

STARKE COUNTY PLANNING COMMISSION
53 EAST MOUND STREET
KNOX, IN. 46534
574-772-9133



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Tx:4021868

2023002184
MANDY THOMASON, RECORDER
STARKE COUNTY, KNOX, IN
RECORDED AS PRESENTED
07/18/2023 08:47 AM
9.00

The Code of the County of Starke, Indiana dated 1991, is amending the Starke County Ordinance 2009-013 for an Ordinance Re-Adopting the Indiana Unsafe Building Law.

Starke County Planning Commission public hearing held on: June 14, 2023

Recommended and approved by the Starke County Plan Commission on: June 14, 2023

Presented to the Starke County Commissioners on: July 3, 2023

Approved by the Starke County Commissioners on: July 3, 2023

Dated: July 3, 2023

**AN ORDINANCE RE-ADOPTING THE INDIANA UNSAFE
BUILDING LAW**

Ordinance No. 007 of 2023

WHEREAS, the Board of Commissioner for Starke County, State of Indiana (the “Board”), is responsible for the performance of various functions for Starke County, State of Indiana (the “County”); and

WHEREAS, Ordinance 2009-013 was previously approved and passed by the Board on June 15, 2009, after certification and recommendation by the Starke County Planning Commission (the “Commission”); and

WHEREAS, the Board is now desirous of re-adopting the most recent version of Indiana’s Unsafe Building Law (the “Unsafe Law”) in effect at the time of passage of this Ordinance; and

WHEREAS, a copy of the most recent version of Indiana’s Unsafe Law is attached hereto as Exhibit A, and incorporated herein by reference; and

WHEREAS, this Ordinance has been recommended and passed by the Commission, prior to its passage by the Board, on the date set forth, below.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners for Starke County, Indiana, that this Ordinance Re-Adopting the Indiana Unsafe Building Law, is hereby adopted as follows:

SECTION I.

1. The Recitals are hereby re-incorporated into this Section 1, as set forth, above.
2. Upon approval by the Board, following the Commissioner’s recommendation and approval, the most recent version of Indiana’s Unsafe Law is hereby approved and enforceable as to Starke County and all of its residents.
3. Any violation(s) of this Ordinance shall be addressed as established under the Unsafe Building Law, and any penalties assessed shall not exceed the maximums set forth therein, pursuant to I.C. 36-7-9.

SECTION II.
Effective Date

1. This Ordinance shall become effective thirty (30) days after notice of the adoption shall have been published in a paper as described in Indiana Code § 5-3-1-4.

PASSED AND ADOPTED BY THE BOARD OF COMMISSIONER OF STARKE COUNTY,
INDIANA, THIS 3rd DAY OF ~~APRIL~~, 2023.

July

THE STARKE COUNTY, INDIANA BOARD OF COMMISSIONERS

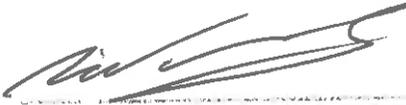
APPROVED:

OPPOSED:

N/A

~~Charles Chesak, President~~

~~Charles Chesak, President~~



~~Mark Gourley, Commissioner~~

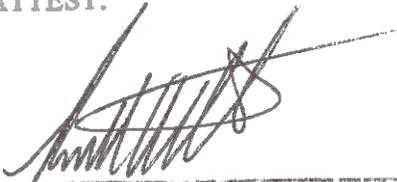
~~Mark Gourley, Commissioner~~



~~Don Binkley, Commissioner~~

~~Don Binkley, Commissioner~~

ATTEST:



~~Rachel Oesterreich, County Auditor~~

36-7-9-1 Application of chapter, IN ST 36-7-9-1

West's Annotated Indiana Code
Title 36. Local Government (Refs & Annotations)
Article 7. Planning and Development
Chapter 9. Unincorporated Building Law

IC 36-7-9-1

36-7-9-1 Application of chapter

Currentness

Sec. 1. This chapter applies to each consolidated city and its county. This chapter also applies to any other municipality or county that adopts an ordinance under section 3 of this chapter.

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by Acts 1982, P.L.33, SEC.33.

IC: 36-7-9-1, IN ST 36-7-9-1

The statutes and Constitution are current with all legislation of the 2023 First Regular Session of the 123rd General Assembly effective through March 23, 2023.

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West's Annotated Indiana Code
Title 36, Local Government (Refs & Annos)
Article 7, Planning and Development
Chapter 9, Zoning Building Law

IC 36-7-9-2

36-7-9-2 Definitions

Effective: July 1, 2014

Currentness

Sec. 2. As used in this chapter:

"Community organization" means a citizen's group, neighborhood association, neighborhood development corporation, or similar organization that:

- (1) has specific geographic boundaries defined in its bylaws or articles of incorporation and contains at least forty (40) households within those boundaries;
- (2) is a nonprofit corporation that is representative of at least twenty-five (25) households or twenty percent (20%) of the households in the community, whichever is less;
- (3) is operated primarily for the promotion of social welfare and general neighborhood improvement and enhancement;
- (4) has been incorporated for at least two (2) years; and
- (5) is exempt from taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

"Continuous enforcement order" means an order that:

- (1) is issued for compliance or abatement and that remains in full force and effect on a property without further requirements to seek additional:
 - (A) compliance and abatement authority; or
 - (B) orders for the same or similar violations;
- (2) authorizes specific ongoing compliance and enforcement activities if a property requires reinspection or additional periodic abatement;

(3) can be enforced, including assessment of fees and costs, without the need for additional notice or hearing; and

(4) authorizes the enforcement authority to assess and collect ongoing costs for continuous enforcement order activities from any party that is subject to the enforcement authority's order.

"Department" refers to the executive department authorized by ordinance to administer this chapter. In a consolidated city, this department is the department of code enforcement subject to IC 36-3-4-23.

"Enforcement authority" refers to the chief administrative officer of the department, except in a consolidated city. In a consolidated city, the division of development services is the enforcement authority, subject to IC 36-3-4-23.

"Hearing authority" refers to a person or persons designated as such by the executive of a city or county, or by the legislative body of a town. However, in a consolidated city, the director of the department or a person designated by the director is the hearing authority. An employee of the enforcement authority may not be designated as the hearing authority.

"Known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser" means any fee interest, life estate interest, or equitable interest of a contract purchaser held by a person whose identity and address may be determined from:

(1) an instrument recorded in the recorder's office of the county where the unsafe premises is located;

(2) written information or actual knowledge received by the department (or, in the case of a consolidated city, the enforcement authority); or

(3) a review of department (or, in the case of a consolidated city, the enforcement authority) records that is sufficient to identify information that is reasonably ascertainable.

"Known or recorded substantial property interest" means any right in real property, including a fee interest, a life estate interest, a future interest, a mortgage interest, a lien as evidenced by a certificate of sale issued under IC 6-1.1-24, or an equitable interest of a contract purchaser, that:

(1) may be affected in a substantial way by actions authorized by this chapter; and

(2) is held by a person whose identity and address may be determined from:

(A) an instrument recorded in:

(i) the recorder's office of the county where the unsafe premises is located; or

(ii) the office of the county auditor of the county where the unsafe premises are located in the case of a lien evidenced by a certificate of sale issued under IC 6-1.1-24;

36-7-9-2 Definitions, IN ST 36-7-9-2

(B) written information or actual knowledge received by the department (or, in the case of a consolidated city, the enforcement authority); or

(C) a review of department (or, in the case of a consolidated city, the enforcement authority) records that is sufficient to identify information that is reasonably ascertainable.

“Substantial property interest” means any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate interest, a future interest, a mortgage interest, or an equitable interest of a contract purchaser.

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.4; P.L.177-2003, SEC.3; P.L.169-2006, SEC.59; P.L.88-2009, SEC.7; P.L.73-2010, SEC.10; P.L.66-2014, SEC.25, eff. July 1, 2014.

I.C. 36-7-9-2, IN ST 36-7-9-2

The statutes and Constitution are current with all legislation of the 2023 First Regular Session of the 123rd General Assembly effective through March 22, 2023.

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36-7-9-3 Ordinances adopting this chapter, IN ST 36-7-9-3

West's Annotated Indiana Code
Title 36, Local Government (Refs & Annos)
Article 7, Planning and Development
Chapter 9, Unsafe Building Law

IC 36-7-9-3

36-7-9-3 Ordinances adopting this chapter

Currentness

Sec. 3. The legislative body of a municipality or county may adopt this chapter by ordinance. The ordinance must specify the executive department of the unit responsible for the administration of this chapter or establish such a department. However, in a municipality in which a commissioner of buildings was appointed to administer IC 18-5-5 (before its repeal on September 1, 1981), the commissioner of buildings is responsible for the administration of this chapter. The ordinance must also incorporate by reference the definition of "substantial property interest" in this chapter.

