



January 31, 2020

---

---

## SENATE BILL No. 343

---

DIGEST OF SB 343 (Updated January 30, 2020 10:52 am - DI 133)

**Citations Affected:** IC 5-1.5; IC 8-1; IC 29-1; IC 30-4; IC 32-28; IC 32-34; IC 34-30.

**Synopsis:** Rural communications cooperatives. Changes the rural telephone cooperative act to the rural communications cooperative act, allowing the formation of nonprofit cooperative corporations for the purposes of providing telecommunications service and information service, including video service, broadband service, and VOIP service. Makes conforming amendments.

**Effective:** July 1, 2020.

---

---

### Houchin, Messmer, Koch, Leising

---

---

January 13, 2020, read first time and referred to Committee on Utilities.  
January 30, 2020, reported favorably — Do Pass.

---

---

SB 343—LS 7184/DI 119





January 31, 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.

## SENATE BILL No. 343

---

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 5-1.5-1-8, AS AMENDED BY P.L.189-2018,  
2 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2020]: Sec. 8. "Qualified entity" means:  
4 (1) a political subdivision (as defined in IC 36-1-2-13);  
5 (2) a state educational institution;  
6 (3) a leasing body (as defined in IC 5-1-1-1(a));  
7 (4) a not-for-profit utility (as defined in IC 8-1-2-125);  
8 (5) any rural electric membership corporation organized under  
9 IC 8-1-13;  
10 (6) any corporation that was organized in 1963 under Acts 1935,  
11 c. 157 and that engages in the generation and transmission of  
12 electric energy;  
13 (7) any **telephone communications** cooperative corporation  
14 formed under IC 8-1-17;  
15 (8) any commission, authority, or authorized body of any qualified  
16 entity;  
17 (9) any organization, association, or trust with members,

SB 343—LS 7184/DI 119



1 participants, or beneficiaries that are all individually qualified  
 2 entities;  
 3 (10) any commission, authority, or instrumentality of the state;  
 4 (11) any other participant (as defined in IC 5-1.2-2-54);  
 5 (12) a charter school established under IC 20-5.5 (before its  
 6 repeal) or IC 20-24 that is not a qualified entity under  
 7 IC 5-1.4-1-10;  
 8 (13) a volunteer fire department (as defined in IC 36-8-12-2); or  
 9 (14) a development authority (as defined in IC 36-7.6-1-8).

10 SECTION 2. IC 8-1-3-6 IS AMENDED TO READ AS FOLLOWS  
 11 [EFFECTIVE JULY 1, 2020]: Sec. 6. All rules, practices, installations,  
 12 and services prescribed, approved, or required by the commission shall  
 13 be in force and shall be prima facie reasonable unless finally found  
 14 otherwise by the court of appeals or by the supreme court if the cause  
 15 is transferred to and decided by that court. However, pending the  
 16 appeal as in this chapter provided, any municipally owned utility,  
 17 public utility, rural electric membership corporation, or rural ~~telephone~~  
 18 **communications cooperative association corporation** whose rate or  
 19 rates are affected by the decision, ruling, or order appealed from shall  
 20 have the right to collect the rate or rates as fixed by said decision,  
 21 ruling, or order, or the former rate, whichever is higher in amount, and  
 22 such municipally owned utility, public utility, corporation, or  
 23 association shall refund the difference to each consumer or contract  
 24 customer if such difference be not sustained upon appeal. However,  
 25 pending the appeal as in this chapter provided, the court of appeals,  
 26 upon good cause shown by verified petition, may authorize and permit,  
 27 but not require, any common or contract carrier whose rate or rates are  
 28 affected by the decision, ruling, or order appealed from, to collect the  
 29 rate or rates published and in effect or the rate or rates sought to be put  
 30 into effect, immediately prior to the commencement of the proceeding  
 31 before the commission, subject to such provisions for bond or escrow  
 32 as the court shall provide to protect the interest of all parties of record  
 33 before the court.

34 SECTION 3. IC 8-1-17-1 IS AMENDED TO READ AS FOLLOWS  
 35 [EFFECTIVE JULY 1, 2020]: Sec. 1. This chapter may be known and  
 36 referred to as the "Rural ~~Telephone~~ **Communications** Cooperative  
 37 Act".

38 SECTION 4. IC 8-1-17-2, AS AMENDED BY P.L.136-2018,  
 39 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JULY 1, 2020]: Sec. 2. Any number of natural persons not less than  
 41 eleven (11) may, by executing, filing, and recording articles of  
 42 incorporation as provided in this chapter, form a cooperative



1 corporation, not organized for pecuniary profit, for the purpose of:

2 (1) if ~~such the~~ corporation ~~be is~~ local in its scope, promoting and  
 3 encouraging the fullest possible use of ~~telephone~~  
 4 **communications** service in Indiana by making ~~telephone~~  
 5 **communications** service and educational services incident to  
 6 ~~telephone communications~~ service available to inhabitants of  
 7 rural areas of Indiana at the lowest cost consistent with sound  
 8 economy and prudent management of the business of the  
 9 cooperative corporation; or

10 (2) if ~~such the~~ corporation ~~be is~~ general in its scope, furnishing  
 11 engineering, financial, accounting, and/or educational services,  
 12 incident to ~~telephone communications~~ service.

13 SECTION 5. IC 8-1-17-2.1, AS AMENDED BY P.L.27-2006,  
 14 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2020]: Sec. 2.1. (a) If the requirements of subsection (b) are  
 16 met, a local cooperative telephone corporation formed under Acts  
 17 1935, c.157 is considered to ~~have been~~ **be a communications**  
 18 **cooperative corporation** formed under this chapter and is subject to  
 19 its requirements and not the requirements of IC 23-7-1.1 (before its  
 20 repeal August 1, 1991) or IC 23-17.

21 (b) A local cooperative telephone corporation described in  
 22 subsection (a) shall amend its articles of incorporation in accordance  
 23 with IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17 to  
 24 conform to the requirements of this chapter and shall submit a copy of  
 25 its amended articles to the commission for approval. After examining  
 26 the articles, the commission shall approve the amended articles if they  
 27 conform to the requirements of this chapter. The commission may  
 28 approve the amended articles without conducting a hearing. The  
 29 secretary of state may not issue a certificate of amendment before the  
 30 commission approves the amended articles under this subsection.

31 (c) The certificate of public convenience and necessity or certificate  
 32 of territorial authority previously issued to a local cooperative  
 33 telephone corporation described in subsection (a) shall serve as the  
 34 certificate required under section 6 of this chapter (before its repeal  
 35 July 1, 2009).

36 (d) Subsection (a) applies to a local telephone cooperative  
 37 corporation as of the date the secretary of state issues a certificate of  
 38 amendment under IC 23-7-1.1-26 (before its repeal August 1, 1991) or  
 39 IC 23-17-17.

40 (e) The local cooperative telephone corporation shall record the  
 41 amended articles of incorporation in the county where the local  
 42 cooperative telephone corporation has its principal office.



