



Reprinted  
January 31, 2018

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## HOUSE BILL No. 1155

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DIGEST OF HB 1155 (Updated January 30, 2018 3:07 pm - DI 55)

**Citations Affected:** IC 32-25.5; IC 36-9.

**Synopsis:** Repair of subdivision drains. Authorizes the executive of a county or a consolidated city to enter into a contract with a subdivision homeowners association providing: (1) for the county or consolidated city to repair subdivision drains located in the subdivision; and (2) for owners of property in the subdivision to pay assessments to fund the repairs; if a majority of the members of the homeowners association approve the contract. Provides that, if the executive of a county or consolidated city enters into such contracts, the county treasurer is required to establish a county subdivision drain repair fund, to create a separate account within the fund for each subdivision with which the executive enters into a contract, and to deposit assessments paid by the owners of property in a subdivision into the account created for that subdivision. Provides that the assessments imposed on a subdivision's homeowners shall be set by the executive at an amount not greater than reasonably necessary to meet the cost of repairing the subdivision's drains and that the charge for a homeowner's assessment may appear on the homeowner's semiannual property tax statement. Provides that unpaid assessments may be collected in the manner in which other unpaid special assessments are collected.

**Effective:** July 1, 2018.

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### Burton

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January 8, 2018, read first time and referred to Committee on Local Government.  
January 25, 2018, reported — Do Pass.  
January 30, 2018, read second time, amended, ordered engrossed.

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HB 1155—LS 6657/DI 55





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January 31, 2018

Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

## HOUSE BILL No. 1155

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

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

1 SECTION 1. IC 32-25.5-3-4, AS ADDED BY P.L.167-2009,  
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]: Sec. 4. (a) This section does not apply to:

4 (1) a contract entered into by a board that would resolve, settle, or  
5 otherwise satisfy an act of enforcement against a homeowners  
6 association for violating a state or local law; or

7 (2) a contract between the executive of a county or  
8 consolidated city and the homeowners association of a  
9 subdivision under IC 36-9-27.8.

10 (b) A board may not enter into any contract that would result in a  
11 new assessment or the increase in an existing assessment payable by  
12 the affected members of the homeowners association in the amount of  
13 more than five hundred dollars (\$500) per year for each affected  
14 member of the homeowners association unless:

15 (1) the board holds at least two (2) homeowners association  
16 meetings concerning the contract; and

17 (2) the contract is approved by the affirmative vote of at least

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- 1 two-thirds (2/3) of the affected members of the homeowners  
 2 association.
- 3 (c) A board shall give notice of the first homeowners association  
 4 meeting held under subsection (b):
- 5 (1) to each member of the homeowners association; and  
 6 (2) at least seven (7) calendar days before the date the meeting  
 7 occurs.
- 8 SECTION 2. IC 36-9-27.8 IS ADDED TO THE INDIANA CODE  
 9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 10 JULY 1, 2018]:
- 11 **Chapter 27.8. County and Consolidated City Repair of**  
 12 **Subdivision Drains**
- 13 **Sec. 1. As used in this chapter, "governing documents" has the**  
 14 **meaning set forth in IC 32-25.5-2-3.**
- 15 **Sec. 2. As used in this chapter, "homeowners association" has**  
 16 **the meaning set forth in IC 32-25.5-2-4.**
- 17 **Sec. 3. As used in this chapter, "subdivision" has the meaning**  
 18 **set forth in IC 32-25.5-2-5.**
- 19 **Sec. 4. As used in this chapter, "subdivision drain" means a**  
 20 **system that:**
- 21 (1) consists of:
- 22 (A) underground pipes; and
- 23 (B) one (1) or more inlets;
- 24 (2) may also include one (1) or more streams, swales, ditches,  
 25 natural drains, catch basins, and other components;
- 26 (3) is designed to drain excess water from impervious surfaces  
 27 like paved streets and parking areas;
- 28 (4) is located in a subdivision; and
- 29 (5) has not been dedicated to public use and accepted by the  
 30 county or any other political subdivision in which the system  
 31 is located.
- 32 **Sec. 5. This chapter applies to a subdivision regardless of**  
 33 **whether IC 32-25.5 applies to the subdivision in its entirety under**  
 34 **IC 32-25.5-1-1(a).**
- 35 **Sec. 6. (a) The executive of a county or consolidated city may**  
 36 **enter into a contract under this chapter with the homeowners**  
 37 **association of a subdivision if the following requirements are**  
 38 **satisfied:**
- 39 (1) Each member of the homeowners association must be  
 40 provided with a copy of the proposed contract through one (1)  
 41 of the following:
- 42 (A) Physical delivery of a printed copy.