Credits

As added by Acts 1981, P.L. 309, SEC. 28. Amended by Acts 1982, P.L. 33, SEC. 34, P.L. 1990, SEC. 126.

I.C. 36-7-9-3, IN ST 36-7-9-3

The statutes and Constitution are current with all legislation of the 2023 First Regular Session of the 123rd General Assembly effective through March 22, 2023.

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36-7-9-4 Unsafe buildings and unsafe premises described, ICS 36-7-9-4

West's Annotated Indiana Code
Title 36. Local Government (Refs & Annos)
Article 7. Planning and Development
Chapter 9. Unsafe Building Law

IC 36-7-9-4

36-7-9-4 Unsafe buildings and unsafe premises described

Effective: July 1, 2019

Currentness

Sec. 4. (a) For purposes of this chapter, a building or structure, or any part of a building or structure, that is:

(1) in an impaired structural condition that makes it unsafe to a person or property;

(2) a fire hazard;

(3) a hazard to the public health;

(4) a public nuisance;

(5) dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or

(6) vacant or blighted and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance;

is considered an unsafe building.

(b) For purposes of this chapter, the following are considered unsafe premises:

(1) An unsafe building and the tract of real property on which the unsafe building is located.

(2) A tract of real property, not including land used for production agriculture, that does not contain a building or structure or contains a building or structure that is not considered an unsafe building, if the tract of real property is:

(A) a fire hazard;

West's Annotated Indiana Code
Title 36. Local Government (Refs & Annos)
Article 7. Planning and Development
Chapter 9. Historic Building Law

IC 36-7-9-4.5

36-7-9-4.5 Legislative findings; vacant, deteriorated structures

Currentness

Sec. 4.5. (a) In Indiana, especially in urban areas, there exist a large number of unoccupied structures that are not maintained and that constitute a hazard to public health, safety, and welfare.

(b) Vacant structures often become dilapidated because the structures are not maintained and repaired by the owners or persons in control of the structures.

(c) Vacant structures attract children, become harborage for vermin, serve as temporary abodes for vagrants and criminals, and are likely to be damaged by vandals or set ablaze by arsonists.

(d) Unkept grounds surrounding vacant structures invite dumping of garbage, trash, and other debris.

(e) Many vacant structures are situated on narrow city lots and in close proximity to neighboring structures, thereby increasing the risk of conflagration and spread of insect and rodent infestation.

(f) Vacant, deteriorated structures contribute to blight, cause a decrease in property values, and discourage neighbors from making improvements to properties.

(g) Structures that remain boarded up for an extended period of time also exert a blighting influence and contribute to the decline of the neighborhood by decreasing property values, discouraging persons from moving into the neighborhood, and encouraging persons to move out of the neighborhood.

(h) Vacant structures often continue to deteriorate to the point that demolition of the structure is required, thereby decreasing available housing in a community and further contributing to the decline of the neighborhood.

(i) The blighting influence of vacant, deteriorated structures adversely affects the tax revenues of local government.

(j) The general assembly finds that vacant, deteriorated structures create a serious and substantial problem in urban areas and are public nuisances.

36-7-9-4 Unsafe buildings and unsafe premises described, IN ST 36-7-9-4

(B) a hazard to public health;

(C) a public nuisance; or

(D) dangerous to a person or property because of a violation of a statute or an ordinance.

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.14-1991, SEC.9; P.L.66-2005, SEC.1; P.L.66-2014, SEC.25, eff. July 1, 2014; P.L.164-2019, SEC.6, eff. July 1, 2019.

I.C. 36-7-9-4, IN ST 36-7-9-4

The statutes and Constitution are current with all legislation of the 2023 First Regular Session of the 123rd General Assembly effective through March 22, 2023.

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36-7-9-4.5 Legislative findings; vacant, deteriorated structures, IN ST 36-7-9-4.5

(k) In recognition of the problems created in a community by vacant structures, the general assembly finds that vigorous and disciplined action should be taken to ensure the proper maintenance and repair of vacant structures and encourages local governmental bodies to adopt maintenance and repair standards appropriate for the community in accordance with this chapter and other statutes.

Credits

As added by P.L.14-1991, SEC.10. Amended by P.L.1-1992, SEC.186.

I.C. 36-7-9-4.5, IN ST 36-7-9-4.5

The statutes and Constitution are current with all legislation of the 2023 First Regular Session of the 123rd General Assembly effective through March 22, 2023.

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West's Annotated Indiana Code

Title 36. Local Government (Reis & Amott)

Article 7. Planning and Development

Chapter 9. Unsafe Building Law

IC 36-7-9-5

36-7-9-5 Orders; contents; notice; expiration

Effective: July 1, 2015

Currentness

Sec. 5. (a) The enforcement authority may issue an order requiring action relative to any unsafe premises, including:

(1) vacating of an unsafe building;

(2) sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;

(3) extermination of vermin in and about the unsafe premises;

(4) removal of trash, debris, fire hazardous material, or a public health hazard in and about the unsafe premises;

(5) repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under IC 4-22-2, or an ordinance;

(6) demolition and removal of part of an unsafe building;

(7) demolition and removal of an unsafe building if:

(A) the general condition of the building warrants removal; or

(B) the building continues to require reinspection and additional abatement action after an initial abatement action was taken pursuant to notice and an order; and

(8) requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:

(A) sealing against intrusion by unauthorized persons and the effects of weather;

(B) exterior improvements to make the building compatible in appearance with other buildings in the area; and

(C) continuing maintenance and upkeep of the building and premises;

in accordance with standards established by ordinance.

Notice of the order must be given under section 25 of this chapter. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(b) The order must contain the following:

(1) The name of the person to whom the order is issued.

(2) The legal description or address of the unsafe premises that are the subject of the order.

(3) The action that the order requires.

(4) The period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given.

(5) If a hearing is required, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments.

(6) If a hearing is not required, a statement that an order under subsection (a)(2), (a)(3), (a)(4), or (a)(5) becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten (10) day period.

(7) A statement briefly indicating what action can be taken by the enforcement authority if the order is not complied with.

(8) A statement indicating the obligation created by section 27 of this chapter relating to notification of subsequent interest holders and the enforcement authority.

(9) The name, address, and telephone number of the enforcement authority.

(10) A statement that the hearing authority may determine the property to be abandoned as provided in IC 36-7-37.

(c) The order must allow a sufficient time, of at least ten (10) days, but not more than sixty (60) days, from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within thirty (30) days.

(d) The order expires two (2) years from the day the notice of the order is given, unless one (1) or more of the following events occurs within that two (2) year period:

(1) A complaint requesting judicial review is filed under section 8 of this chapter.

(2) A contract for action required by the order is let at public bid under section 11 of this chapter.

(3) A civil action is filed under section 17 of this chapter.

(e) If the order contains a statement under subsection (a)(6) or (a)(7), notice of the order shall be given to each person with a known or recorded substantial property interest.

Credits

As added by Act 1981, P.L.369, SEC.28. Amended by P.L.59-1986, SEC.3; P.L.14-1991, SEC.11; P.L.177-2001, SEC.4; P.L.88-2006, SEC.8; P.L.88-2008, SEC.8; P.L.1-2010, SEC.149, eff. March 12, 2010; P.L.203-2013, SEC.27, eff. July 1, 2013; P.L.247-2015, SEC.41, eff. July 1, 2015.

I.C. 36-7-9-5, IN ST 36-7-9-5

The statutes and Constitution are current with all legislation of the 2023 First Regular Session of the 123rd General Assembly effective through March 22, 2023.

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36-7-9-6 Modification or rescission of orders, IN ST 36-7-9-6

West's Annotated Indiana Code
Title 36, Local Government (Hats & Antics)
Article 7, Planning and Development
Chapter 9, Unsafe Building Law

IC 36-7-9-6

36-7-9-6 Modification or rescission of orders

Currentness

Sec. 6. (a) The enforcement authority may issue an order that modifies the order previously issued.

(b) The enforcement authority may rescind an order previously issued, even if the order has been affirmed by the hearing authority.

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.6.

I.C. 36-7-9-6, IN ST 36-7-9-6

The statutes and Constitution are current with all legislation of the 2023 First Regular Session of the 123rd General Assembly effective through March 22, 2023.