1 SECTION 6. IC 8-1-17-2.2 IS ADDED TO THE INDIANA CODE  
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 3 1, 2020]: **Sec. 2.2. (a) A telephone cooperative corporation formed  
 4 under this chapter before July 1, 2020, is, after June 30, 2020:**

5 **(1) considered to be a communications cooperative  
 6 corporation; and**

7 **(2) subject to this chapter;**

8 **as if the telephone cooperative corporation were formed under this  
 9 chapter after June 30, 2020.**

10 **(b) After June 30, 2020, a reference in a statute, rule, or other  
 11 document to a telephone cooperative corporation formed under  
 12 this chapter is considered a reference to a communications  
 13 cooperative corporation formed under this chapter.**

14 SECTION 7. IC 8-1-17-3, AS AMENDED BY P.L.49-2018,  
 15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2020]: Sec. 3. As used in this chapter, the following terms  
 17 have the following meanings unless a different meaning clearly appears  
 18 from the context:

19 (1) "Acquire" means to obtain by construction, purchase, lease,  
 20 devise, gift, eminent domain, or by any other lawful means.

21 (2) "Board" means the board of directors of a cooperative  
 22 corporation.

23 (3) "Communications facilities" includes all buildings, plants,  
 24 works, structures, improvements, fixtures, apparatus,  
 25 materials, supplies, machinery, tools, implements, poles, posts,  
 26 crossarms, conduits, ducts, underground or overhead lines,  
 27 wires, cables, fibers, exchanges, switches, desks, testboards,  
 28 frames, racks, motors, generators, batteries, and other items  
 29 of central office equipment, paystations, protectors,  
 30 instruments, connections, and appliances, office furniture and  
 31 equipment, work equipment, and all other property used in  
 32 connection with the provision of communications services.

33 (4) "Communications service":

34 (A) has the meaning set forth in IC 8-1-32.5-3; and

35 (B) includes all facilities or systems used in the rendition of  
 36 the service.

37 (⊖) (5) "Cooperative corporation" means a corporation formed  
 38 under this chapter.

39 (⊖) (6) "Facilities based local exchange carrier" has the meaning  
 40 set forth in IC 8-1-32.4-5.

41 (⊖) (7) "General cooperative corporation" means a cooperative  
 42 corporation formed to render services to local cooperative



- 1 corporations.
- 2 ~~(6)~~ **(8)** "Improve" includes construct, reconstruct, extend, enlarge,
- 3 alter, better, or repair.
- 4 ~~(7)~~ **(9)** "Local cooperative corporation" means a cooperative
- 5 corporation formed to render ~~telephone~~ **communications** services
- 6 within Indiana.
- 7 **(10) "Local exchange service" has the meaning set forth in**
- 8 **IC 8-1-32.4-8.**
- 9 ~~(8)~~ **(11)** "Member" includes each individual signing the articles
- 10 of incorporation of a cooperative corporation and each person
- 11 admitted to membership of the cooperative corporation under law
- 12 and the corporation's bylaws.
- 13 ~~(9)~~ **(12)** "Obligations" includes negotiable bonds, notes,
- 14 debentures, interim certificates or receipts, and other evidences of
- 15 indebtedness, either issued or the payment of which is assumed
- 16 by a cooperative corporation.
- 17 ~~(10)~~ **(13)** "Person" or "inhabitant" includes an individual, a firm,
- 18 an association, a corporation, a limited liability company, a
- 19 business trust, and a partnership.
- 20 ~~(11)~~ **(14)** "Service" or "services", when not accompanied by the
- 21 word "~~telephone~~", "**communications**", means construction,
- 22 engineering, financial, accounting, or educational services
- 23 incidental to **telephone communications** service.
- 24 ~~(12)~~ **(15)** "System" includes any plant, works, system, facilities,
- 25 or properties, together with all parts of and appurtenances to the
- 26 plant, works, system, facilities, or properties, used or useful in
- 27 **telephone communications** service.
- 28 ~~(13)~~ "Telephone facilities" includes all buildings, plants, works,
- 29 structures, improvements, fixtures, apparatus, materials, supplies,
- 30 machinery, tools, implements, poles, posts, crossarms, conduits,
- 31 ducts, underground or overhead lines, wires, cables, exchanges,
- 32 switches, desks, testboards, frames, racks, motors, generators,
- 33 batteries, and other items of central office equipment, paystations,
- 34 protectors, instruments, connections, and appliances, office
- 35 furniture and equipment, work equipment, and all other property
- 36 used in connection with the provision of telephone and other
- 37 telecommunications services.
- 38 ~~(14)~~ "Telephone service" refers to telecommunications service (as
- 39 defined in 47 U.S.C. 153) provided by a telephone cooperative
- 40 corporation. The term includes all facilities or systems used in the
- 41 rendition of the service.
- 42 SECTION 8. IC 8-1-17-5, AS AMENDED BY P.L.27-2006,



1 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2020]: Sec. 5. (a) The individuals executing the articles of  
3 incorporation of a local cooperative corporation shall be residents of  
4 the area in which the operations of the cooperative corporation are to  
5 be conducted and shall be persons desirous of using ~~telephone~~  
6 **communications** service to be furnished by the cooperative  
7 corporation.

8 (b) The individuals executing the articles of incorporation of a  
9 general cooperative corporation shall be members or prospective  
10 members of one (1) or more local cooperative corporations which are  
11 prospective members of such general cooperative corporation.

12 (c) The articles shall be executed in at least six (6) originals and  
13 shall be acknowledged by the subscribers before an officer authorized  
14 by law to take acknowledgments of deeds. When so acknowledged,  
15 three (3) originals of said articles shall be submitted to the commission.  
16 At the time the articles of incorporation are filed, an application for a  
17 certificate of territorial authority under IC 8-1-32.5 shall be filed with  
18 the commission if the applicant will operate as a local cooperative  
19 corporation. The application shall be executed by one (1) or more of  
20 the individuals executing the articles and shall comply with the  
21 requirements of IC 8-1-32.5-6, as applicable.

22 (d) Upon the receipt of any articles of incorporation and application  
23 for a certificate of territorial authority, the commission shall conduct  
24 the review required under IC 8-1-32.5-8. If the applicant is a local  
25 cooperative corporation **and is applying for a certificate of territorial**  
26 **authority to provide local exchange service**, the commission shall  
27 give written notice, by United States registered mail, of the filing of the  
28 application to each facilities based local exchange carrier operating in  
29 territory contiguous to the area in which the cooperative corporation  
30 proposes to render ~~telephone~~ **communications** service. The  
31 commission shall use the record maintained by the commission under  
32 IC 8-1-32.5-13 to determine which facilities based local exchange  
33 carriers are entitled to notice under this subsection.

34 (e) If the commission, after conducting the review required by  
35 IC 8-1-32.5-8 and any hearing allowed under IC 8-1-32.5-9, determines  
36 that the applicant meets the requirements for the issuance of a  
37 certificate of territorial authority under IC 8-1-32.5-8, the commission  
38 shall:

- 39 (1) issue a certificate of territorial authority under IC 8-1-32.5;  
40 and  
41 (2) enter an order approving the organization of the cooperative  
42 corporation and the proposed articles of incorporation.





