

# HOUSE BILL No. 1103

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 32-31; IC 33-32; IC 33-37-5.

**Synopsis:** Tenant's rights. Extends the time period for a "pay-or-quit" notice from 10 to 14 days, and removes a provision permitting termination of a rental agreement without notice. Allows a prevailing tenant in a landlord-tenant case to expunge records relating to the action. Establishes a procedure permitting a tenant to withhold rent from a landlord and deposit it with a court if the landlord has failed to comply with the landlord's statutory obligations, or if the rental unit is in violation of an ordinance, rule, code or other law, and the violation may materially affect the health or safety of a tenant. Specifies the circumstances under which withheld rent may be returned, and authorizes a court to release some or all of the withheld rent to the tenant to permit the tenant to remedy the violation. Establishes a rental escrow fee of 1% of the amount of the withheld rent to be deposited in the clerk's record perpetuation fund. Makes other changes and conforming amendments.

**Effective:** July 1, 2020.

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## Shackleford

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January 7, 2020, read first time and referred to Committee on Judiciary.

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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.

# HOUSE BILL No. 1103

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

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

1 SECTION 1. IC 32-31-1-6 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 6. If a tenant refuses or  
3 neglects to pay rent when due, a landlord may terminate the lease with  
4 not less than ~~ten (10)~~ **fourteen (14)** days notice to the tenant unless:  
5 (1) the parties otherwise agreed; or  
6 (2) the tenant pays the rent in full before the notice period expires.  
7 SECTION 2. IC 32-31-1-7 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 7. The following form  
9 of notice may be used when a tenant fails or refuses to pay rent:  
10 (insert date here)  
11 To (insert name of tenant here):  
12 You are notified to vacate the following property not more than ~~ten~~  
13 ~~(10)~~ **fourteen (14)** days after you receive this notice unless you pay the  
14 rent due on the property within ~~ten (10)~~ **fourteen (14)** days: (insert  
15 description of property here):  
16 (insert name of landlord here).  
17 SECTION 3. IC 32-31-1-8 IS AMENDED TO READ AS



1       FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. Notice is not  
2 required to terminate a lease in the following situations:

3           (1) The landlord agrees to rent the premises to the tenant for a  
4 specified period of time.

5           ~~(2) The time for the determination of the tenancy is specified in~~  
6 ~~the contract.~~

7           ~~(3) (2)~~ A tenant at will commits waste.

8           ~~(4) (3)~~ The tenant is a tenant at sufferance.

9           ~~(5) (4)~~ The express terms of the contract require the tenant to pay  
10 the rent in advance, and the tenant refuses or neglects to pay the  
11 rent in advance.

12          ~~(6) (5)~~ The landlord-tenant relationship does not exist.

13       SECTION 4. IC 32-31-10 IS ADDED TO THE INDIANA CODE  
14 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2020]:

16       **Chapter 10. Rights of Prevailing Tenants in Certain Actions**

17       **Sec. 1. This chapter applies to a tenant named as a defendant in**  
18 **an action brought by a landlord based on a violation of, or**  
19 **otherwise pursuant to, a residential landlord-tenant statute (as**  
20 **defined in IC 32-31-2.9-2).**

21       **Sec. 2. If, in an action described in section 1 of this chapter:**

22           **(1) the action against the tenant is dismissed or not**  
23 **prosecuted;**

24           **(2) the tenant prevails in the action; or**

25           **(3) the landlord prevails and the judgment is subsequently**  
26 **vacated;**

27 **the court in which the action was filed shall order the clerk and the**  
28 **operator of any state, regional, or local case management system**  
29 **not to disclose or permit disclosure of information related to the**  
30 **action to a noncriminal justice organization or an individual.**

31       **Sec. 3. (a) If a court fails to order the nondisclosure of**  
32 **information as described in section 2 of this chapter, because the**  
33 **judgment was entered before July 1, 2020, or otherwise, the tenant**  
34 **may file a verified petition for nondisclosure in the court in which**  
35 **the action was filed. The tenant shall succinctly set forth the**  
36 **grounds for relief in the petition.**

37       **(b) If the court finds that the tenant is entitled to relief under**  
38 **section 2 of this chapter, the court shall order the clerk and the**  
39 **operator of any state, regional, or local case management system**  
40 **not to disclose or permit disclosure of information related to the**  
41 **action to a noncriminal justice organization or an individual,**  
42 **including, if necessary, the removal of information from any part**



1 of a case management system accessible to a noncriminal justice  
2 organization or individual.