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West's Annotated Indiana Code
Title 36, Local Government (Depts & Agencies)
Article 7, Planning and Development
Chapter 9, Unsafe Building Law

IC 36-7-9-7

36-7-9-7 Hearing; extension of time limits; performance bonds; record of findings and action; penalties

Effective: July 1, 2015

~~Continuance~~

Sec. 7. (a) A hearing must be held relative to each order of the enforcement authority, except for an order issued under ~~section 5(a)(2), 5(a)(3), 5(a)(4), 5(a)(5), or 7.5~~ of this chapter. An order issued under ~~section 5(a)(2), 5(a)(3), 5(a)(4), 5(a)(5), or 7.5~~ of this chapter becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a person holding a fee interest, life estate interest, mortgage interest, or equitable interest of a contract purchaser in the unsafe premises. The hearing shall be conducted by the hearing authority.

(b) The hearing shall be held on a business day no earlier than ten (10) days after notice of the order is given. The hearing authority may, however, take action at the hearing, or before the hearing if a written request is received by the enforcement authority not later than five (5) days after notice is given, to continue the hearing to a business day not later than fourteen (14) days after the hearing date shown on the order. Unless the hearing authority takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing must be given to the person to whom the order was issued at least five (5) days before the continued hearing date, in the manner prescribed by ~~section 25~~ of this chapter. If the order being considered at the continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the enforcement authority has received information in writing that enables it to make service under ~~section 25~~ of this chapter by a method other than publication.

(c) The person to whom the order was issued, any person having a substantial property interest in the unsafe premises that are the subject of the order, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments.

(d) At the conclusion of any hearing at which a continuance is not granted, the hearing authority may make findings and take action to:

(1) affirm the order;

(2) rescind the order; or

(3) modify the order, but unless the person to whom the order was issued, or counsel for that person, is present at the hearing, the hearing authority may modify the order in only a manner that makes its terms less stringent.

(e) In addition to affirming the order, in those cases in which the hearing authority finds that there has been a willful failure to comply with the order, the hearing authority may impose a civil penalty in an amount not to exceed five thousand dollars (\$5,000). The effective date of the civil penalty may be postponed for a reasonable period, after which the hearing authority may order the civil penalty reduced or stricken if the hearing authority is satisfied that all work necessary to fully comply with the order has been done. For purposes of an appeal under section 8 of this chapter or enforcement of an order under section 17 of this chapter, action of the hearing authority is considered final upon the affirmation of the order, even though the hearing authority may retain jurisdiction for the ultimate determination related to the civil penalty. In the hearing authority's exercise of continuing jurisdiction, the hearing authority may, in addition to reducing or striking the civil penalty, impose one (1) or more additional civil penalties in an amount not to exceed five thousand dollars (\$5,000) per civil penalty. An additional civil penalty may be imposed if the hearing authority finds that:

(1) significant work on the premises to comply with the affirmed order has not been accomplished; and

(2) the premises have a negative effect on property values or the quality of life of the surrounding area or the premises require the provision of services by local government in excess of the services required by ordinary properties.

The hearing authority may not impose an additional civil penalty in a hearing to review a civil penalty imposed by the enforcement authority under section 7.5 of this chapter.

(f) If, at a hearing, a person to whom an order has been issued requests an additional period to accomplish action required by the order, and shows good cause for this request to be granted, the hearing authority may grant the request. However, as a condition for allowing the additional period, the hearing authority may require that the person post a performance bond to be forfeited if the action required by the order is not completed within the additional period.

(g) If an order is affirmed or modified, the hearing authority shall issue a continuous enforcement order (as defined in section 2 of this chapter).

(h) The board or commission having control over the department shall, at a public hearing, after having given notice of the time and place of the hearing by publication in accordance with IC 5-3-1, adopt a schedule setting forth the maximum amount of performance bonds applicable to various types of ordered action. The hearing authority shall use this schedule to fix the amount of the performance bond required under subsection (f).

(i) The record of the findings made and action taken by the hearing authority at the hearing shall be available to the public upon request. However, neither the enforcement authority nor the hearing authority is required to give any person notice of the findings and action.

(j) If a civil penalty under subsection (e) is unpaid for more than fifteen (15) days after payment of the civil penalty is due, the civil penalty may be collected from any person against whom the hearing officer assessed the civil penalty or fine. A civil penalty or fine may be collected under this subsection in the same manner as costs under section 13 or 13.5 of this chapter. The amount of the civil penalty or fine that is collected shall be deposited in the unsafe building fund.

36-7-9-7 Hearing; extension of time limits; performance bands;..., IN ST 36-7-9-7

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by Acts 1981, P.L.45, SEC.26; P.L.59-1986, SEC.7; P.L.14-1991, SEC.12; P.L.177-2003, SEC.5; P.L.169-2006, SEC.60; P.L.88-2009, SEC.9; P.L.247-2015, SEC.42, eff. July 1, 2015.

I.C. 36-7-9-7, IN ST 36-7-9-7

The statutes and Constitution are current with all legislation of the 2023 First Regular Session of the 123rd General Assembly effective through March 22, 2023.

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36-7-9-7.5 Failure or refusal to comply with order; civil penalty, IN ST 36-7-9-7.5

West's Annotated Indiana Code
Title 36: Local Government (Refs & Annos)
Article 7: Planning and Development
Chapter 9: Unsafe Building Law

IC 36-7-9-7.5

36-7-9-7.5 Failure or refusal to comply with order; civil penalty

Effective: July 1, 2015

Currentness

Sec. 7.5. (a) This section applies to an order issued under section 5(a)(5) of this chapter for which a hearing was not requested as provided in section 7 of this chapter.

(b) If the person to whom the order was issued fails or refuses to comply with the order within sixty (60) days or the time specified in the order, the enforcement authority may impose a civil penalty not to exceed two thousand five hundred dollars (\$2,500). The enforcement authority shall give notice of the civil penalty to ~~all persons with a~~ known or recorded substantial property interest in the unsafe premises.

(c) After a civil penalty is imposed under subsection (b), the enforcement authority may impose an additional civil penalty in an amount not to exceed one thousand dollars (\$1,000) every ninety (90) days if the person to whom the order was issued continues to fail or refuse to comply with the order.

(d) If a civil penalty under this section is unpaid for more than fifteen (15) days after payment of the civil penalty is due, the civil penalty may be collected in the same manner as costs under section 13 or 13.5 of this chapter. The amount of the civil penalty that is collected shall be deposited in the unsafe building fund.

Credits

As added by P.L.247-2015, SEC.43, eff. July 1, 2015.

I.C. 36-7-9-7.5, IN ST 36-7-9-7.5

The statutes and Constitution are current with all legislation of the 2023 First Regular Session of the 123rd General Assembly effective through March 22, 2023.

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West's Annotated Indiana Code
Title 36. Local Government (Refs. & Annotations)
Article 7. Planning and Development
Chapter 9. Unsafe Buildings Law

IC 36-7-9-8

36-7-9-8 Appeals

Effective: July 1, 2015

Currentness

Sec. 8. (a) An action taken by the hearing authority under section 7(d), 7(e), or 9(d) of this chapter or a finding by the hearing authority of abandonment under IC 36-7-37 is subject to review by the circuit or superior court of the county in which the unsafe premises are located, on request of:

(1) any person who has a substantial property interest in the unsafe premises; or

(2) any person to whom that order or finding was issued

(b) A person requesting judicial review under this section must file a verified complaint including the findings of fact and the action taken by the hearing authority. The complaint must be filed within ten (10) days after the date when the action was taken.

(c) An appeal under this section is an action de novo. The court may affirm, modify, or reverse the action taken by the hearing authority.

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.169-2006, SEC.61; P.L.247-2015, SEC.44, eff. July 1, 2015.

I.C. 36-7-9-8, IN ST 36-7-9-8

The statutes and Constitution are current with all legislation of the 2023 First Regular Session of the 123rd General Assembly effective through March 22, 2023.

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West's Annotated Indiana Code
Title 36. Local Government (Refs & Annos)
Article 7. Planning and Development
Chapter 9. Unsafe Building Law

IC 36-7-9-9

36-7-9-9 Emergency action; recovery of costs; challenge of determination of emergency

Effective: July 1, 2015

Currentness

Sec. 9. (a) If the enforcement authority finds it necessary to take emergency action concerning an unsafe premises in order to protect life, safety, or property, it may take that action without issuing an order or giving notice. However, this emergency action must be limited to removing any immediate danger.

(b) The department, acting through the enforcement authority, may recover the costs incurred by the enforcement authority in taking emergency action, by filing a civil action in the circuit court or superior court of the county against the persons who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises at the time the enforcement authority found it necessary to take emergency action. The department is not liable for the costs of this civil action.