1 (f) If the commission, after conducting the review required by  
 2 IC 8-1-32.5-8 and any hearing allowed under IC 8-1-32.5-9, determines  
 3 that the applicant does not meet the requirements for the issuance of a  
 4 certificate of territorial authority under IC 8-1-32.5-8, the commission  
 5 shall:

6 (1) request the applicant to provide additional information; or

7 (2) notify the applicant of the applicant's right to:

8 (A) appeal the commission's determination under IC 8-1-3; or

9 (B) file another application at a later date, without prejudice;  
 10 under IC 8-1-32.5-8.

11 (g) If the commission approves the articles of incorporation under  
 12 subsection (e), the cooperative corporation shall submit the following  
 13 documents, along with two (2) copies of each, to the secretary of state  
 14 for filing:

15 (1) One (1) of the original articles of incorporation executed by  
 16 the corporation under subsection (c).

17 (2) A certified copy of the order of the commission under  
 18 subsection (e)(2).

19 (3) A certified copy of the certificate of territorial authority issued  
 20 by the commission under subsection (e)(1).

21 If the secretary of state determines that the documents described in  
 22 subdivisions (1) through (3) comply with law, the secretary of state  
 23 shall endorse the documents and file one (1) set of the documents in the  
 24 secretary of state's office and deliver the other two (2) sets, endorsed  
 25 with the secretary of state's approval, to the incorporators. The  
 26 incorporators shall record one (1) of the approved original or certified  
 27 copies of the documents in the office of the recorder of the county in  
 28 which the cooperative corporation has, or will have, its principal office.

29 (h) As soon as the provisions of this section have been complied  
 30 with, the proposed cooperative corporation, described in the articles of  
 31 incorporation recorded under subsection (g), under its designated  
 32 name, is a body corporate.

33 SECTION 9. IC 8-1-17-10 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10. (a) The corporate  
 35 purpose of each local cooperative corporation shall be to render  
 36 ~~telephone communications~~ service to its members and to such other  
 37 persons in the specific instances as expressly provided in this chapter,  
 38 and no person shall become or remain a member unless such person  
 39 shall use ~~telephone communications~~ service supplied by such  
 40 cooperative corporation and shall have complied with the terms and  
 41 conditions in respect to membership contained in the bylaws of such  
 42 cooperative corporation.



1 (b) A local cooperative corporation is one formed under this chapter  
 2 for the purpose of furnishing ~~telephone~~ **communications** service to its  
 3 patrons.

4 SECTION 10. IC 8-1-17-11, AS AMENDED BY P.L.136-2018,  
 5 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2020]: Sec. 11. Any cooperative corporation to be formed  
 7 under this chapter shall be either a general cooperative corporation or  
 8 a local cooperative corporation.

9 (a) A general cooperative corporation is one formed under this  
 10 chapter for the purpose of furnishing engineering, financial accounting,  
 11 or educational services to its members or to persons expecting to form  
 12 a local cooperative corporation, and having for its members only its  
 13 incorporators or local cooperative corporations. It shall not render  
 14 ~~telephone~~ **communications** service and the commission shall not  
 15 allocate to it any territory for such purpose.

16 (b) A general cooperative corporation may be formed to have as  
 17 members, and serve, local cooperative corporations in all, or certain  
 18 named, counties of this state, not including any county previously  
 19 named as part of the territory to be served by another general  
 20 cooperative corporation then organized and existing, unless such other  
 21 general cooperative corporation duly consents in writing, filed with the  
 22 commission, to such inclusion.

23 (c) A general cooperative corporation, before obtaining the approval  
 24 of its articles of incorporation, must prove to the commission that it has  
 25 written consent to its incorporation signed by or on behalf of:

26 (1) the local cooperative corporations then existing and  
 27 contemplated to be members of the general cooperative  
 28 corporation; and

29 (2) the incorporated agricultural association or associations,  
 30 including in its or their members at least one-third (1/3) of the  
 31 members residing in the territory in which the general cooperative  
 32 proposes to operate and reasonably anticipated to become  
 33 members of local cooperative corporations which will become  
 34 members of such general cooperative corporation.

35 Such signatures of said local cooperative corporations and of such  
 36 agricultural associations shall be made by their respective presidents  
 37 or vice presidents, and secretaries or assistant secretaries, and shall be  
 38 supported by certified copies of resolutions authorizing the same and  
 39 duly adopted by their boards of directors, respectively.

40 SECTION 11. IC 8-1-17-13, AS AMENDED BY P.L.27-2006,  
 41 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2020]: Sec. 13. A cooperative corporation may do any and all



1 acts or things necessary or convenient for carrying out the purpose for  
2 which it was formed, including the following:

3 (1) To sue and be sued.

4 (2) To have a seal and alter the same at pleasure.

5 (3) To acquire, hold, and dispose of property, real and personal,  
6 tangible and intangible, or any interest in the property and to pay  
7 in cash or credit, and to secure and procure payment of all or any  
8 part of the purchase price on the terms and conditions as the  
9 board shall determine.

10 (4) If it is a local cooperative corporation, to furnish, improve, and  
11 expand ~~telephone~~ **communications** service to its members, to  
12 governmental agencies and political subdivisions, and to other  
13 persons.

14 (5) If it is a local cooperative corporation, to construct, purchase,  
15 lease as lessee, or otherwise acquire, and to improve, expand,  
16 install, equip, maintain, and operate, and to sell, assign, convey,  
17 lease as lessor, mortgage, pledge, or otherwise dispose of or  
18 encumber ~~telephone~~ **communications** facilities or systems, lands,  
19 buildings, structures, plants and equipment, exchanges, and any  
20 other real or personal property, tangible or intangible which is  
21 necessary or appropriate to accomplish the purpose for which the  
22 local cooperative corporation is organized.

23 (6) To cease doing business and to dissolve and surrender its  
24 corporate franchise.

25 (7) If it is a local cooperative corporation, to construct, operate,  
26 and maintain its ~~telephone~~ **communications** facilities across or  
27 along any street or public highway, or over lands that are the  
28 property of this state or a political subdivision of the state. Before  
29 ~~telephone~~ **communications** facilities are constructed across or  
30 along a highway in the state highway system, the local  
31 cooperative corporation shall first obtain the permit of the Indiana  
32 department of transportation to do so, and the location and setting  
33 of the ~~telephone~~ **communications** facilities shall be approved by  
34 and subject to the supervision of the Indiana department of  
35 transportation. Before ~~telephone~~ **communications** facilities are  
36 constructed on or across land belonging to the state, the local  
37 cooperative corporation shall first obtain the permit of the  
38 department of state having charge of the lands to do so, and the  
39 location and setting of the ~~telephone~~ **communications** facilities  
40 shall be approved by and subject to the supervision of the  
41 department. The ~~telephone~~ **communications** facilities shall be  
42 erected and maintained so as not to interfere with the use and



1 maintenance of the streets, highways, and lands, and no pole or  
 2 appliance shall be located so as to interfere with the ingress or  
 3 egress from any premises on the street or highway. Nothing in this  
 4 section contained shall deprive the body having charge of the  
 5 street or highway of the right to require the relocation of any pole  
 6 or appliance which may affect the proper use of the street or  
 7 highway for public travel, for drainage, or for the repair,  
 8 construction, or reconstruction of the street or highway. The local  
 9 cooperative corporation shall restore the street, highway, or lands  
 10 to their former condition or state as near as may be and shall not  
 11 use the same in a manner to impair unnecessarily their usefulness  
 12 or to injure the property of others.