- 1                   **(B) Delivery by electronic mail of an electronic copy.**
- 2                   **(C) Notification by electronic mail or other means that an**
- 3                   **electronic copy can be viewed on or downloaded from the**
- 4                   **Internet web site of the homeowners association.**
- 5                   **(2) The proposed contract:**
- 6                   **(A) must be approved by a majority of the members of the**
- 7                   **homeowners association in attendance at a meeting called**
- 8                   **and conducted in accordance with the requirements of the**
- 9                   **homeowners association's governing documents; or**
- 10                  **(B) must be approved by a majority of the members of the**
- 11                  **homeowners association through alternative means, such**
- 12                  **as voting by electronic mail, that are allowed under the**
- 13                  **homeowners association's governing documents.**
- 14                  **(b) For purposes of subsection (a)(2)(A), a member of a**
- 15                  **homeowners association is considered to be in attendance at a**
- 16                  **meeting if the member attends:**
- 17                   **(1) in person;**
- 18                   **(2) by proxy; or**
- 19                   **(3) by any other means allowed under:**
- 20                   **(A) state law; or**
- 21                   **(B) the governing documents of the homeowners**
- 22                   **association.**
- 23                  **(c) IC 32-25.5-3-4 does not apply to the approval of a contract**
- 24                  **under this section.**
- 25                  **Sec. 7. A contract between the executive of a county or**
- 26                  **consolidated city and the homeowners association of a subdivision**
- 27                  **under this chapter must include provisions that do the following:**
- 28                   **(1) Authorize the county or consolidated city to repair**
- 29                   **subdivision drains located in the subdivision either:**
- 30                   **(A) through the work of employees of the county or**
- 31                   **consolidated city; or**
- 32                   **(B) by contracting for the repair work to be performed by**
- 33                   **a third party.**
- 34                   **(2) Authorize the county or consolidated city to impose**
- 35                   **assessments on owners of property in the subdivision to:**
- 36                   **(A) recover the cost of repairing subdivision drains in the**
- 37                   **subdivision; and**
- 38                   **(B) accumulate funds to defray the cost of future projects**
- 39                   **to repair subdivision drains in the subdivision.**
- 40                   **(3) Authorize employees:**
- 41                   **(A) of the county or consolidated city; or**
- 42                   **(B) of a contractor of the county or consolidated city;**



1 to enter upon property that is located in the subdivision and  
 2 is owned by a member of the homeowners association of the  
 3 subdivision for the purpose of repairing subdivision drains  
 4 located on the property.

5 (4) Authorize the county or consolidated city to determine the  
 6 order in which subdivision drains will be repaired by the  
 7 county or consolidated city.

8 **Sec. 8. (a)** The treasurer of a county that enters into one (1) or  
 9 more contracts under this chapter or the treasurer of a county  
 10 containing a consolidated city that enters into one (1) or more  
 11 contracts under this chapter shall:

12 (1) establish a subdivision drain repair fund; and

13 (2) create a separate account within the fund for each  
 14 subdivision with which the county enters into a contract  
 15 under this chapter.