(c) If an unsafe premises poses an immediate danger to the life or safety of persons occupying or using nearby property, the enforcement authority may, without following this chapter's requirements for issuing an order and giving notice, take emergency action to require persons to vacate and not use the nearby property until the danger has passed. However, any person required to vacate an unsafe premises under this subsection may challenge in an emergency court proceeding the enforcement authority's determination that the premises poses an immediate danger to the life or safety of any person. In an emergency court proceeding, the enforcement authority has the burden of proving that emergency action is necessary to protect from immediate danger the life or safety of persons occupying or using nearby property.

(d) Instead of filing a civil action to recover the costs incurred by the enforcement authority in taking emergency action, the enforcement authority may set a hearing for the hearing authority to review the necessity of the emergency action and the amount of the costs of the emergency action. Notice of the hearing must be provided to each person with a known or recorded substantial property interest in the unsafe premises. If the emergency action or the costs of the emergency action are determined by the hearing authority to have been an abuse of discretion or otherwise unlawful, the hearing authority may reduce or deny the costs of the emergency action as warranted under the circumstances; otherwise, the hearing authority shall affirm the costs of the emergency action. The amount of the costs affirmed by the hearing authority may then be collected as provided in sections 12 through 13.5 of this chapter.

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.8; P.L.247-2015, SEC.45, eff. July 1, 2015.

I.C. 36-7-9-9, IN ST 36-7-9-9

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IC 36-7-9-10

36-7-9-10 Action to enforce orders

~~Circumstances~~

Sec. 10. (a) The enforcement authority may cause the action required by an order issued under section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter to be performed by a contractor if:

(1) the order has been served, in the manner prescribed by section 25 of this chapter, on each person having a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises that are the subject of the order;

~~(2) the order has not been complied with;~~

(3) a hearing was not requested under section 5(b)(6) of this chapter, or, if a hearing was requested, the order was affirmed at the hearing; and

(4) the order is not being reviewed under section 8 of this chapter.

(b) The enforcement authority may cause the action required by an order, other than an order under section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(5) of this chapter, to be performed if:

(1) service of an order under section 5(a)(1) of this chapter, in the manner prescribed by section 25 of this chapter, has been made on each person having a known or recorded substantial property interest or present possessory interest in the unsafe premises that are the subject of the order;

(2) service of an order under section 5(a)(6), 5(a)(7), or 5(a)(8) of this chapter, in the manner prescribed by section 25 of this chapter, has been made on each person having a known or recorded substantial property interest in the unsafe premises that are the subject of the order;

(3) the order has been affirmed or modified at the hearing in such a manner that all persons having a known or recorded substantial property interest, and persons holding a present possessory interest, as required, in the unsafe premises that are the subject of the order are currently subject to an order requiring the accomplishment of substantially identical action;

(4) the order, as affirmed or modified at the hearing, has not been complied with; and

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(5) the order is not being reviewed under section 8 of this chapter.

(c) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement by publication and indicate that the enforcement authority intends to perform the work, unless the authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.9; P.L.177-2003, SEC.6; P.L.169-2006, SEC.62.

I.C. 36-7-9-10, IN ST 36-7-9-10

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IC 36-7-9-11

36-7-9-11 Performance of work required by orders; procedure

Currentness

Sec. 11. (a) The work required by an order of the enforcement authority may be performed in the following manner:

(1) If the work is being performed under an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, and if the cost of this work is estimated to be less than ten thousand dollars (\$10,000), the department, acting through the unit's enforcement authority or other agent, may perform the work by means of the unit's own workers and equipment owned or leased by the unit. Notice that this work is to be performed must be given to all persons with a known or recorded substantial property interest, in the manner prescribed in subsection (c), at least ten (10) days before the date of performance of the work by the enforcement authority. This notice must include a statement that an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter and performing the work may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

(2) If the work is being performed under an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, and if the estimated cost of this work is ten thousand dollars (\$10,000) or more, this work must be let at public bid to a contractor licensed and qualified under law. The obligation to pay costs imposed by section 12 of this chapter is based on the condition of the unsafe premises at the time the public bid was accepted. Changes occurring in the condition of the unsafe premises after the public bid was accepted do not eliminate or diminish this obligation.

(3) If the work is being performed under an order issued under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, the work may be performed by a contractor who has been awarded a base bid contract to perform the work for the enforcement authority, or by the department, acting through the unit's enforcement authority or other governmental agency and using the unit's own workers and equipment owned or leased by the unit. Work performed under an order issued under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter may be performed without further notice to the persons holding a fee interest, life estate interest, or equitable interest of a contract purchaser, and these persons are liable for the costs incurred by the enforcement authority in processing the matter and performing the work, as provided by section 12 of this chapter.

(b) Bids may be solicited and accepted for work on more than one (1) property if the bid reflects an allocation of the bid amount among the various unsafe premises in proportion to the work to be accomplished. The part of the bid amount attributable to each of the unsafe premises constitutes the basis for calculating the part of the costs described by section 12(a)(1) of this chapter.

(c) All persons who have a known or recorded substantial property interest in the unsafe premises and are subject to an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter must be notified about the public bid in the manner prescribed by section 25 of this chapter, by means of a written statement including:

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- (1) the name of the person to whom the order was issued;
- (2) a legal description or address of the unsafe premises that are the subject of the order;
- (3) a statement that a contract is to be let at public bid to a licensed contractor to accomplish work to comply with the order;
- (4) a description of work to be accomplished;
- (5) a statement that both the bid price of the licensed contractor who accomplishes the work and an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter of the unsafe premises may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises;
- (6) the time of the bid opening;
- (7) the place of the bid opening; and
- (8) the name, address, and telephone number of the enforcement authority.

(d) If the notice of the statement that public bids are to be let is served by publication, the publication must include the information required by subsection (c), except that it need only include a general description of the work to be accomplished. The publication must also state that a copy of the statement of public bid may be obtained from the enforcement authority.

(e) Notice of the statement that public bids are to be let must be given, at least ten (10) days before the date of the public bid, to all persons who have a known or recorded substantial property interest in the property and are subject to an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter.

(f) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement that public bids are to be let by publication, unless the enforcement authority has received information in writing that enables the unit to make service under section 25 of this chapter by a method other than publication.

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.10; P.L.255-1996, SEC.26; P.L.169-2006, SEC.53.

I.C. 36-7-9-11, IN ST 36-7-9-11

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IC 36-7-9-12

36-7-9-12 Liability for costs for performance of work required by orders

Effective: July 1, 2015

Currentness

Sec. 12. (a) When action required by an order is performed by the enforcement authority or by a contractor acting under section 9 or 11 of this chapter, each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time when the order requiring the work performed was issued to the time that the work was completed, or, if emergency action was taken under section 9 of this chapter, during the time of such emergency action, is jointly and severally responsible for the following costs:

(1) The:

(A) actual cost of the emergency action taken, as affirmed by the hearing authority; or

(B) actual cost of the work performed by the enforcement authority or the bid price of work accomplished by the contractor under section 11 of this chapter.

(2) An amount that represents a reasonable forecast of the average processing expense that will be incurred by the enforcement authority in taking the technical, administrative, and legal actions concerning typical unsafe premises that are necessary under this chapter so that the action required by an order may be performed by a contractor under section 9 or 11 of this chapter. In calculating the amount of the average processing expense, the following costs may be considered:

(A) The cost of obtaining reliable information about the identity and location of persons who own a substantial property interest in the unsafe premises.

(B) The cost of notice of orders, notice of statements of rescission, notice of continued hearing, notice of statements that public bids are to be let or that the enforcement authority intends to accomplish the work, and notice that a hearing may be held on the amounts indicated in the record, in accordance with section 25 of this chapter.

(C) Salaries for employees.

(D) The cost of supplies, equipment, and office space.

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(b) The board or commission having control over the department shall determine the amount of the average processing expense at the public hearing, after notice has been given in the same manner as is required for other official action of the board or commission. In determining the average processing expense, the board or commission may fix the amount at a full dollar amount that is an even multiple of ten (10).

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.11; P.L.68-2010, SEC.4; P.L.247-2015, SEC.46, eff. July 1, 2015.

I.C. 36-7-9-12, IN ST 36-7-9-12

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IC 36-7-9-13

36-7-9-13 Notice of unpaid costs; filing with clerk of court; hearing; judgment lien

Effective: July 1, 2020

Currentness

Sec. 13. (a) If all or any part of the costs listed in section 12 of this chapter remain unpaid for any unsafe premises (other than unsafe premises owned by a governmental entity) for more than fifteen (15) days after the completion of the work, the enforcement authority does not act under section 13.5 of this chapter, and the enforcement authority determines that there is a reasonable probability of obtaining recovery, the enforcement authority shall prepare a record stating:

(1) the name and last known address of each person who held a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time the order requiring the work to be performed was recorded to the time that the work was completed;

(2) the legal description or address of the unsafe premises that were the subject of work;

(3) the nature of the work that was accomplished;

(4) the amount of the unpaid bid price of the work that was accomplished; and

(5) the amount of the unpaid average processing expense.