13 (8) To accept gifts or grants of property, real or personal, from  
 14 any person, municipality, or federal agency and to accept  
 15 voluntary and uncompensated services.

16 (9) If it is a local cooperative corporation, to connect and  
 17 interconnect its ~~telephone~~ **communications** facilities or systems  
 18 with other ~~telephone~~ **communications** facilities or systems. A  
 19 connection or interconnection shall be in a manner and according  
 20 to specifications as will avoid interference with or hazards to  
 21 existing ~~telephone~~ **communications** facilities or systems.

22 (10) To issue membership certificates.

23 (11) To borrow money and otherwise contract indebtedness, and  
 24 to issue or guarantee notes, bonds, and other evidences of  
 25 indebtedness and to secure the payment thereof by mortgage,  
 26 pledge, or deed of trust of, or any other encumbrance upon, any  
 27 or all of its then owned or after-acquired real or personal property,  
 28 assets, franchises, or revenues.

29 (12) To make any and all contracts necessary or convenient for  
 30 the full exercise of the powers in this chapter granted, including,  
 31 without limiting the generality of the foregoing, contracts with  
 32 any person, federal agency, municipality, or other corporation for  
 33 the interconnection of ~~telephone~~ **communications** service; for the  
 34 management and conduct of the business of the cooperative  
 35 corporation; and for the fixing of the rates, fees, or charges for  
 36 service rendered or to be rendered by the local cooperative  
 37 corporation.

38 (13) To levy and collect reasonable fees, rents, tolls, and other  
 39 charges for ~~telephone~~ **communications** service rendered.

40 (14) If it is a local cooperative corporation, to exercise the right  
 41 of eminent domain in the manner provided by law for the exercise  
 42 thereof by communications service providers (as defined in



1 IC 8-1-2.6-13(b)).  
 2 (15) To adopt, amend, and repeal bylaws.  
 3 (16) If it is a local cooperative corporation, to become a member  
 4 of a general cooperative corporation and if it is a general  
 5 cooperative corporation, to have local cooperative corporations as  
 6 its members.  
 7 (17) To recover, after a period of two (2) years, any unclaimed  
 8 stocks, dividends, capital credits, patronage refunds, utility  
 9 deposits, membership fees, account balances, or book equities for  
 10 which the owner cannot be found and are the result of  
 11 distributable savings of the corporation returned to the members  
 12 on a pro rata basis pursuant to section 20 of this chapter.  
 13 SECTION 12. IC 8-1-17-20, AS AMENDED BY P.L.27-2006,  
 14 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2020]: Sec. 20. (a) A local cooperative corporation shall be  
 16 required to furnish reasonably adequate **telephone communications**  
 17 services and facilities. The charge made by any local cooperative  
 18 corporation for any service rendered or to be rendered, either directly  
 19 or in connection with the service, shall be nondiscriminatory,  
 20 reasonable, and just, and every discriminatory, unjust, or unreasonable  
 21 charge for **telephone communications** service is prohibited and  
 22 declared unlawful. Reasonable and just charges for **telephone**  
 23 **communications** service within the meaning of this section are those  
 24 charges that produce sufficient revenue to pay all legal and other  
 25 necessary expense incident to the operation of the local cooperative  
 26 corporation's system, including maintenance costs, operating charges,  
 27 upkeep, repairs, interest charges on bonds or other obligations, to  
 28 provide a sinking fund for the liquidation of bonds or other evidences  
 29 of indebtedness, to provide adequate funds to be used as working  
 30 capital, as well as funds for making extensions and replacements, and  
 31 also for the payment of any taxes that may be assessed against the  
 32 cooperative corporation or its property. Charges described in this  
 33 section must produce an income sufficient to maintain the local  
 34 cooperative corporation's property in sound physical and financial  
 35 condition to render adequate and efficient service. Any rate too low to  
 36 meet the foregoing requirements is unlawful. Revenues and receipts not  
 37 needed for the purposes described in this section, or not needed in  
 38 reserves for those purposes, shall be returned to the patrons on a pro  
 39 rata basis according to the amounts paid by them for **telephone**  
 40 **communications** service. Amounts returned under this section shall be  
 41 either in cash or in abatement of current charges for **telephone**  
 42 **communications** service, as the board may decide.



1 (b) As used in subsection (d), "financial assistance" means:

2 (1) a loan or loan guarantee; or

3 (2) a lien accommodation provided to secure a loan made by  
4 another lender;

5 including loans made by the Rural Electrification Administration of the  
6 United States Department of Agriculture (REA) or by the Rural  
7 Telephone Bank.

8 (c) As used in subsections (d) and (e), "REA borrower" means a  
9 corporation created under this chapter that is the recipient of financial  
10 assistance.

11 (d) In determining rates under this section, an REA borrower must  
12 charge rates sufficient to enable the REA borrower to:

13 (1) satisfy its reasonable expenses and obligations; and

14 (2) repay the full amount of any financial assistance and the  
15 interest thereon.

16 (e) So long as there remains any unpaid portion of any financial  
17 assistance associated with the property of an REA borrower, the rates  
18 of the REA borrower shall be set at a level sufficient to repay the  
19 financial assistance, regardless of the full or partial retirement of the  
20 property or any other change in the status of the property.

21 SECTION 13. IC 8-1-17-23, AS AMENDED BY P.L.27-2006,  
22 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
23 JULY 1, 2020]: Sec. 23. (a) A cooperative corporation may amend its  
24 articles of incorporation to change its corporate name, to increase or  
25 reduce the number of its directors, or to change any other provisions set  
26 forth in the articles. However, any change of location of the principal  
27 office shall be effected in the manner set forth in section 24 of this  
28 chapter. An amendment under this section may be accomplished by  
29 filing articles of amendment, along with any notice of change required  
30 under IC 8-1-32.5-12, with the commission. The articles of amendment  
31 shall be entitled and endorsed "Articles of Amendment of  
32 \_\_\_\_\_" (the blank space being filled in with the name of the  
33 cooperative corporation) and must include the following:

34 (1) The name of the cooperative corporation, and if it has been  
35 changed, the name under which it was originally incorporated.

36 (2) The date of filing the articles of incorporation in each public  
37 office where filed.

38 (3) Whether the statement of counties within which the  
39 corporation's operations are to be conducted is to be changed, and  
40 if so a new statement of the counties in which the corporation will  
41 operate.