16 (b) The fund established under subsection (a) shall be  
 17 administered by the county treasurer. Money in the fund not  
 18 currently needed to meet the obligations of the fund may be  
 19 invested in the same manner as other public funds may be invested.  
 20 Interest that accrues from these investments shall be deposited in  
 21 the fund. Money in the fund at the end of a fiscal year does not  
 22 revert to the county's general fund.

23 (c) The county treasurer shall deposit assessments imposed on  
 24 owners of property in a subdivision into the account created under  
 25 subsection (a)(2) for that subdivision unless the assessments are  
 26 immediately needed to pay the cost of repairing subdivision drains  
 27 in that subdivision.

28 (d) The county treasurer may withdraw money from the  
 29 account of a subdivision as needed to pay the cost of repairing  
 30 subdivision drains in that subdivision.

31 **Sec. 9.** Assessments imposed on the owners of property in a  
 32 subdivision under section 7(2) of this chapter:

33 (1) shall be set by the executive of the county or consolidated  
 34 city at an amount not greater than is reasonably necessary to  
 35 meet:

36 (A) the cost of repairs needed at the time the contract is  
 37 entered into; and

38 (B) the anticipated cost of repairs that can be reasonably  
 39 expected to be needed;

40 with respect to subdivision drains located on property in the  
 41 subdivision; and

42 (2) may be collected by the county treasurer through a charge



- 1 appearing on the semiannual property tax statement of the  
 2 affected property owner.
- 3 **Sec. 10. If the balance in the account created for a subdivision**  
 4 **under section 8(a)(2) of this chapter is insufficient to pay the cost**  
 5 **of repairing a subdivision drain in the subdivision, the county or**  
 6 **consolidated city may:**
- 7 (1) pay the expenses of the repair initially from:
- 8 (A) the county general fund, in the case of a county; or  
 9 (B) the consolidated county general fund or county general  
 10 fund, in the case of a county containing a consolidated city;  
 11 and
- 12 (2) later deposit in the fund from which the expenses were  
 13 paid under subdivision (1), from funds obtained through  
 14 assessments imposed under this chapter on owners of  
 15 property in the subdivision in which the subdivision drain is  
 16 located, an amount equal to the amount paid under  
 17 subdivision (1).
- 18 **Sec. 11. (a) All assessments that are imposed on an owner of**  
 19 **property in a subdivision under this chapter but are unpaid**  
 20 **constitute a subdivision drain repair lien on the property as**  
 21 **provided in section 12 of this chapter.**
- 22 (b) The priority of a subdivision drain repair lien is established  
 23 on the date on which the notice of the lien is recorded under section  
 24 12 of this chapter.
- 25 **Sec. 12. (a) A subdivision drain repair lien under this chapter**  
 26 **attaches to real estate upon the recording of a notice of lien by the**  
 27 **county treasurer in the office of the recorder of the county in which**  
 28 **the real estate is located.**
- 29 (b) A notice of lien may not be recorded under this section  
 30 unless the notice of lien:
- 31 (1) contains:
- 32 (A) the address and legal description of the property that  
 33 is subject to the lien;  
 34 (B) the name of the property owner who is subject to the  
 35 lien; and  
 36 (C) the amount of the lien; and
- 37 (2) is:
- 38 (A) signed by the county treasurer; and  
 39 (B) acknowledged as in the case of deeds.
- 40 (c) A subdivision drain repair lien attaches on the date of the  
 41 recording of the notice of the lien under this section and does not  
 42 relate back to the date of the subdivision drain repairs for which



1 the assessments were imposed on the property owner.

2       **Sec. 13. (a)** In the case of a voluntary conveyance of property in  
3 a subdivision, the grantee of the property is jointly and severally  
4 liable with the grantor for all unpaid subdivision drain repair  
5 assessments that were imposed on the grantor under this chapter  
6 before the grant or conveyance, without prejudice to the grantee's  
7 right to recover from the grantor the amounts of the subdivision  
8 drain repair assessments paid by the grantee.

