end of the conveyance and immediately preceding or following the statements required by IC 36-2-11-15.

(c) This section does not apply to the Indiana department of transportation."

Page 1, line 6, reset in roman "and to show cause, if any, why the property sought".

Page 1, line 7, reset in roman "to be condemned should not be acquired."

Page 1, line 7, delete "to object to the".

Page 1, line 8, delete "condemnation."

Page 3, line 12, after "(h)" insert "**This subsection does not apply to a condemnation action brought by a public utility (as defined in section 5.9(a) of this chapter) or by a pipeline company.**".

Page 3, line 16, delete "objection." and insert "**objection, in an amount not to exceed twenty-five thousand dollars (\$25,000).**".

Page 5, line 10, after "located." reset in roman "The".

Page 5, reset in roman line 11.

Page 5, delete lines 12 through 43, begin a new paragraph and insert:

"SECTION 4. IC 32-24-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 11. (a) The appeal may be taken by filing an original complaint in the court against the municipality within the time required by section ~~10(e)~~ **10(d)** of this chapter, setting forth the action of the works board with respect to the assessment and stating the facts relied upon as showing an error on the part of the board. The court shall rehear the matter of the assessment de novo and confirm, reduce, or increase the assessment. If the court reduces the amount of benefit assessed or increases the amount of damages awarded, the plaintiff may recover costs. If the court confirms the amount of the assessment, the plaintiff may not recover costs. ~~The judgment of the court is conclusive, and an appeal may not be taken from the court's judgment.~~

(b) If upon appeal the benefits assessed or damages awarded by the works board are reduced or increased, the municipality may, upon the payment of costs, discontinue the proceedings. It may also, through the works board, make and adopt an additional assessment against all the property originally assessed in the proceeding, or that part that is



benefitted, in the manner provided for the original assessment. However, such an assessment against any one (1) piece of property may not exceed ten percent (10%) of the original assessment against it.

(c) If the municipality decides to discontinue the proceedings upon payment of costs and if assessments for benefits have already been paid, the amounts paid shall be paid back to the person or persons paying them.

**(d) The parties may appeal a court's judgment under this section in the manner that appeals are taken from final judgments in civil actions. All of the parties shall take notice of and be bound by the judgment of the appeal."**

Page 6, delete lines 1 through 7.

Page 7, after line 8, begin a new paragraph and insert:

"SECTION 8. IC 32-31-1-20, AS AMENDED BY P.L.266-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 20. (a) Subject to IC 36-1-3-8.5, this section does not apply to privately owned real property for which government funds or benefits have been allocated from the United States government, the state, or a political subdivision for the express purpose of providing reduced rents to low or moderate income tenants.

(b) A unit (as defined in IC 36-1-2-23) may not regulate rental rates for privately owned real property, through a zoning ordinance or otherwise, unless the regulation is authorized by an act of the general assembly.

**(c) A unit (as defined in IC 36-1-2-23) may not regulate, through an ordinance or otherwise, any of the following aspects of a landlord-tenant relationship with respect to privately owned real property located in the unit unless the regulation is authorized by an act of the general assembly:**

- (1) The screening process used by a landlord in approving tenants to lease privately owned real property.**
- (2) Security deposits.**
- (3) Lease applications.**
- (4) Leasing terms and conditions.**
- (5) Disclosures concerning the:**
  - (A) property;**
  - (B) lease; or**
  - (C) rights and responsibilities of the parties; involved in a landlord-tenant relationship.**
- (6) The rights of the parties to a lease.**
- (7) Any fees charged by a landlord.**
- (8) Any other aspects of the landlord-tenant relationship.**

**Any ordinance or regulation adopted before July 1, 2020, that**



**violates this subsection is void and unenforceable.**

SECTION 9. IC 32-31-8.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:

**Chapter 8.5. Retaliatory Acts by Landlords**

**Sec. 1.** The definitions in IC 32-31-3 apply throughout this chapter.

**Sec. 2.** As used in this chapter, "protected activity" means any of the following actions taken by a tenant:

- (1) Complaining to a governmental entity responsible for enforcing an applicable building or housing code about a violation with respect to the rental premises that materially affects health or safety.
- (2) Making a written complaint:
  - (A) to the landlord; and
  - (B) in accordance with the rental agreement or an applicable state statute; concerning the habitability of the rental premises.
- (3) Bringing an action against the landlord under IC 32-31-8.
- (4) Organizing or becoming a member of a tenant's organization.
- (5) Testifying in a court proceeding or an administrative hearing against the landlord.