42 (4) An affidavit, signed by the officer executing the articles of



- 1 amendment, stating that the provisions of this section were  
 2 complied with.
- 3 (b) The amended articles shall be subscribed in the name of the  
 4 cooperative corporation by the appropriate officers of the cooperative  
 5 corporation, who shall make and annex an affidavit stating that they  
 6 have been authorized to execute and file the amended articles by a  
 7 resolution duly adopted at a meeting of the cooperative corporation  
 8 duly called and held as provided in section 9 of this chapter. If by any  
 9 amendment to the articles of incorporation, the territory proposed to be  
 10 served by the cooperative corporation is to be increased or decreased,  
 11 the appropriate officers of the cooperative corporation shall submit to  
 12 the commission:
- 13 (1) an application for a new certificate of territorial authority  
 14 under IC 8-1-32.5-6; or
  - 15 (2) a notice of change under IC 8-1-32.5-12(7), as allowed by the  
 16 commission.
- 17 (c) Upon receipt of an application or a notice of change under  
 18 subsection (b), the commission shall conduct the review required under  
 19 IC 8-1-32.5-8. If the applicant is a local cooperative corporation **and**  
 20 **will provide local exchange service under the new certificate of**  
 21 **territorial authority**, the commission shall give written notice of the  
 22 proposed change in the corporation's territory to each facilities based  
 23 local exchange carrier operating in contiguous territory in the manner  
 24 provided in section 5 of this chapter. If the commission, after  
 25 conducting the review required by IC 8-1-32.5-8 and any hearing  
 26 allowed under IC 8-1-32.5-9, determines that the amended articles and  
 27 the application or notice of change under IC 8-1-32.5 are accurate,  
 28 complete, and properly verified, the commission shall:
- 29 (1) issue a new or amended certificate under IC 8-1-32.5 that  
 30 reflects the increase or decrease in the territory served by the  
 31 corporation; and
  - 32 (2) enter an order approving the amended articles of the  
 33 cooperative corporation.
- 34 (d) If the commission, after conducting the review required by  
 35 IC 8-1-32.5-8 and any hearing allowed under IC 8-1-32.5-9, determines  
 36 that the amended articles or an application or notice of change under  
 37 IC 8-1-32.5 **are is** inaccurate, incomplete, or not properly verified, the  
 38 commission shall:
- 39 (1) request the corporation to provide additional information; or
  - 40 (2) notify the corporation of the corporation's right to:
    - 41 (A) appeal the commission's determination under IC 8-1-3; or
    - 42 (B) file the amended articles or an application or notice of



1 change under IC 8-1-32.5 at a later date, without prejudice;  
2 under IC 8-1-32.5-8.

3 (e) An amendment increasing or decreasing the territory to be  
4 served by a cooperative corporation shall not be filed in the office of  
5 the secretary of state or of any county recorder unless there is attached  
6 to the amendment a certified copy of an order of the commission under  
7 subsection (c)(2). The amended articles shall be filed in the same  
8 places as the original articles of incorporation and upon filing the  
9 amendment shall be considered to have been effected.

10 SECTION 14. IC 8-1-17-25, AS AMENDED BY P.L.27-2006,  
11 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2020]: Sec. 25. (a) Any cooperative corporation may dissolve  
13 by filing in the office of the secretary of state articles of dissolution  
14 entitled and endorsed "Articles of Dissolution of \_\_\_\_\_" (the  
15 blank space being filled in with the name of the cooperative  
16 corporation). The articles of dissolution shall state the following:

17 (1) The name of the cooperative corporation, and if the  
18 cooperative corporation is a corporation resulting from a  
19 consolidation as provided in this chapter, the names of the  
20 original cooperative corporations.

21 (2) The date of filing of the articles of incorporation in the office  
22 of secretary of state and, if the cooperative corporation is a  
23 corporation resulting from a consolidation as provided in this  
24 chapter, the dates on which the articles of incorporation of the  
25 original cooperative corporations were filed in the office of  
26 secretary of state.

27 (3) That the cooperative corporation elects to dissolve.

28 (4) The name and post office address of each of its directors, and  
29 the name, title, and post office address of each of its officers.

30 The articles shall be subscribed and acknowledged by the appropriate  
31 officers of the cooperative corporation who shall make and annex an  
32 affidavit stating that they have been authorized to execute and file the  
33 articles by a resolution duly adopted by the members of the cooperative  
34 corporation at a meeting duly called and held as provided in section 9  
35 of this chapter. Articles of dissolution or a certified copy or copies of  
36 the articles shall be filed in the same places as original articles of  
37 incorporation. If the dissolving corporation is a local cooperative  
38 corporation, any certificate of territorial authority issued under  
39 IC 8-1-32.5 shall be relinquished, and the appropriate officers of the  
40 corporation shall notify the commission of the relinquishment under  
41 IC 8-1-32.5-12(5).

42 (b) Upon the filings required by subsection (a), the cooperative





1 corporation is dissolved. However, the cooperative corporation shall  
 2 continue for the purpose of paying, satisfying, and discharging any  
 3 existing liabilities or obligations and collecting or liquidating its assets,  
 4 and doing all other acts required to adjust and wind up its business  
 5 affairs, and may sue and be sued in its corporate name. Any assets  
 6 remaining after all liabilities and obligations of the cooperative  
 7 corporation have been satisfied and discharged shall be refunded pro  
 8 rata to the patrons, their assignees, personal representatives, heirs, or  
 9 legatees, who have paid for ~~telephone~~ **communications** service  
 10 rendered by the cooperative corporation within the five (5) year period  
 11 immediately preceding the dissolution. Any assets not refunded within  
 12 the two (2) year period after the dissolution is completed shall pass to  
 13 and become the property of the state.

14 SECTION 15. IC 8-1-17-26, AS AMENDED BY P.L.27-2006,  
 15 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2020]: Sec. 26. (a) Any foreign corporation organized as a  
 17 nonprofit corporation for the purpose of making ~~telephone~~  
 18 **communications** service available to the inhabitants of rural areas may  
 19 be admitted to do business in Indiana and shall have the same powers,  
 20 restrictions, and liabilities as a cooperative corporation organized under  
 21 this chapter. Whenever a foreign corporation desires to be admitted to  
 22 operate in Indiana, it shall file with the commission an application for  
 23 a certificate of territorial authority under IC 8-1-32.5. The appropriate  
 24 officers of the corporation shall attach to the application a copy of the  
 25 articles of incorporation of the foreign corporation, and all amendments  
 26 to the articles, duly authenticated by the proper officer of the state in  
 27 which the corporation is incorporated. Upon receipt of the application  
 28 and the articles of incorporation, the commission shall conduct the  
 29 review required under IC 8-1-32.5-8. **If the foreign corporation is**  
 30 **applying for a certificate of territorial authority to provide local**  
 31 **exchange service**, the commission shall give written notice of the  
 32 filing of the application to each facilities based local exchange carrier  
 33 operating in contiguous territory in the manner provided in section 5 of  
 34 this chapter.

35 (b) If the commission, after conducting the review required by  
 36 IC 8-1-32.5-8 and any hearing allowed under IC 8-1-32.5-9, determines  
 37 that the foreign corporation meets the requirements for the issuance of  
 38 a certificate of territorial authority under IC 8-1-32.5, the commission  
 39 shall enter an order granting a certificate of territorial authority under  
 40 IC 8-1-32.5 for the proposed operations of the foreign corporation in  
 41 Indiana and shall attach a copy of the order, duly certified by the  
 42 secretary of the commission, to each original application filed with the



1 commission and deliver the applications and orders to the petitioner.