(b) The enforcement authority, or its head, shall swear to the accuracy of the record before the clerk of the circuit court and deposit the record in the clerk's office. Notice that the record has been filed and that a hearing on the amounts indicated in the record may be held must be sent in the manner prescribed by section 25 of this chapter to all of the following:

(1) The persons named in the record.

(2) Any mortgagee that has a known or recorded substantial property interest.

(c) If, within thirty (30) days after the notice required by subsection (b), a person named in the record or a mortgagee files with the clerk of the circuit court a written petition objecting to the claim for payment and requesting a hearing, the clerk shall enter the cause on the docket of the circuit or superior court as a civil action, and a hearing shall be held on the question in the manner prescribed by IC 4-21.5. However, issues that could have been determined under section 8 of this chapter may not be

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entertained at the hearing. At the conclusion of the hearing, the court shall either sustain the petition or enter a judgment against the persons named in the record for the amounts recorded or for modified amounts.

(d) If no petition is filed under subsection (c), the clerk of the circuit court shall enter the cause on the docket of the court and the court shall enter a judgment for the amounts stated in the record.

(e) A judgment under subsection (c) or (d), to the extent that it is not satisfied under IC 27-2-15, is a debt and a lien on all the real and personal property of the person named, or a joint and several debt and lien on the real and personal property of the persons named in the record prepared under subsection (a). The lien on real property is perfected against all creditors and purchasers when the judgment is entered on the judgment docket of the court. The lien on personal property is perfected by filing a lis pendens notice in the appropriate filing office, as prescribed by the Indiana Rules of Trial Procedure.

(f) Judgments rendered under this section may be enforced in the same manner as all other judgments are enforced.

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.12; P.L.7-1987, SEC.167; P.L.247-1989, SEC.3; P.L.31-1994, SEC.12; P.L.169-2006, SEC.64; P.L.159-2020, SEC.81, eff. July 1, 2020.

IC 36-7-9-13, IN ST 36-7-9-13

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IC 36-7-9-13.5

36-7-9-13.5 Unpaid costs for unsafe premises repairs; notice; certification as special assessment; collection as delinquent taxes; disposition of collections

Effective: July 1, 2015

Currentness

Sec. 13.5. (a) This section does not apply to the collection of an amount if a court determines under section 13 of this chapter that the enforcement authority is not entitled to the amount.

(b) If:

(1) all or any part of the costs listed in section 12 of this chapter remain unpaid for any unsafe premises (other than unsafe premises owned by a governmental entity) for more than fifteen (15) days after completion of the work; or

(2) emergency action was taken under section 9 of this chapter, for more than fifteen (15) days after the costs of the emergency action have been affirmed by the hearing authority;

the enforcement authority may send notice under section 25 of this chapter to each person who held a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. If the notice is sent, the enforcement authority shall also send notice to any mortgagee with a known or recorded substantial property interest. The notice must require full payment of the amount owed within thirty (30) days.

(c) If full payment of the amount owed is not made less than thirty (30) days after the notice is delivered, the enforcement officer may certify the following information to the county auditor:

(1) The name of each person who held a known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

(2) The description of the unsafe premises, as shown by the records of the county auditor.

(3) The amount of the delinquent payment, including all costs described in section 12 of this chapter.

(d) The county auditor shall place the total amount certified under subsection (c) on the tax duplicate for the affected property as a special assessment. The total amount, including accrued interest, shall be collected as delinquent taxes are collected.

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(c) An amount collected under subsection (d), after all other taxes have been collected and disbursed, shall be disbursed to the unsafe building fund.

(f) A judgment entered under section 13, 19, 21, or 22 of this chapter may be certified to the auditor and collected under this section. However, a judgment lien need not be obtained under section 13 of this chapter before a debt is certified under this section.

Credits

As added by PL 21-1994, SRC 13. Amended by PL 169-2006, SRC 65; PL 207-2015, SRC 47, eff. July 1, 2015.

I.C. 36-7-9-13.5, IN ST 36-7-9-13.5

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36-7-9-14 Unsafe building fund; deposits and expenditures

Currentness

Sec. 14. (a) The enforcement authority shall establish in its operating budget a fund designated as the unsafe building fund. Any balance remaining at the end of a fiscal year shall be carried over in the fund for the following year and does not revert to the general fund.

(b) Money for the unsafe building fund may be received from any source, including appropriations by local, state, or federal governments, and donations. The following money shall be deposited in the fund:

(1) Money received as payment for or settlement of obligations or judgments established under sections 9 through 13 and 17 through 22 of this chapter.

(2) Money received from bonds posted under section 7 of this chapter.

(3) Money received in satisfaction of receivers' notes or certificates that were issued under section 20 of this chapter and were purchased with money from the unsafe building fund.

(4) Money received for payment or settlement of civil penalties or fines imposed under section 7 of this chapter.

(5) Money received from the collection of special assessments under section 13.5 of this chapter.

(c) Money in the unsafe building fund may be used for the expenses incurred in carrying out the purposes of this chapter, including:

(1) the cost of obtaining reliable information about the identity and location of each person who owns a substantial property interest in unsafe premises;

(2) the cost of an examination of an unsafe building by a registered architect or registered engineer not employed by the department;

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(3) the cost of surveys necessary to determine the location and dimensions of real property on which an unsafe building is located;

(4) the cost of giving notice of orders, notice of statements of rescission, notice of continued hearing, and notice of statements that public bids are to be let in the manner prescribed by section 25 of this chapter;

(5) the bid price of work by a contractor under section 10 or sections 17 through 22 of this chapter;

(6) the cost of emergency action under section 9 of this chapter; and

(7) the cost of notes or receivers' certificates issued under section 20 of this chapter.

(d) Payment of money from the unsafe building fund must be made in accordance with applicable law.

Credits

As added by Act 1981, P.L.309, SEC.28. Amended by P.L.14-1991, SEC.13; P.L.31-1994, SEC.14; P.L.169-2006, SEC.66.

I.C. 36-7-9-14, IN ST 36-7-9-14

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36-7-9-15 Transfer of monies to unsafe building fund, IN ST 36-7-9-15

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IC 36-7-9-15

36-7-9-15 Transfer of monies to unsafe building fund

Currentness

Sec. 15. The board or commission having control over the department may transfer all or part of the money in a building, demolition, repair, and contingent fund that was established by IC 18-5-5-7 (before its repeal on September 1, 1981) to the unsafe building fund.

Credits

As added by Acts 1981, P.L.309, SEC.2E. Amended by P.L.3-1990, SEC.127.

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36-7-9-16 Inspection warrants

Currentness

Sec. 16. (a) If the owners or those in possession of a building refuse inspection, an inspection officer of the enforcement authority may obtain an inspection warrant from any court of record in the county in which the building is located in order to determine if the building is an unsafe building. The court shall issue the warrant subject to the following conditions:

(1) The person seeking the warrant must establish that the building to be searched or inspected is to be searched or inspected as part of a legally authorized program of inspection that naturally includes the building, or that there is probable cause for believing that a condition, object, activity, or circumstance legally justifies a search or inspection of that building.

(2) An affidavit establishing one (1) of the grounds described in subdivision (1) must be signed under oath or affirmation by the affiant.

(3) The court must examine the affiant under oath or affirmation to verify the accuracy of the affidavit.

(b) The warrant is valid only if it:

(1) is signed by the judge of the court and bears the date and hour of its issuance above that signature, with a notation that the warrant is valid for only forty-eight (48) hours after its issuance;

(2) describes (either directly or by reference to the affidavit) the building where the search or inspection is to occur so that the executor of the warrant and owner or the possessor of the building can reasonably determine what property the warrant authorizes an inspection of;

(3) indicates the conditions, objects, activities, or circumstances that the inspection is intended to check or reveal; and

(4) is attached to the affidavit required to be made in order to obtain the warrant.

(c) A warrant issued under this section is valid for only forty-eight (48) hours after its issuance, must be personally served upon the owner or possessor of the building, and must be returned within seventy-two (72) hours.

36-7-9-16 inspection warrants, IN ST 36-7-9-16

Credits

As added by Acts 1981, P.L.309, SEC.28.