9       **(b)** If the mortgagee of a first mortgage of record or another  
10 purchaser obtains title to a property in a subdivision as a result of  
11 foreclosure of the first mortgage, the acquirer of title or the  
12 acquirer's successors and assigns are not liable for the share of the  
13 subdivision drain repair assessments that are chargeable to the  
14 property and that became due before the acquirer acquired title to  
15 the property, and any subdivision drain repair lien on the property  
16 relating to the share of the subdivision drain repair assessment that  
17 became due before the mortgagee or other purchaser acquired title  
18 to the property shall be released.

19       **Sec. 14.** Subdivision drain repair assessments imposed under  
20 this chapter may be enforced and collected as special assessments  
21 under IC 6-1.1-22 and IC 6-1.1-24 and under IC 6-1.1-25.





## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1155, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1155 as introduced.)

ZENT

Committee Vote: Yeas 11, Nays 0

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 HOUSE MOTION

Mr. Speaker: I move that House Bill 1155 be amended to read as follows:

Page 1, line 7, delete "county executive of a county" and insert **"executive of a county or consolidated city"**.

Page 2, line 11, after "County" insert **"and Consolidated City"**.

Page 2, line 34, delete "The county" and insert **"The"**.

Page 2, line 34, after "a county" insert **"or consolidated city"**.

Page 3, line 23, delete "county executive of a county" and insert **"executive of a county or consolidated city"**.

Page 3, line 26, after "county" insert **"or consolidated city"**.

Page 3, line 28, delete "county employees;" and insert **"employees of the county or consolidated city;"**.

Page 3, line 31, after "county" insert **"or consolidated city"**.

Page 3, line 38, delete "county;" and insert **"county or consolidated city;"**.

Page 3, line 39, delete "county;" and insert **"county or consolidated city;"**.

Page 4, line 2, after "county" insert **"or consolidated city"**.

Page 4, line 3, delete "county." and insert **"county or consolidated city."**

Page 4, line 4, delete "The county" and insert **"The"**.

Page 4, line 5, after "chapter" insert **"or the treasurer of a county containing a consolidated city that enters into one (1) or more contracts under this chapter"**.

Page 4, line 6, delete "county".

Page 4, line 11, delete "treasurer, and the expenses of" and insert **"treasurer."**

Page 4, delete line 12.

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Page 4, line 28, delete "county treasurer" and insert "**executive of the county or consolidated city**".

Page 4, delete lines 39 through 42, begin a new paragraph and insert:

**"Sec. 10. If the balance in the account created for a subdivision under section 8(a)(2) of this chapter is insufficient to pay the cost of repairing a subdivision drain in the subdivision, the county or consolidated city may:**

**(1) pay the expenses of the repair initially from:**

**(A) the county general fund, in the case of a county; or**

**(B) the consolidated county general fund or county general fund, in the case of a county containing a consolidated city;**

**AND**

**(2) later deposit in the fund from which the expenses were paid under subdivision (1), from funds obtained through assessments imposed under this chapter on owners of property in the subdivision in which the subdivision drain is located, an amount equal to the amount paid under subdivision (1)."**

Page 5, delete lines 1 through 7.

Page 5, line 34, delete "Except as provided in subsection (b), in" and insert "**In**".

Page 5, delete line 42.

Page 6, delete lines 1 through 9.

Page 6, line 10, delete "(d)" and insert "**(b)**".

Page 6, line 16, delete "property." and insert "**property, and any subdivision drain repair lien on the property relating to the share of the subdivision drain repair assessment that became due before the mortgagee or other purchaser acquired title to the property shall be released.**".

Page 6, line 16, delete "The unpaid subdivision drain repair assessments are".

Page 6, delete lines 17 through 19.

(Reference is to HB 1155 as printed January 26, 2018.)

BURTON