2 (c) If the commission, after conducting the review required by  
3 IC 8-1-32.5-8 and any hearing allowed under IC 8-1-32.5-9, determines  
4 that the foreign corporation does not meet the requirements for the  
5 issuance of a certificate of territorial authority under IC 8-1-32.5, the  
6 commission shall:

7 (1) request the foreign corporation to provide additional  
8 information; or

9 (2) notify the foreign corporation of the foreign corporation's right  
10 to:

11 (A) appeal the commission's determination under IC 8-1-3; or

12 (B) file another application at a later date, without prejudice;  
13 under IC 8-1-32.5-8.

14 (d) If the commission issues a certificate of territorial authority  
15 under subsection (b), the foreign corporation shall present to the  
16 secretary of state all sets of authenticated copies of its articles of  
17 incorporation, the original applications under IC 8-1-32.5, and the  
18 order of the commission under subsection (b), together with any  
19 application for admission to do business in Indiana that the secretary  
20 of state may require, and shall tender to the secretary of state six dollars  
21 and fifty cents (\$6.50) to cover the secretary of state's fees under this  
22 subsection. If the secretary of state approves the documents submitted,  
23 the secretary of state shall endorse the secretary of state's approval  
24 upon each of the documents, file one (1) copy in the secretary of state's  
25 office, return the remaining copies to the foreign corporation, and issue  
26 to the foreign corporation a certificate of admission to do business in  
27 Indiana. Before the foreign corporation may do any business in Indiana,  
28 it shall file in the office of the recorder of each county in Indiana in  
29 which it will make ~~telephone~~ **communications** service available one  
30 (1) set of the documents bearing the approval of the secretary of state  
31 under this subsection.

32 SECTION 16. IC 29-1-17-12, AS AMENDED BY P.L.2-2008,  
33 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2020]: Sec. 12. (a) If after reasonable search, satisfactory to  
35 the court, there shall be no known heir of the decedent, all of ~~his~~ **the**  
36 **decedent's** net estate not disposed of by will shall be ordered paid to  
37 the state treasurer to become a part of the common school fund, subject  
38 to the further provisions of this section.

39 (b) If any heir, distributee, advisee, or claimant cannot be found  
40 after reasonable search, satisfactory to the court, the personal  
41 representative shall sell the share of the estate to which ~~he~~ **the heir,**  
42 **distributee, advisee, or claimant** is entitled, pursuant to an order of



1 court first obtained, and pay the proceeds to the clerk of the court for  
 2 use and benefit of the person or persons thereafter determined to be  
 3 entitled thereto according to law.

4 (c) When the personal representative shall pay any money to the  
 5 state treasurer or clerk of the court pursuant to this section, ~~he the~~  
 6 **personal representative** shall take a receipt therefor and file it with  
 7 the court with the other receipts filed in the proceeding. Such receipt  
 8 shall be sufficient to discharge the personal representative in the same  
 9 manner and to the same extent as though such distribution or payment  
 10 were made to a distributee or claimant entitled thereto.

11 (d) The moneys received by the state treasurer pursuant to the  
 12 provisions of this section shall be paid to the person entitled on proof  
 13 of ~~his the person's~~ right thereto or in the case of an absentee, to the  
 14 receiver of such absentee's property, or, if the state treasurer refuses or  
 15 fails to pay because ~~he the state treasurer~~ is doubtful as to ~~his the~~  
 16 **state treasurer's** duties in the premises, such person may apply to the  
 17 court in which the estate was administered, whereupon the court upon  
 18 notice to the state treasurer may determine the person entitled thereto  
 19 and order the treasurer to pay the same accordingly. No interest shall  
 20 be allowed thereon and such distributee or claimant shall pay all costs  
 21 and expenses incident to the proceedings. If such proceeds are not paid  
 22 or no application is made to the court within seven (7) years after such  
 23 payment to the state treasurer, no recovery thereof shall be had.

24 (e) This section does not apply to stocks, dividends, capital credits,  
 25 patronage refunds, utility deposits, membership fees, account balances,  
 26 or book equities for which the owner cannot be found and that are the  
 27 result of distributable savings of a rural electric membership  
 28 corporation formed under IC 8-1-13, a rural ~~telephone~~  
 29 **communications** cooperative corporation formed under IC 8-1-17, or  
 30 an agricultural cooperative association formed under IC 15-12-1.

31 SECTION 17. IC 30-4-3-37, AS ADDED BY P.L.6-2010,  
 32 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2020]: Sec. 37. (a) If a beneficiary of a trust cannot be found  
 34 after a reasonable search, the trustee may file a petition setting out the  
 35 facts of the unsuccessful search. The court may order the trustee to sell  
 36 the shares of the trust to which the beneficiary is entitled and to pay the  
 37 proceeds to the clerk of the court. The clerk shall hold the proceeds for  
 38 the use and benefit of the person or persons thereafter determined by  
 39 law to be entitled to the proceeds.

40 (b) If a trustee pays any money to the clerk of the court under this  
 41 section, the trustee shall file a receipt with the court. Filing the receipt  
 42 is sufficient to discharge the trustee in the same manner and to the



1 same extent as though the trustee had paid or distributed the  
2 appropriate share of the trust to the unlocated beneficiary.

3 (c) This section does not apply to stocks, dividends, capital credits,  
4 patronage, refunds, utility deposits, membership fees, account balances,  
5 or book equities for which the owner cannot be found that are the result  
6 of distributable savings of a rural electric membership corporation  
7 formed under IC 8-1-13, a rural ~~telephone~~ **communications**  
8 cooperative corporation formed under IC 8-1-17, or an agricultural  
9 cooperative association formed under IC 15-12-1.

10 SECTION 18. IC 32-28-3-1, AS AMENDED BY P.L.146-2008,  
11 SECTION 674, IS AMENDED TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) A contractor, a subcontractor,  
13 a mechanic, a lessor leasing construction and other equipment and  
14 tools, whether or not an operator is also provided by the lessor, a  
15 journeyman, a laborer, or any other person performing labor or  
16 furnishing materials or machinery, including the leasing of equipment  
17 or tools, for:

18 (1) the erection, alteration, repair, or removal of:

19 (A) a house, mill, manufactory, or other building; or

20 (B) a bridge, reservoir, system of waterworks, or other  
21 structure;

22 (2) the construction, alteration, repair, or removal of a walk or  
23 sidewalk located on the land or bordering the land, a stile, a well,  
24 a drain, a drainage ditch, a sewer, or a cistern; or

25 (3) any other earth moving operation;

26 may have a lien as set forth in this section.

27 (b) A person described in subsection (a) may have a lien separately  
28 or jointly:

29 (1) upon the house, mill, manufactory, or other building, bridge,  
30 reservoir, system of waterworks, or other structure, sidewalk,  
31 walk, stile, well, drain, drainage ditch, sewer, cistern, or earth:

32 (A) that the person erected, altered, repaired, moved, or  
33 removed; or

34 (B) for which the person furnished materials or machinery of  
35 any description; and

36 (2) on the interest of the owner of the lot or parcel of land:

37 (A) on which the structure or improvement stands; or

38 (B) with which the structure or improvement is connected;

39 to the extent of the value of any labor done or the material furnished,  
40 or both, including any use of the leased equipment and tools.

