

HOUSE BILL No. 1263

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.5-5; IC 36-9.

Synopsis: Sewer and storm water fees incurred by tenants. Establishes billing procedures for municipal sewage or storm water user fees assessed for real property that is occupied by someone other than the owner. Provides that a lien does not attach for user fees assessed against real property occupied by someone other than the owner under certain circumstances. Requires the assessing entity to release certain liens and delinquent user fees upon receipt of a verified demand in writing from the owner.

Effective: July 1, 2022.

Smith V

January 10, 2022, read first time and referred to Committee on Utilities, Energy and Telecommunications.



Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1263

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

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

1 SECTION 1. IC 8-1.5-5-7, AS AMENDED BY P.L.114-2008,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 7. (a) The acquisition, construction, installation,
4 operation, and maintenance of facilities and land for storm water
5 systems may be financed through:
6 (1) proceeds of special taxing district bonds of the storm water
7 district;
8 (2) the assumption of liability incurred to construct the storm
9 water system being acquired;
10 (3) service rates;
11 (4) revenue bonds; or
12 (5) any other available funds.
13 (b) Except as provided in IC 36-9-23-37, the board, after holding a
14 public hearing with notice given under IC 5-3-1 and obtaining the
15 approval of the fiscal body of the unit served by the department, may
16 assess and collect user fees from all of the property of the storm water
17 district for the operation and maintenance of the storm water system.



1 The amount of the user fees must be the minimum amount necessary
 2 for the operation and maintenance of the storm water system. The
 3 assessment and collection of user fees under this subsection by the
 4 board of a county must also be approved by the county executive.

5 (c) **Subject to section 7.1 of this chapter**, the collection of the fees
 6 authorized by this section may be effectuated through a periodic billing
 7 system or through a charge appearing on the semiannual property tax
 8 statement of the affected property owner.

9 (d) The board shall use one (1) or more of the following factors to
 10 establish the fees authorized by this section:

- 11 (1) A flat charge for each lot, parcel of property, or building.
- 12 (2) The amount of impervious surface on the property.
- 13 (3) The number and size of storm water outlets on the property.
- 14 (4) The amount, strength, or character of storm water discharged.
- 15 (5) The existence of improvements on the property that address
 16 storm water quality and quantity issues.
- 17 (6) The degree to which storm water discharged from the property
 18 affects water quality in the storm water district.
- 19 (7) Any other factors the board considers necessary.

20 (e) The board may exercise reasonable discretion in adopting
 21 different schedules of fees or making classifications in schedules of
 22 fees based on:

- 23 (1) variations in the costs, including capital expenditures, of
 24 furnishing services to various classes of users or to various
 25 locations;
- 26 (2) variations in the number of users in various locations; and
- 27 (3) whether the property is used primarily for residential,
 28 commercial, or agricultural purposes.

29 SECTION 2. IC 8-1.5-5-7.1 IS ADDED TO THE INDIANA CODE
 30 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 31 1, 2022]: **Sec. 7.1. (a) This section applies to real property that is
 32 served by a district's storm water system and occupied by someone
 33 other than the owner.**

34 **(b) If:**

- 35 **(1) the collection of user fees under section 7 of this chapter is
 36 made through a periodic billing system, as authorized by
 37 section 7(c) of this chapter; and**
- 38 **(2) either the owner of real property to which this section
 39 applies or the person occupying the property submits to the
 40 department a document that:**
 - 41 **(A) is executed by the property owner and the person
 42 occupying the property;**



1 **(B) identifies the person occupying the property by name;**
 2 **and**
 3 **(C) indicates that the person occupying the property is**
 4 **responsible for paying the fees assessed by the board with**
 5 **respect to the property;**
 6 **the department shall establish or continue service to the property**
 7 **in the name of the person occupying the property, as identified**
 8 **under subdivision (2)(B), and shall ensure that the account or other**
 9 **customer or billing records maintained by the department for the**
 10 **property are in the name of the person occupying the property,**
 11 **subject to any requirement for a deposit to ensure the payment of**
 12 **user fees by the person occupying the property, or to any**
 13 **requirement to ensure the creditworthiness of the person**
 14 **occupying the property as the account holder or customer with**
 15 **respect to the property, that the board may lawfully impose.**

16 SECTION 3. IC 8-1.5-5-29, AS AMENDED BY P.L.196-2014,
 17 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2022]: Sec. 29. (a) Subsections (c), (d), and ~~(e)~~ **(f)** do not
 19 apply to a city that before January 1, 2005, adopted an ordinance
 20 establishing procedures for the collection of unpaid user fees under this
 21 chapter through the enforcement of a lien.