I.C. 36-7-9-16, IN ST 36-7-9-16

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IC 36-7-9-17

36-7-9-17 Civil actions regarding unsafe premises

Effective: July 1, 2009

Currentness

Sec. 17. (a) The department, acting through its enforcement authority, a person designated by the enforcement authority, or a community organization may bring a civil action regarding unsafe premises in the circuit, superior, or municipal court of the county. The department is not liable for the costs of such an action. The court may grant one (1) or more of the kinds of relief authorized by sections 18 through 22 of this chapter.

(b) A civil action may not be initiated under this section before the final date of an order or an extension of an order under section 5(e) of this chapter requiring:

- (1) the completion; or
- (2) a substantial beginning toward accomplishing the completion;

of the required remedial action.

(c) A community organization may not initiate a civil action under this section if:

- (1) the enforcement authority or a person designated by the enforcement authority has filed a civil action under this section regarding the unsafe premises; or
- (2) the enforcement authority has issued a final order that the required remedial action has been satisfactorily completed.

(d) A community organization may not initiate a civil action under this section if the real property that is the subject of the civil action is located outside the specific geographic boundaries of the area defined in the bylaws or articles of incorporation of the community organization.

(e) At least sixty (60) days before commencing a civil action under this section, a community organization must issue a notice by certified mail, return receipt requested, that:

- (1) specifies:

- (A) the nature of the alleged nuisance;
- (B) the date the nuisance was first discovered;
- (C) the location on the property where the nuisance is allegedly occurring;
- (D) the intent of the community organization to bring a civil action under this section; and
- (E) the relief sought in the action; and

(2) is provided to:

- (A) the owner of record of the premises;
- (B) tenants located on the premises;
- (C) the enforcement authority; and
- (D) any person that possesses an interest of record.

(f) In any action filed by a community organization under this section, a court may award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party.

(g) If a second or subsequent civil judgment is entered under this section:

- (1) against an owner of a known or recorded fee interest, life estate, or equitable interest as a contract purchaser of property; and
- (2) during any two (2) year period;

a court may order the owner to pay treble damages based on the costs of the ordered action. The second or subsequent civil judgment may relate to the same property or a different property held by the owner.

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.31-1994, SEC.15; P.L.177-2003, SEC.7; P.L.88-2009, SEC.10.

I.C. 36-7-9-17, IN ST 36-7-9-17

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IC 36-7-9-18

36-7-9-18 Injunctions

Currentness

Sec. 18. A court acting under section 17 of this chapter may grant a mandatory or prohibitory injunction against any person that will cause the order to be complied with, if it is shown that:

- (1) an order, which need not set a hearing date, was issued to the person;
- (2) the person has a property interest in the unsafe premises that are the subject of the order that would allow the person to take the action required by the order;
- (3) the building that is the subject of the order is an unsafe building; and
- (4) the order is not being reviewed under section 8 of this chapter.

Credits

As added by Acts 1981, P.L.309, SEC.28.

I.C. 36-7-9-18, IN ST 36-7-9-18

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IC 36-7-9-18.1

36-7-9-18.1 Posting of performance bond; justification of
request; interim completion standards; deposit of money collected

Contents

Sec. 18.1 (a) A court acting under section 17 of this chapter may condition the granting of a period of time to accomplish the action required by an order on the posting of a performance bond that will be forfeited if the action required by the order is not completed within the period the court allows. Before granting a period of time that is conditioned on the posting of a bond, the court may require that the requesting person justify the request with a workable and financially supported plan. If the court determines that a significant amount of work must be accomplished to comply with the order, the court may require that the bond specify interim completion standards and provide that the bond is forfeited if any of these interim completion standards are not substantially met.

(b) Any amount collected under subsection (a) on a forfeited bond shall be deposited in the county's building fund.

Credits

As added by PL 159-2006, SEC.67.

IC. 36-7-9-18.1, IN ST 36-7-9-18.1

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IC 36-7-9-19

36-7-9-19 Civil penalties

Currentness

Sec. 19. (a) A court acting under section 17 of this chapter may impose a civil penalty not to exceed five thousand dollars (\$5,000) against any person if the conditions of section 18 of this chapter are met. The penalty imposed may not be substantially less than the cost of complying with the order, unless that cost exceeds two thousand five hundred dollars (\$2,500). The effective date of the penalty may be postponed for a period not to exceed thirty (30) days, after which the court may order the penalty reduced or stricken if it is satisfied that all work necessary to fully comply with the order has been done.

(b) On request of the enforcement authority the court shall enter a judgment in the amount of the penalty. If there is more than one (1) party defendant, the penalty is separately applicable to each defendant. The amount of a penalty that is collected shall be deposited in the unsafe building fund.

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.169-2006, SEC.68.

I.C. 36-7-9-19, IN ST 36-7-9-19

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IC 36-7-9-20

36-7-9-20 Appointment of receiver; rehabilitation of premises

Currentness

Sec. 20. (a) A court acting under section 17 of this chapter may appoint a receiver for the unsafe premises, subject to the following conditions:

(1) The purpose of the receivership must be to take possession of the unsafe premises for a period sufficient to accomplish and pay for repairs and improvements.

(2) The receiver may be a nonprofit corporation the primary purpose of which is the improvement of housing conditions in the county where the unsafe premises are located, or may be any other capable person residing in the county.

(3) Notwithstanding any prior assignments of the rents and other income of the unsafe premises, the receiver must collect and use that income to repair or remove the defects as required by the order, and may, upon approval by the court, make repairs and improvements in addition to those specified in the order or required by applicable statutes, ordinances, codes, or regulations.

(4) The receiver may make any contracts and do all things necessary to accomplish the repair and improvement of the unsafe premises.

(5) A receiver that expends money, performs labor, or furnishes materials or machinery, including the leasing of equipment or tools, for the repair of an unsafe premises may have a lien that is equal to the total expended. When a lien exists, the receiver may sell the property:

(A) to the highest bidder at auction under the same notice and sale provisions applicable to a foreclosure sale of mechanic's liens or mortgages; or

(B) for fair market value if all persons having a substantial property interest in the unsafe premises agree to the amount and procedure.

The transferee in either a public or private sale must first demonstrate the necessary ability and experience to rehabilitate the premises within a reasonable time to the satisfaction of the receiver.

(6) The court may, after a hearing, authorize the receiver to obtain money needed to accomplish the repairs and improvement by the issuance and sale of notes or receiver's certificates to the receiver or any other person or party bearing interest fixed by the court. The notes or certificates are a first lien on the unsafe premises and the rents and income of the unsafe building. This lien is superior to all other assignments of rents, liens, mortgages, or other encumbrances on the property, except taxes, if, within sixty (60) days following the sale or transfer for value of the notes by the receiver, the holder of the notes files a notice containing the following information in the county recorder's office:

(A) The legal description of the tract of real property on which the unsafe building is located.

(B) The face amount and interest rate of the note or certificate.

(C) The date when the note or certificate was sold or transferred by the receiver.

(D) The date of maturity.

(7) Upon payment to the holder of a receiver's note or certificate of the face amount and interest, and upon filing in the recorder's office of a sworn statement of payment, the lien of that note or certificate is released. Upon a default in payment on a receiver's note or certificate, the lien may be enforced by proceedings to foreclose in the manner prescribed for mechanic's liens or mortgages. However, the foreclosure proceedings must be commenced within two (2) years after the date of default.

(8) The receiver is entitled to the same fees, commissions, and necessary expenses as receivers in actions to foreclose mortgages. The fees, commissions, and expenses shall be paid out of the rents and incomes of the property in receivership.

(b) The issuance of an order concerning unsafe premises is not a prerequisite to the appointment of a receiver nor does such an order prevent the appointment of a receiver.

(c) If the enforcement authority or the enforcement authority's designee requests the appointment of a receiver, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

(d) A court, when granting powers and duties to a receiver, shall consider:

(1) the occupancy of the unsafe premises;

(2) the overall condition of the property;

(3) the hazard to public health, safety, and welfare;

(4) the number of persons having a substantial property interest in the unsafe premises; and

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(5) other factors the court considers relevant.

(e) Instead of appointing a receiver to sell or rehabilitate an unsafe premises, the court may permit an owner, a mortgagee, or a person with substantial interest in the unsafe premises to rehabilitate the premises if the owner, mortgagee, or person with substantial interest:

(1) demonstrates ability to complete the rehabilitation within a reasonable time, but not to exceed sixty (60) days;

(2) agrees to comply within a specified schedule for rehabilitation; and

(3) posts a bond as security for performance of the required work in compliance with the specified schedule in subdivision (2).

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.31-1994, SEC.16; P.L.177-2003, SEC.8.