41 (c) All claims for wages of mechanics and laborers employed in or  
42 about a shop, mill, wareroom, storeroom, manufactory or structure,



1 bridge, reservoir, system of waterworks or other structure, sidewalk,  
 2 walk, stile, well, drain, drainage ditch, cistern, or any other earth  
 3 moving operation shall be a lien on all the:

- 4 (1) machinery;  
 5 (2) tools;  
 6 (3) stock;  
 7 (4) material; or  
 8 (5) finished or unfinished work;

9 located in or about the shop, mill, wareroom, storeroom, manufactory  
 10 or other building, bridge, reservoir, system of waterworks, or other  
 11 structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer,  
 12 cistern, or earth used in a business.

13 (d) If the person, firm, limited liability company, or corporation  
 14 described in subsection (a) or (c) is in failing circumstances, the claims  
 15 described in this section shall be preferred debts whether a claim or  
 16 notice of lien has been filed.

17 (e) Subject to subsection (f), a contract:

- 18 (1) for the construction, alteration, or repair of a Class 2 structure  
 19 (as defined in IC 22-12-1-5);  
 20 (2) for the construction, alteration, or repair of an improvement on  
 21 the same real estate auxiliary to a Class 2 structure (as defined in  
 22 IC 22-12-1-5);  
 23 (3) for the construction, alteration, or repair of property that is:

24 (A) owned, operated, managed, or controlled by a:

- 25 (i) public utility (as defined in IC 8-1-2-1);  
 26 (ii) municipally owned utility (as defined in IC 8-1-2-1);  
 27 (iii) joint agency (as defined in IC 8-1-2.2-2);  
 28 (iv) rural electric membership corporation formed under  
 29 IC 8-1-13-4;  
 30 (v) rural **telephone communications** cooperative  
 31 corporation formed under IC 8-1-17; or  
 32 (vi) not-for-profit utility (as defined in IC 8-1-2-125);

33 regulated under IC 8; and

34 (B) intended to be used and useful for the production,  
 35 transmission, delivery, or furnishing of heat, light, water,  
 36 telecommunications services, or power to the public; or

37 (4) to prepare property for Class 2 residential construction;  
 38 may include a provision or stipulation in the contract of the owner and  
 39 principal contractor that a lien may not attach to the real estate,  
 40 building, structure or any other improvement of the owner.

41 (f) A contract containing a provision or stipulation described in  
 42 subsection (e) must meet the requirements of this subsection to be valid



1 against subcontractors, mechanics, journeymen, laborers, or persons  
 2 performing labor upon or furnishing materials or machinery for the  
 3 property or improvement of the owner. The contract must:

- 4 (1) be in writing;  
 5 (2) contain specific reference by legal description of the real  
 6 estate to be improved;  
 7 (3) be acknowledged as provided in the case of deeds; and  
 8 (4) be filed and recorded in the recorder's office of the county in  
 9 which the real estate, building, structure, or other improvement is  
 10 situated not more than five (5) days after the date of execution of  
 11 the contract.

12 A contract containing a provision or stipulation described in subsection  
 13 (e) does not affect a lien for labor, material, or machinery supplied  
 14 before the filing of the contract with the recorder.

15 (g) Upon the filing of a contract under subsection (f), the recorder  
 16 shall:

- 17 (1) record the contract at length in the order of the time it was  
 18 received in books provided by the recorder for that purpose;  
 19 (2) index the contract in the name of the:  
 20 (A) contractor; and  
 21 (B) owner;  
 22 in books kept for that purpose; and  
 23 (3) collect a fee for recording the contract as is provided for the  
 24 recording of deeds and mortgages.

25 (h) A person, firm, partnership, limited liability company, or  
 26 corporation that sells or furnishes on credit any material, labor, or  
 27 machinery for the alteration or repair of an owner occupied single or  
 28 double family dwelling or the appurtenances or additions to the  
 29 dwelling to:

- 30 (1) a contractor, subcontractor, mechanic; or  
 31 (2) anyone other than the occupying owner or the owner's legal  
 32 representative;

33 must furnish to the occupying owner of the parcel of land where the  
 34 material, labor, or machinery is delivered a written notice of the  
 35 delivery or work and of the existence of lien rights not later than thirty  
 36 (30) days after the date of first delivery or labor performed. The  
 37 furnishing of the notice is a condition precedent to the right of  
 38 acquiring a lien upon the lot or parcel of land or the improvement on  
 39 the lot or parcel of land.

40 (i) A person, firm, partnership, limited liability company, or  
 41 corporation that sells or furnishes on credit material, labor, or  
 42 machinery for the original construction of a single or double family



1 dwelling for the intended occupancy of the owner upon whose real  
 2 estate the construction takes place to a contractor, subcontractor,  
 3 mechanic, or anyone other than the owner or the owner's legal  
 4 representatives must:

5 (1) furnish the owner of the real estate:

6 (A) as named in the latest entry in the transfer books described  
 7 in IC 6-1.1-5-4 of the county auditor; or

8 (B) if IC 6-1.1-5-9 applies, as named in the transfer books of  
 9 the township assessor (if any) or the county assessor;

10 with a written notice of the delivery or labor and the existence of  
 11 lien rights not later than sixty (60) days after the date of the first  
 12 delivery or labor performed; and

13 (2) file a copy of the written notice in the recorder's office of the  
 14 county not later than sixty (60) days after the date of the first  
 15 delivery or labor performed.

16 The furnishing and filing of the notice is a condition precedent to the  
 17 right of acquiring a lien upon the real estate or upon the improvement  
 18 constructed on the real estate.

19 (j) A lien for material or labor in original construction does not  
 20 attach to real estate purchased by an innocent purchaser for value  
 21 without notice of a single or double family dwelling for occupancy by  
 22 the purchaser unless notice of intention to hold the lien is recorded  
 23 under section 3 of this chapter before recording the deed by which the  
 24 purchaser takes title.

25 SECTION 19. IC 32-28-3-5, AS AMENDED BY P.L.35-2010,  
 26 SECTION 207, IS AMENDED TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2020]: Sec. 5. (a) As used in this section,  
 28 "lender" refers to:

29 (1) an individual;

30 (2) a supervised financial organization (as defined in  
 31 IC 26-1-4-102.5);

32 (3) an insurance company or a pension fund; or

33 (4) any other entity that has the authority to make loans.

34 (b) The recorder shall record the statement and notice of intention  
 35 to hold a lien when presented under section 3 of this chapter in the  
 36 miscellaneous record book. The recorder shall charge a fee for  
 37 recording the statement and notice in accordance with IC 36-2-7-10.  
 38 When the statement and notice of intention to hold a lien is recorded,  
 39 the lien is created. The recorded lien relates back to the date the  
 40 mechanic or other person began to perform the labor or furnish the  
 41 materials or machinery. Except as provided in subsections (c) and (d),  
 42 a lien created under this chapter has priority over a lien created after it.