3 (c) At the time the court grants relief under subsection (b), the  
4 court shall seal the petition for nondisclosure and any records  
5 relating to the merits of the petition.

6 (d) A court may grant relief under this section with or without  
7 a hearing.

8 (e) An order issued under this section is a final appealable  
9 order.

10 SECTION 5. IC 32-31-11 IS ADDED TO THE INDIANA CODE  
11 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2020]:

13 **Chapter 11. Tenant's Right to Escrow Rent**

14 **Sec. 1. (a) This chapter does not apply to a landlord who:**

15 (1) is a party to less than four (4) rental agreements for a  
16 rental unit; and

17 (2) provides written notice of this fact to the tenant.

18 (b) This chapter does not apply to a rental unit occupied by a  
19 student tenant.

20 (c) This chapter does not apply to a tenant who is not current on  
21 the tenant's rent payments due under the rental agreement.

22 **Sec. 2. (a) The definitions in IC 32-31-3 apply to this chapter.**

23 (b) The following definitions apply throughout this chapter:

24 (1) "Clerk" has the meaning set forth in IC 33-32-1-1 or  
25 IC 33-32-2-1, whichever is applicable.

26 (2) "Student tenant" means a tenant who is enrolled as a  
27 full-time or part-time student at an approved postsecondary  
28 educational institution (as defined in IC 21-7-13-6) during all  
29 or part of the period described in the rental agreement.

30 **Sec. 3. If:**

31 (1) a landlord does not fulfill the landlord's obligations under  
32 IC 32-31-8-5; or

33 (2) a governmental agency has found that the rental unit is in  
34 violation of a code, rule, ordinance, or other law, and the  
35 violation may materially affect the health or safety of a  
36 tenant;

37 the tenant may obtain relief as described in this chapter.

38 **Sec. 4. If a tenant has a reasonable belief that a landlord has**  
39 **violated a requirement under section 3 of this chapter, the tenant**  
40 **shall notify the landlord of the violation in writing or by electronic**  
41 **mail, specifically describing the violation.**

42 **Sec. 5. If the landlord does not remedy the violation within:**



1           (1) a reasonable time period, considering the severity of the  
 2           violation and the nature of the required remediation; or  
 3           (2) thirty (30) days;  
 4           whichever occurs first, the tenant may seek a remedy as described  
 5           in section 6 of this chapter.

6           **Sec. 6.** If, after receiving a notice under section 4 of this chapter,  
 7           the landlord fails to remedy the violation within the time frame  
 8           described in section 5 of this chapter, the tenant may do one (1) or  
 9           more of the following:

10           (1) Deposit all rent that is due, and that becomes due, with the  
 11           clerk of the circuit court in the county in which the rental  
 12           property is located. If a tenant deposits rent under this  
 13           subdivision, the tenant shall inform the clerk in writing of the  
 14           name and address of the landlord.

15           (2) File an action requesting a circuit or superior court in the  
 16           county in which the rental property is located to issue one (1)  
 17           or more of the following orders:

18           (A) An order requiring the landlord to remedy the  
 19           violation described in section 3 of this chapter.

20           (B) An order authorizing the tenant to deposit rent with  
 21           the clerk of the circuit court, as described in subdivision  
 22           (1).

23           (C) An order reducing the rent due the landlord until the  
 24           landlord remediates the violation.

25           (D) An order authorizing the tenant to use the rent  
 26           deposited with the clerk of the circuit court to remediate  
 27           the violation.

28           As part of any order issued under this subdivision, the court  
 29           may order the tenant to deposit rent with the clerk of the  
 30           circuit court as described in subdivision (1).

31           (3) File an action requesting a circuit or superior court in the  
 32           county in which the rental property is located to issue an  
 33           order to terminate the rental agreement.

34           **Sec. 7.** A landlord who receives notice that a tenant has  
 35           deposited rent due to the landlord with the clerk of the circuit  
 36           court may do one (1) or more of the following:

37           (1) Obtain release of the rent after the tenant provides written  
 38           notice to the clerk that the violation has been remedied.