22 **(b) Except as provided in subsection (e),** fees assessed against real
 23 property under this chapter constitute a lien against the property
 24 assessed. The lien is superior to all other liens except tax liens. Except
 25 as provided in subsections (c), ~~and~~ (d), **and (e),** the lien attaches when
 26 notice of the lien is filed in the county recorder's office under section
 27 30 of this chapter.

28 (c) A fee is not enforceable as a lien against a subsequent owner of
 29 property unless the lien for the fee was recorded with the county
 30 recorder before the conveyance to the subsequent owner. If property is
 31 conveyed before a lien is filed, the department shall notify the person
 32 who owned the property at the time the fee became payable. The notice
 33 must inform the person that payment, including penalty fees for
 34 delinquencies, is due not more than fifteen (15) days after the date of
 35 the notice. If payment is not received within one hundred eighty (180)
 36 days after the date of the notice, the amount due may be expensed as a
 37 bad debt loss.

38 **(d) Except as provided in subsection (e),** a lien attaches against
 39 real property occupied by someone other than the owner only if the
 40 department notifies the owner not later than twenty (20) days after the
 41 time the user fees become sixty (60) days delinquent. A notice sent to
 42 the owner under this subsection must be sent by first class mail or by



1 certified mail, return receipt requested (or an equivalent service
2 permitted under IC 1-1-7-1) to:

- 3 (1) the owner of record of real property with a single owner; or
4 (2) at least one (1) of the owners of real property with multiple
5 owners;

6 at the last address of the owner for the property as indicated in the
7 records of the county auditor on the date of the notice of the
8 delinquency, or to another address specified by the owner, in a written
9 notice to the department, at which the owner requests to receive a
10 notice of delinquency under this subsection. The cost of sending notice
11 under this subsection is an administrative cost that may be billed to the
12 owner.

13 **(e) A lien does not attach for user fees assessed against real
14 property occupied by someone other than the owner if either of the
15 following applies:**

16 **(1) The department has received a document described in
17 section 7.1(b)(2) of this chapter with respect to the property.**

18 **(2) The account or other customer or billing records
19 maintained by the department for the property otherwise
20 indicate that:**

21 **(A) the property is occupied by someone other than the
22 owner; and**

23 **(B) the person occupying the property is responsible for
24 paying the user fees assessed by the board with respect to
25 the property.**

26 **(f) The department shall release:**

27 (1) liens filed with the county recorder after the recorded date of
28 conveyance of the property; and

29 (2) delinquent fees incurred by the seller;

30 upon receipt of a verified demand in writing from the purchaser. The
31 demand must state that the delinquent fees were not incurred by the
32 purchaser as a user, lessee, or previous owner and that the purchaser
33 has not been paid by the seller for the delinquent fees.

34 **(g) Regardless of whether the department has notice under
35 subsection (e)(1) or (e)(2) that real property is occupied by
36 someone other than the owner, the department shall release:**

37 **(1) any lien filed with the county recorder for user fees
38 assessed against real property occupied by someone other
39 than the owner; and**

40 **(2) delinquent user fees incurred by the person who occupies
41 the property and is responsible for paying the user fees
42 assessed by the board with respect to the property;**



1 upon receipt of a verified demand in writing from the owner of the
 2 property. The demand must state that the delinquent fees were not
 3 incurred by the owner as a user of the storm water system and that
 4 the owner has not been paid by the person occupying the property
 5 for the delinquent user fees.

6 SECTION 4. IC 8-1.5-5-30, AS AMENDED BY P.L.196-2014,
 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2022]: Sec. 30. **(a) With respect to real property for which
 9 the account or other customer or billing records maintained by the
 10 department indicate under section 29(e)(1) or 29(e)(2) of this
 11 chapter that:**

12 **(1) the property is occupied by someone other than the owner;
 13 and**

14 **(2) the person occupying the property is responsible for
 15 paying the user fees assessed by the board with respect to the
 16 property;**

17 **subsections (c) through (e) and subsections (h) through (k) do not
 18 apply to unpaid user fees and penalties assessed against the
 19 property under this chapter.**

20 ~~(a)~~ **(b)** The board may defer enforcing the collection of unpaid fees
 21 and penalties assessed under this chapter until the unpaid fees and
 22 penalties have been due and unpaid for at least ninety (90) days.
 23 However, in the case of property that is occupied by someone other
 24 than the owner, this subsection does not relieve the department of its
 25 duty under section 29(d) of this chapter to notify the owner not later
 26 than twenty (20) days after the time user fees become sixty (60) days
 27 delinquent.