I.C. 36-7-9-20, IN ST 36-7-9-20

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IC 36-7-9-20.5

36-7-9-20.5 Taking possession of, rehabilitating, and transferring unsafe or abandoned premises; appointment of hearing authority; adoption of ordinance

Effective: July 1, 2015

Currentness

Sec. 20.5. (a) This section applies only to property determined to be:

(1) an unsafe premises under this chapter; and

(2) abandoned under IC 36-7-37.

(b) The circuit court of the county in which the unit is located shall appoint the hearing authority.

(c) A city, town, or county having an enforcement authority may adopt or amend an ordinance to set requirements for the receiver that are more stringent than is provided in this section.

(d) Upon the request of the enforcement authority or the enforcement authority's designee, a circuit court acting under section 17 of this chapter may appoint a receiver to take possession of, rehabilitate, and transfer the property. The receiver may be any competent person who has been approved by the enforcement authority.

(e) If the enforcement authority or the enforcement authority's designee requests the appointment of a receiver, all persons having a substantial interest in the property shall be made party defendants and given notice.

(f) A receiver shall provide written notice to the county auditor and the county treasurer that a receiver has been appointed.

(g) The county treasurer may file a proof of claim with the receiver that identifies the taxes that are owed at the time the receiver took possession of the property. The proof of claim must include a detailed breakdown of all taxes, special assessments, fees, fines from the enforcement authority, and penalties that are owed on the property.

(h) The county treasurer may request that the county auditor waive penalties that incurred after the proof of claim is filed. The county auditor may waive such penalties.

36-7-9-20.5 Taking possession of, rehabilitating, and transferring..., IN ST 36-7-9-20.5

(i) A receiver appointed to transfer property may do the following:

- (1) Enter into contracts and do all things necessary to maintain, rehabilitate, and prepare the property for sale, including demolition of structures or parts of structures that may not reasonably be rehabilitated.
- (2) Enter into any contracts and do all things necessary to accomplish the transfer of the property.
- (3) Investigate claims on the proceeds of sale submitted under subsection (k).

The enforcement authority may utilize funds from the unsafe building fund for expenses incurred by the receiver in carrying out the receiver's responsibilities.

(j) A transfer under this section shall be conducted as follows:

- (1) The property shall be offered at a public auction, unless the property is claimed at any time by a recorded owner of the property.
- (2) A bidder must be in good standing as determined by the enforcement authority or by the receiver acting as the enforcement authority's designee. The receiver may establish minimum qualifications for bidders, investigate a bidder's qualifications and ability to rehabilitate the property, and prequalify bidders before holding an auction. A person prohibited from bidding at an auction held under ~~IC 6-1.1-24-6.1~~ may not bid at a receiver's auction held under this section.
- (3) The receiver may establish a minimum bid for the auction.
- (4) Notice of the auction must be given by publication and such other means as determined by the receiver at least thirty (30) days before the auction.
- (5) The receiver may cancel the auction at any time and for any reason. The auction may be rescheduled as determined by the receiver.
- (6) The receiver may impose any reasonable conditions upon the sale.

(k) After the transfer of title to the purchaser, the receiver shall serve a notice on all persons who, before the transfer, had a known or recorded substantial property interest in the property. The notice must contain the following information:

- (1) The fact of the transfer and the purchase price paid.
- (2) The order in which the proceeds of the sale are to be applied as described in subsection (l).

(3) Instructions for submitting a claim.

(4) The date by which a claim must be submitted, which may not be less than ninety (90) days after the date the notice is served.

(5) If the receiver takes reasonable steps but is unable to locate a person entitled to notice under this subsection, the receiver may serve the notice by publication. Any proceeds from the sale remaining after all claims have been paid shall be deposited in the unsafe building fund or a fund designated by the local ordinance.

(l) The proceeds of the sale shall be applied in the following order:

(1) Current year taxes of not to exceed two thousand five hundred dollars (\$2,500).

(2) The receiver's expenses, including administrative expenses, and costs of sale.

(3) Any additional current year taxes in addition to the limit set in subdivision (1), delinquent taxes, and penalties, unpaid fees and fines issued by the enforcement authority, and special assessment accrued on the property.

(4) Any liens on the property in their order of priority.

(5) Any remaining money shall be paid to the divested owner.

(m) The issuing authority of the special assessments may choose to waive the special assessments and not collect them.

(n) A deed executed under this section vests in the grantee an estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the sale except those liens granted priority under federal law and the lien of the state or a political subdivision for taxes and special assessments that accrue after the sale. However, subject to subsection (o), the estate is subject to the following:

(1) All easements, covenants, declarations, and other deed restrictions shown by public records.

(2) Laws, ordinances, and regulations concerning governmental police powers, including zoning, building, land use, improvements on the land, land division, and environmental protection.

(3) Liens and encumbrances created or suffered by the grantee.

(o) A deed executed under this section:

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(1) does not operate to extinguish an easement recorded before the date of the sale in the office of the recorder of the county in which the real property is located, regardless of whether the easement was taxed separately from the real estate; and

(2) conveys title subject to all easements recorded before the date of the sale in the office of the recorder of the county in which the real property is located.

Credits

As added by PL 247-2015, SEC. 48, eff. July 1, 2015.

I.C. 36-7-9-20.5, IN ST 36-7-9-20.5

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36-7-9-21 Court order authorizing performance of work; judgment for costs

Currentness

Sec. 21 (a) A court acting under section 17 of this chapter may authorize the department, acting through its enforcement authority, to cause the action required by the order to be performed by a contractor licensed and qualified under law, if it is shown that:

(1) an order was issued to each person having a substantial property interest in the unsafe premises;

(2) each of the orders has been affirmed or modified at a hearing in such a manner that all persons having substantial property interest in the unsafe premises that are the subject of the orders are currently subject to an order requiring substantially identical action;

(3) the order, as affirmed or modified at the hearing, has not been complied with;

(4) the building that is the subject of the order is an unsafe building; and

(5) the order is not being reviewed under section 8 of this chapter.

(b) If the enforcement authority requests permission to cause the action required by the order to be performed by a contractor, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

(c) The cost of the work and the processing expenses incurred by the enforcement authority computed under section 12 of this chapter, may, after a hearing, be entered by the court as a judgment against persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.13.

I.C. 36-7-9-21, IN ST 36-7-9-21

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IC 36-7-9-22

36-7-9-22 Emergencies; court order authorizing action to make premises safe; judgment for costs

Currentness

Sec. 22. (a) A court acting under section 17 of this chapter may set a hearing to be held within ten (10) days after the filing of a complaint alleging the existence of unsafe premises presenting an immediate danger to the health and safety of the surrounding community sufficient to warrant emergency action. Upon a finding at the hearing in favor of the department, the court may:

(1) permit the enforcement authority to cause the action necessary to make the premises safe to be immediately performed by a contractor licensed and qualified under law;

(2) permit the enforcement authority to cause the action necessary to make the premises ~~safe~~ to be immediately performed by a contractor licensed and qualified under law after the defendants have had a reasonable time, as established by the court, to make the unsafe premises safe and have failed to complete the necessary action; or

(3) grant a mandatory injunction relative to the unsafe premises that would require a defendant who has an interest in the premises that allows the defendant to take corrective action to immediately make the premises safe.

In granting relief under subdivision (2) or (3) the court shall set a date certain for the completion of the necessary action and shall hold a hearing within ten (10) days after that date to determine whether the necessary action has been completed.

(b) The issuance of an order concerning the unsafe premises is not a prerequisite to permission by the court to cause action to be performed on the unsafe premises. If an order has been issued concerning the unsafe premises, it does not prevent the permission by the court to cause action to be performed on the unsafe premises.

(c) If the enforcement authority requests authority to cause action on the unsafe premises to be performed by a contractor, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

(d) The cost of accomplishing the work may, after a hearing, be entered by the court as a judgment against persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.59-1986, SEC.14.

36-7-9-22 Emergencies; court order authorizing action to make..., IN ST 36-7-9-22

I.C. 36-7-9-22. IN ST 36-7-9-22

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IC 36-7-9-23

36-7-9-23 Change of venue and judge

Currentness

Sec. 23. A change of venue may not be allowed in an action filed under section 8, 13, or 17 of this chapter, but a change of judge shall be allowed in the same manner as is provided for other civil matters.

Credits

As added by Acts 1981, P.L.309, SEC.28.

I.C. 36-7-9-23, IN ST 36-7-9-23

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36-7-9-24 Priority of actions

Chapter 9

Sec. 24. An action filed under section 8 or 17 of this chapter takes precedence over other pending litigation, and shall be tried and determined by the court at as early a date as possible.

Credits

As added by Acts 1981, P.L.309, SEC.28.