1 (c) The lien of a mechanic or materialman does not have priority  
2 over the lien of another mechanic or materialman.

3 (d) The mortgage of a lender has priority over all liens created under  
4 this chapter that are recorded after the date the mortgage was recorded,  
5 to the extent of the funds actually owed to the lender for the specific  
6 project to which the lien rights relate. This subsection does not apply  
7 to a lien that relates to a construction contract for the development,  
8 construction, alteration, or repair of the following:

9 (1) A Class 2 structure (as defined in IC 22-12-1-5).

10 (2) An improvement on the same real estate auxiliary to a Class  
11 2 structure (as defined in IC 22-12-1-5).

12 (3) Property that is:

13 (A) owned, operated, managed, or controlled by:

14 (i) a public utility (as defined in IC 8-1-2-1);

15 (ii) a municipally owned utility (as defined in IC 8-1-2-1);

16 (iii) a joint agency (as defined in IC 8-1-2.2-2);

17 (iv) a rural electric membership corporation formed under  
18 IC 8-1-13-4;

19 (v) a rural ~~telephone~~ **communications** cooperative  
20 corporation formed under IC 8-1-17; or

21 (vi) a not-for-profit utility (as defined in IC 8-1-2-125);  
22 regulated under IC 8; and

23 (B) intended to be used and useful for the production,  
24 transmission, delivery, or furnishing of heat, light, water,  
25 telecommunications services, or power to the public.

26 SECTION 20. IC 32-28-3-16 IS AMENDED TO READ AS  
27 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 16. (a) This section  
28 applies to a construction contract for the construction, alteration, or  
29 repair of a building or structure other than:

30 (1) a Class 2 structure (as defined in IC 22-12-1-5) or an  
31 improvement on the same real estate auxiliary to a Class 2  
32 structure (as defined in IC 22-12-1-5); or

33 (2) property that is:

34 (A) owned, operated, managed, or controlled by a public utility  
35 (as defined in IC 8-1-2-1), a municipally owned utility (as  
36 defined in IC 8-1-2-1), a joint agency (as defined in  
37 IC 8-1-2.2-2), a rural electric membership corporation formed  
38 under IC 8-1-13-4, rural ~~telephone~~ **communications**  
39 cooperative corporation formed under IC 8-1-17, or a  
40 not-for-profit utility (as defined in IC 8-1-2-125) regulated  
41 under IC 8; and

42 (B) intended to be used and useful for the production,





- 1 transmission, delivery, or furnishing of heat, light, water,  
 2 telecommunications services, or power to the public.
- 3 (b) A provision in a contract for the improvement of real estate in  
 4 Indiana is void if the provision requires a person described in section  
 5 1 of this chapter who furnishes labor, materials, or machinery to waive  
 6 a right to:
- 7 (1) a lien against real estate; or  
 8 (2) a claim against a payment bond;  
 9 before the person is paid for the labor or materials furnished.
- 10 (c) A provision in a contract for the improvement of real estate in  
 11 Indiana under which one (1) or more persons agree not to file a notice  
 12 of intention to hold a lien is void.
- 13 SECTION 21. IC 32-28-3-18 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 18. (a) This section  
 15 applies to a provider of labor, materials, or equipment under a contract  
 16 for the improvement of real estate that conditions the right of the  
 17 provider to receive payment on the obligor's receipt of payment from  
 18 a third person with whom the provider does not have a contractual  
 19 relationship.
- 20 (b) This section does not apply to a construction contract for the  
 21 construction, alteration, or repair of the following:
- 22 (1) A Class 2 structure (as defined in IC 22-12-1-5).  
 23 (2) An improvement on the same real estate auxiliary to a Class  
 24 2 structure (as defined in IC 22-12-1-5).  
 25 (3) Property that is:
- 26 (A) owned, operated, managed, or controlled by a:  
 27 (i) public utility (as defined in IC 8-1-2-1);  
 28 (ii) municipally owned utility (as defined in IC 8-1-2-1);  
 29 (iii) joint agency (as defined in IC 8-1-2.2-2);  
 30 (iv) rural electric membership corporation formed under  
 31 IC 8-1-13-4;  
 32 (v) rural ~~telephone~~ **communications** cooperative  
 33 corporation formed under IC 8-1-17; or  
 34 (vi) not-for-profit utility (as defined in IC 8-1-2-125);  
 35 regulated under IC 8; and  
 36 (B) intended to be used and useful for the production,  
 37 transmission, delivery, or furnishing of heat, light, water,  
 38 telecommunications services, or power to the public.
- 39 (c) An obligor's receipt of payment from a third person may not:  
 40 (1) be a condition precedent to;  
 41 (2) limit; or  
 42 (3) be a defense to;



1 the provider's right to record or foreclose a lien against the real estate  
2 that was improved by the provider's labor, material, or equipment.

3 SECTION 22. IC 32-34-1-1, AS AMENDED BY P.L.2-2008,  
4 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2020]: Sec. 1. (a) This chapter does not apply to any property  
6 held, due, and owing in a foreign country and arising out of a foreign  
7 transaction.

8 (b) This chapter does not apply to:

- 9 (1) stocks;  
10 (2) dividends;  
11 (3) capital credits;  
12 (4) patronage refunds;  
13 (5) utility deposits;  
14 (6) membership fees;  
15 (7) account balances; or  
16 (8) book equities;

17 for which the owner cannot be found and that are the result of  
18 distributable savings of a rural electric membership corporation formed  
19 under IC 8-1-13, a rural ~~telephone~~ **communications** cooperative  
20 corporation formed under IC 8-1-17, or an agricultural cooperative  
21 association formed under IC 15-12-1.

22 (c) This chapter does not apply to unclaimed overpayments of utility  
23 bills that become the property of a municipality under IC 36-9-23-28.5.

24 (d) This chapter does not apply to deposits required by a  
25 municipally owned utility (as defined in IC 8-1-2-1).

26 (e) This chapter does not apply to a business to business credit  
27 memorandum or a credit balance resulting from a business to business  
28 credit memorandum.

29 (f) This chapter does not apply to gift certificates or gift cards.

30 SECTION 23. IC 34-30-2-24.2, AS AMENDED BY P.L.86-2018,  
31 SECTION 240, IS AMENDED TO READ AS FOLLOWS  
32 [EFFECTIVE JULY 1, 2020]: Sec. 24.2. (a) IC 8-1-2.8-25 (Concerning  
33 InTRAC or a local exchange company for the development, adoption,  
34 implementation, maintenance, or operation of dual party relay services  
35 or telecommunications devices).

36 (b) IC 8-1-17.5-16 (Concerning a member or director of a rural  
37 electric membership corporation or ~~telephone~~ **communications**  
38 cooperative corporation that is merged or consolidated).

39 (c) IC 8-1-19.5-10 (Concerning a recognized 211 service provider  
40 and its employees, directors, officers, and agents for injuries or loss to  
41 persons or property as a result of an act or omission in connection with  
42 developing and providing 211 services).



COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 343, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 343 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 9, Nays 0