39           (2) File an action requesting the court to order the clerk to  
 40           release the rent on the basis that:

41           (A) the tenant failed to comply with the notice  
 42           requirements described in section 4 of this chapter;



- 1           **(B) the tenant deposited the rent before the time set forth**  
 2           **in section 5 of this chapter; or**  
 3           **(C) subject to section 1 of this chapter, rent was**  
 4           **improperly deposited.**  
 5           **(3) File an action requesting the court to order the clerk to**  
 6           **release the rent on the basis that:**  
 7           **(A) a violation described in section 3 of this chapter does**  
 8           **not exist; or**  
 9           **(B) the landlord has remedied the violation described in**  
 10           **section 3 of this chapter.**  
 11           **Sec. 8. (a) The landlord shall name the tenant as a party in an**  
 12           **action described in section 7 of this chapter.**  
 13           **(b) The court shall set the matter for trial within sixty (60) days,**  
 14           **unless, for good cause shown, the court extends the time period.**  
 15           **Sec. 9. If the court finds that the landlord is entitled to relief**  
 16           **under this chapter, the court shall order the clerk to release the**  
 17           **rent to the landlord.**  
 18           **Sec. 10. (a) If the court finds that the violation described in**  
 19           **section 3 of this chapter was the result of an act or omission**  
 20           **committed by the tenant, the tenant is liable for damages and court**  
 21           **costs to the landlord.**  
 22           **(b) If the court finds that the tenant acted in bad faith, the court**  
 23           **shall additionally order the tenant to pay the landlord's reasonable**  
 24           **attorney's fees.**  
 25           **Sec. 11. (a) If a landlord files an action under section 7 of this**  
 26           **chapter, the landlord may additionally request that the court order**  
 27           **the release, while the action is pending, of a portion of the rent**  
 28           **necessary to pay the ongoing and usual expenses of operating the**  
 29           **rental unit, such as:**  
 30           **(1) the mortgage or other loan payment for the rental**  
 31           **premises;**  
 32           **(2) insurance for the rental premises;**  
 33           **(3) property taxes on the rental premises;**  
 34           **(4) utility costs for the rental premises; and**  
 35           **(5) repair expenses for the rental premises.**  
 36           **(b) In determining whether to release rent for the purposes**  
 37           **described in subsection (a), the court shall consider the following:**  
 38           **(1) The amount of rent the landlord receives from other rental**  
 39           **units in the same building as the tenant's rental unit.**  
 40           **(2) The cost of operating other rental units in the tenant's**  
 41           **building.**  
 42           **(3) The cost required to remedy the violation that is the basis**



1           **for the withheld rent.**

2           **(4) Any other relevant factor.**

3           SECTION 6. IC 33-32-2-11 IS ADDED TO THE INDIANA CODE  
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
5 1, 2020]: **Sec. 11. (a) The clerk shall carry out the duties described  
6 in IC 32-31-11 concerning rent deposited by a tenant.**

7           **(b) Whenever a tenant deposits rent with the clerk under  
8 IC 32-31-11, the clerk shall give written notice of the deposit, the  
9 amount of the deposit, and the tenant's name to the landlord.**

10          **(c) The clerk shall deposit withheld rent received under this  
11 section in accordance with IC 33-37-5-34 (rental escrow fund) and  
12 collect the fee required under IC 33-37-5-35 (rental escrow fee).**

13          **(d) The clerk shall record in the judgment docket an account of  
14 each deposit, including the amount of each deposit and the name  
15 and address of the:**

16           **(1) tenant; and**

17           **(2) landlord.**

18          SECTION 7. IC 33-32-3-2, AS AMENDED BY P.L.55-2015,  
19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
20 JULY 1, 2020]: **Sec. 2. (a) The clerk:**

21           (1) shall keep:

22           (A) a circuit court judgment docket; and

23           (B) a judgment docket for each court served by the clerk under  
24 IC 33-32-2-1; and

25           (2) is the official keeper of:

26           (A) the circuit court judgment docket; and

27           (B) the judgment docket for each court served by the clerk  
28 under IC 33-32-2-1.

29          (b) A judgment docket described in subsection (a):

30           (1) must contain:

31           (A) all civil judgments in which one (1) party owes money to  
32 another party, including any court costs awarded to a judgment  
33 creditor; and

34           (B) any entry that is required by a statute; and

35           (2) may not include:

36           (A) judgments in which money is owed by a person to a state,  
37 a county, or another governmental entity as a result of:

38           (i) a criminal conviction; or

39           (ii) a violation of an infraction or ordinance; or

40           (B) judgments in which the state, a county, or another  
41 governmental entity is the sole creditor, except for:

42           (i) cases in which the state obtains a judgment for unpaid



- 1 taxes; or  
2 (ii) any entry that is required by statute.
- 3 (c) The clerk may keep a judgment docket in:  
4 (1) an electronic format;  
5 (2) a paper format; or  
6 (3) both an electronic and a paper format.
- 7 (d) Upon the filing in the office of the clerk a statement or transcript  
8 of any judgment for the recovery of money or costs, the clerk shall  
9 enter, and index in alphabetical order, in this judgment docket a  
10 statement of the judgment showing the following:  
11 (1) The names of all the parties.  
12 (2) The name of the court.  
13 (3) The number of the cause.  
14 (4) The book and page of the record in which the judgment is  
15 recorded.  
16 (5) The date the judgment is entered and indexed.  
17 (6) The date of the rendition of judgment.  
18 (7) The amount of the judgment and the amount of costs.
- 19 (e) If a judgment is against several persons, the statement required  
20 to be entered under subsection (d) shall be repeated under the name of  
21 each judgment debtor in alphabetical order.
- 22 (f) A person interested in any judgment for money or costs that has  
23 been rendered by any state court, or by any federal court of general  
24 original jurisdiction sitting in Indiana, may have the judgment entered  
25 upon the circuit court judgment docket by filing with the clerk:  
26 (1) a verified statement setting forth the facts required under  
27 subsection (d); or  
28 (2) a verified copy of the judgment certified under the seal of the  
29 court that rendered the judgment.
- 30 (g) The judgment docket shall be made available for public  
31 inspection at the office of the clerk during regular office hours. If a  
32 judgment docket is kept in an electronic format:  
33 (1) the judgment docket must be searchable; and  
34 (2) a member of the public must be able to:  
35 (A) search the judgment docket for the name of a specific  
36 party; and  
37 (B) obtain a list of all judgments in the judgment docket  
38 concerning the party.
- 39 (h) If the wages of a judgment debtor are being garnished, a clerk is  
40 not required to notify the employer of the judgment debtor to suspend  
41 the garnishment after the judgment is satisfied. A request to suspend  
42 the garnishment must be submitted by the judgment debtor to the court





1 that rendered the judgment. The clerk is not required to take any action  
 2 under this subsection concerning a garnishment other than to obey the  
 3 orders of the court that rendered the judgment.

4 **(i) If a tenant deposits withheld rent with the clerk under**  
 5 **IC 32-31-11, the clerk shall include in this judgment docket a**  
 6 **separate account of each deposit, including the amount of each**  
 7 **deposit and the name and address of the:**

8 **(1) tenant; and**

9 **(2) landlord.**

10 SECTION 8. IC 33-37-5-2, AS AMENDED BY P.L.149-2016,  
 11 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2020]: Sec. 2. (a) Each clerk shall establish a clerk's record  
 13 perpetuation fund. The clerk shall deposit all the following in the fund:

14 (1) Revenue received by the clerk for transmitting documents by  
 15 facsimile machine to a person under IC 5-14-3.

16 (2) Document storage fees required under section 20 of this  
 17 chapter.

18 (3) The late payment fees imposed under section 22 of this  
 19 chapter that are authorized for deposit in the clerk's record  
 20 perpetuation fund under IC 33-37-7-2.

21 (4) The fees required under IC 29-1-7-3.1 for deposit of a will.

22 (5) Fees for preparing a transcript or copy of any record under  
 23 section 1 of this chapter.

24 **(6) Rental escrow fees required under section 35 of this**  
 25 **chapter.**

26 (b) The clerk may use any money in the fund for the following  
 27 purposes:

28 (1) The preservation of records.

29 (2) The improvement of record keeping systems and equipment.

30 (3) Case management system.

31 SECTION 9. IC 33-37-5-34 IS ADDED TO THE INDIANA CODE  
 32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 33 1, 2020]: **Sec. 34. (a) Each clerk shall establish a rental escrow**  
 34 **fund. The clerk shall deposit in the fund withheld rent deposited**  
 35 **with the clerk by a tenant under IC 32-31-11.**

36 **(b) The clerk shall disburse money from the fund in accordance**  
 37 **with:**

38 **(1) IC 32-31-11-7(1); or**

39 **(2) a court order.**

40 SECTION 10. IC 33-37-5-35 IS ADDED TO THE INDIANA  
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 42 [EFFECTIVE JULY 1, 2020]: **Sec. 35. (a) The clerk shall collect a**



1     **rental escrow fee in the amount of one percent (1%) of the rent**  
2     **deposited in the rental escrow fund.**

3         **(b) The clerk shall deposit fees collected under this section in the**  
4     **clerk's record perpetuation fund established by section 2 of this**  
5     **chapter.**