I.C. 36-7-9-24, IN ST 36-7-9-24

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IC 36-7-9-25

36-7-9-25 Manner of serving notice

Effective: July 1, 2021

Crossreference

Sec. 25. (a) Notice of orders, notice of continued hearings without a specified date, notice of a statement that public bids are to be let, and notice of claims for payment must be given by:

(1) sending a copy of the order or statement by registered or certified mail to the residence or place of business or employment of the person to be notified, with return receipt requested;

(2) delivering a copy of the order or statement personally to the person to be notified;

(3) leaving a copy of the order or statement at the dwelling or usual place of abode of the person to be notified and sending by first class mail a copy of the order or statement to the last known address of the person to be notified; or

(4) sending a copy of the order or statement by first class mail to the last known address of the person to be notified.

If a notice described in subdivision (1) is returned undelivered, a copy of the order or statement must be given in accordance with subdivision (2), (3), or (4).

(b) If service is not obtained by a means described in subsection (a) and the hearing authority concludes that a reasonable effort has been made to obtain service, service may be made by publishing a notice of the order or statement in accordance with IC 5-3-1 in the county where the unsafe premises are located. However, publication must be made two (2) times, at least one (1) week apart:

(1) with each publication of notice in a newspaper in accordance with IC 5-3-1 in the county where the unsafe premises are located; or

(2) with the first publication of notice in a newspaper described in subdivision (1) and the second publication of notice:

(A) in accordance with IC 5-3-5; and

(B) on the official web site of the county where the unsafe premises are located.

The second publication must be made at least three (3) days before an event described in subsection (a). If service of an order is made by publication, the publication must include the information required by section 5(b)(1), 5(b)(2), 5(b)(4), 5(b)(5), 5(b)(6), 5(b)(7), and 5(b)(9) of this chapter, and must also include a statement indicating generally what action is required by the order and that the exact terms of the order may be obtained from the enforcement authority. The hearing authority may make a determination about whether a reasonable effort has been made to obtain service by the means described in subsection (a) on the basis of information provided by the department (or, in the case of a consolidated city, the enforcement authority). The hearing authority is not required to make the determination at a hearing. The hearing authority must make the determination in writing.

(c) When service is made by any of the means described in this section, except by mailing or by publication, the person making service must make an affidavit stating that the person has made the service, the manner in which service was made, to whom the order or statement was issued, the nature of the order or statement, and the date of service. The affidavit must be placed on file with the enforcement authority.

(d) The date when notice of the order or statement is considered given is as follows:

(1) If the order or statement is delivered personally or left at the dwelling or usual place of abode, notice is considered given on the day when the order or statement is delivered to the person or left at the person's dwelling or usual place of abode.

(2) If the order or statement is mailed, notice is considered given on the date shown on the return receipt, or, if no date is shown, on the date when the return receipt is received by the enforcement authority.

(3) Notice by publication is considered given on the date of the second day that publication was made.

(e) A person with a property interest in an unsafe premises who does not:

(1) record an instrument reflecting the interest in the recorder's office of the county where the unsafe premises is located; or

(2) if an instrument reflecting the interest is not recorded, provide to the department (or, in the case of a consolidated city, the enforcement authority) in writing the person's name and address and the location of the unsafe premises;

is considered to consent to reasonable action taken under this chapter for which notice would be required and relinquish a claim to notice under this chapter.

(f) The department (or, in the case of a consolidated city, the enforcement authority) may, for the sake of administrative convenience, publish notice under subsection (b) at the same time notice is attempted under subsection (a). If published notice is given as described in subsection (b), the hearing authority shall subsequently make a determination about whether a reasonable effort has been made to obtain service by the means described in subsection (a).

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by Acts 1981, P.L.45, SEC.27; P.L.59-1986, SEC.15; P.L.169-2006, SEC.69; P.L.194-2007, SEC.12; P.L.164-2019, SEC.7, eff. July 1, 2019; P.L.152-2021, SEC.40, eff. July 1, 2021.

36-7-9-25 Manner of serving notice, IN ST 36-7-9-25

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IC 36-7-9-26

36-7-9-26 Recording of orders, statements of rescission, statements
of public bids, and records of actions taken by hearing authority

Effective: July 1, 2015

Currentness

Sec. 26. (a) The enforcement authority shall record in the office of the county recorder orders issued under section 5(a)(6), 5(a)(7), 6(a), or 7.5 of this chapter. If the enforcement authority records an order issued under section 5(a)(6), 5(a)(7), 6(a), or 7.5 of this chapter, statements of rescission issued under section 6(h) of this chapter, statements that public bids are to be let under section 11 of this chapter, and records of action in which the order is affirmed, modified, or rescinded taken by the hearing authority under section 7 of this chapter shall be recorded. The recorder shall charge the fee required under IC 36-2-7-10 for recording these items.

(b) A person who takes an interest in unsafe premises that are the subject of a recorded order takes that interest, whether or not a hearing has been held, subject to the terms of the order and other documents recorded under subsection (a) and in such a manner that all of the requirements of sections 10, 11, and 17 through 22 of this chapter relating to the issuance of orders, service of orders and affirmation of orders are considered satisfied. If a hearing has been held, the interest is taken subject to the terms of the order as modified at the hearing, in other documents recorded under subsection (a), and in such a manner that all of the requirements of sections 10, 11, and 17 through 22 of this chapter relating to the issuance of orders, service of orders, and modification of orders at hearing are considered satisfied.

(c) A person who takes an interest in unsafe premises that are the subject of a recorded statement that public bids are to be let takes the interest subject to the terms of the statement and in such a manner that the notice of the statement required by section 11 of this chapter is considered given to the person.

Credits

As added by Acts 1981, P.L.309, SEC.28. Amended by P.L.290-1985, SEC.9; P.L.59-1986, SEC.16; P.L.177-2003, SEC.2; P.L.247-2015, SEC.49, eff. July 1, 2015.

I.C. 36-7-9-26, IN ST 36-7-9-26

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IC 36-7-9-27

36-7-9-27 Transfers of property by persons not complying with orders

Corrections

Sec. 27. (a) A person who has been issued and has received notice of an order relative to unsafe premises and has not complied with that order:

(1) must supply full information regarding the order to a person who takes or agrees to take a substantial property interest in the unsafe premises before transferring or agreeing to transfer that interest; and

(2) must, within five (5) days after transferring or agreeing to transfer a substantial property interest in the unsafe premises, supply the enforcement authority with written copies of:

(A) the full name, address, and telephone number of the person taking a substantial property interest in the unsafe premises; and

(B) the legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished.

(b) If a judgment is obtained against the department, enforcement authority, or other governmental entity for the failure of that entity to provide notice to persons holding an interest in unsafe premises in an action taken by the entity under this chapter, a person who failed to comply with this section is liable to the entity for the amount of the judgment if it can be shown that the entity's failure to give notice was a result of that person's failure.

Credits

As added by Acts 1981, P.L.309, SEC.28.

I.C. 36-7-9-27, IN ST 36-7-9-27

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IC 36-7-9-28

36-7-9-28 Violations; penalties

Currentness

Sec. 28. A person who:

- (1) remains in, uses, or enters a building in violation of an order made under this chapter;
- (2) knowingly interferes with or delays the carrying out of an order made under this chapter;
- (3) knowingly obstructs, damages, or interferes with persons engaged or property used in performing any work or duty under this chapter; or
- (4) fails to comply with section 27 of this chapter;

commits a Class C infraction. Each day that the violation continues constitutes a separate offense.

Credits

As added by Acts 1981, P.L.309, SEC.28.

I.C. 36-7-9-28, IN ST 36-7-9-28

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IC 36-7-9-29

36-7-9-29 Violations; provision of personal information to department

Effective: July 1, 2007

Currentness

Sec. 29. (a) This section applies to a person if:

(1) an order is issued to the person under this chapter requiring action related to an unsafe premises:

(A) owned by the person and leased to another person; or

(B) being purchased by the person under a contract and leased to another person;

(2) a hearing on the order was not requested under section 5(b)(6) of this chapter, or, if a hearing was requested, the order was affirmed at the hearing; and

(3) either:

(A) the order is not being reviewed under section 8 of this chapter; or

(B) after review by the circuit or superior court, the court entered a judgment against the person.

(b) A person described in subsection (a) must provide to the department (or, in the case of a consolidated city, the enforcement authority) in writing the person's name, street address (excluding a post office box address), and phone number.

Credits

As added by P.L.194-2007, SEC.13.

I.C. 36-7-9-29, IN ST 36-7-9-29

The statutes and Constitution are current with all legislation of the 2023 First Regular Session of the 123rd General Assembly effective through March 22, 2023.

End of Document

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