**Sec. 3.** As used in this chapter, "rental premises" has the meaning set forth in IC 32-31-7-3.

**Sec. 4.** As used in this chapter, "retaliatory act" means any of the following actions taken by a landlord in response to a tenant's engaging in a protected activity:

- (1) Increasing the amount of the tenant's rent.
- (2) Decreasing, terminating, or interfering with services provided to the rental premises.
- (3) Bringing or threatening to bring an action for possession of the rental premises.
- (4) Bringing or threatening to bring an action to:
  - (A) evict the tenant from the rental premises; or
  - (B) otherwise terminate the tenant's rental agreement before the expiration of the term of the rental agreement.

**Sec. 5. (a)** Subject to subsection (b), and except as provided in subsection (c), a landlord may not engage in a retaliatory act in response to a tenant's engaging in one (1) or more protected activities.

**(b)** Subsection (a) does not prohibit a landlord from doing any of the following:

- (1) Declining to renew a rental agreement at the conclusion of



the term of the rental agreement.

(2) Increasing a tenant's rent to that which is charged for comparable market rentals, regardless of whether the increase is effective:

(A) at the conclusion of the term of the rental agreement;  
or

(B) if provided for in the rental agreement, during the term of the rental agreement.

(3) Subject to applicable law, decreasing or terminating one (1) or more services provided to the rental premises, if those services are decreased or terminated to all tenants on an equal basis.

(c) A landlord may bring an action described in section 4(3) or 4(4) of this chapter (including as a petition for an emergency possessory order under IC 32-31-6) under the following circumstances, or as otherwise authorized by law:

(1) A violation described in section 2(1) of this chapter is caused primarily by the intentional or negligent acts of, or a lack of reasonable care by:

- (A) the tenant;
- (B) an authorized occupant of the rental premises; or
- (C) a guest or invitee of the tenant.

(2) The tenant is in default with respect to rent due and has failed to cure the default within the time set forth in:

- (A) IC 32-31-1-6; or
- (B) the rental agreement.

(3) Compliance with an applicable building or housing code requires alteration, remodeling, or demolition of the rental premises, such that the tenant would be effectively deprived of use of the rental premises.

(4) The tenant is in noncompliance with a provision of the rental agreement, and the noncompliance materially affects the health or safety of the tenant or others.

(5) The tenant's rental agreement is for a definite term, and the tenant holds over after expiration of the term.

(6) The landlord's action for possession of the rental premises is made:

- (A) in good faith; and
- (B) before the tenant engages in a protected activity.

(7) The landlord seeks in good faith to take possession of the rental premises at the end of the term of the tenant's rental agreement in order to:

- (A) use the rental premises as the landlord's own abode;
- (B) alter, remodel, or demolish the rental premises in a



manner that requires the complete displacement of the tenant's household; or

(C) terminate for a period of at least six (6) months the use of the property as a rental unit.

Sec. 6. (a) If a landlord brings an action described in section 4(3) or 4(4) of this chapter, the tenant may assert as a defense that:

- (1) the landlord's suit constitutes a retaliatory act; or
- (2) the landlord has engaged in one (1) or more other retaliatory acts.

The burden for proving the landlord's retaliatory intent is on the tenant.

(b) If the court finds that the landlord has engaged in a retaliatory act, the tenant is entitled to:

- (1) the repayment or credit of up to one (1) month's rent; and
- (2) possession of the rental premises under the terms of the rental agreement in effect at the time the action was commenced.

(c) If the court finds that the tenant's asserted defense under this section is without merit or was asserted in bad faith or for the purpose of delaying the landlord's possession of the rental premises, the landlord is entitled to recover actual damages and attorney fees.

Sec. 7. A unit (as defined in IC 36-1-2-23) may not adopt or enforce any:

- (1) ordinance; or
- (2) regulation;

concerning retaliatory acts by landlords. Any ordinance or regulation adopted before July 1, 2020, that violates this subsection is void and unenforceable."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 340 as reprinted January 28, 2020.)

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Committee Vote: yeas 9, nays 2.