28 ~~(b)~~ **(c)** Except as provided in subsection ~~(k)~~; **(n)**, the board shall
 29 enforce payment of fees imposed under this chapter. As often as the
 30 board determines necessary in a calendar year, the board shall prepare
 31 either of the following:

32 **(1) A list of the delinquent fees and penalties that are enforceable
 33 under this section. The list must include the following:**

34 **(A) The name of the owner of each lot or parcel of real
 35 property on which fees are delinquent.**

36 **(B) A description of the premises, as shown by the records of
 37 the county auditor.**

38 **(C) The amount of the delinquent fees, together with the
 39 penalty.**

40 **(2) An individual instrument for each lot or parcel of real property
 41 on which the fees are delinquent.**

42 ~~(c)~~ **(d)** An officer of the board shall record a copy of each list or



1 each individual instrument with the county recorder who shall charge
 2 a fee for recording the list or each individual instrument in accordance
 3 with the fee schedule established in IC 36-2-7-10. The officer shall
 4 mail by certified mail, or by another delivery service providing proof
 5 of delivery, to each property owner on the list or on an individual
 6 instrument a notice stating that a lien against the owner's property has
 7 been recorded. A service charge of five dollars (\$5), which is in
 8 addition to the recording fee charged under this subsection and under
 9 subsection ~~(e)~~; **(f)**, shall be added to each delinquent fee that is
 10 recorded.

11 ~~(d)~~ **(e)** Using the lists and instruments prepared under subsection ~~(b)~~
 12 **(c)** and recorded under subsection ~~(e)~~; **(d)**, the board shall, not later
 13 than ten (10) days after the list or each individual instrument is
 14 recorded under subsection ~~(e)~~; **(d)**, certify to the county auditor a list of
 15 the unpaid liens for collection with the next May installment of
 16 property taxes. The county and its officers and employees are not liable
 17 for any material error in the information on this list.

18 ~~(e)~~ **(f)** The board shall release any recorded lien when the delinquent
 19 fees, penalties, service charges, and recording fees have been fully
 20 paid. The county recorder shall charge a fee for releasing the lien in
 21 accordance with IC 36-2-7-10.

22 **(g) The department shall release any recorded lien when a
 23 verified demand has been filed with the county auditor under
 24 section 29(f) or 29(g) of this chapter. The county recorder may not
 25 charge a fee for releasing a lien under this subsection.**

26 ~~(f)~~ **(h)** Upon receipt of the list under subsection ~~(e)~~; **(e)**, the county
 27 auditor of each county shall add a fifteen dollar (\$15) certification fee
 28 for each lot or parcel of real property on which fees are delinquent. The
 29 fee is in addition to all other fees and charges. The county auditor shall
 30 immediately enter on the tax duplicate for the district the delinquent
 31 fees, penalties, service charges, recording fees, and certification fees,
 32 which are due not later than the due date of the next May installment
 33 of property taxes. The county treasurer shall include any unpaid
 34 charges for the delinquent fee, penalty, service charge, recording fee,
 35 and certification fee to the owner or owners of each lot or parcel of
 36 property, at the time the next cycle's property tax installment is billed.

37 ~~(g)~~ **(i)** After certification of liens under subsection ~~(d)~~; **(e)**, the board
 38 may not collect or accept delinquent fees, penalties, service charges,
 39 recording fees, or certification fees from property owners whose
 40 property has been certified to the county auditor.

41 ~~(h)~~ **(j)** If a delinquent fee, penalty, service charge, recording fee, and
 42 certification fee are not paid, they shall be collected by the county



1 treasurer in the same way that delinquent property taxes are collected.

2 ~~(j)~~ **(k)** At the time of each semiannual tax settlement, the county
3 treasurer shall certify to the county auditor all fees, charges, and
4 penalties that have been collected. The county auditor shall deduct the
5 service charges and certification fees collected by the county treasurer
6 and pay over to the officer the remaining fees and penalties due the
7 district. The county treasurer shall retain the service charges and
8 certification fees that have been collected and shall deposit them in the
9 county general fund.

10 ~~(j)~~ **(l)** Fees, penalties, and service charges that were not recorded
11 before a recorded conveyance shall be removed from the tax roll for a
12 purchaser who, in the manner prescribed by section ~~29(e)~~ **29(f)** of this
13 chapter, files a verified demand with the county auditor.

14 **(m) User fees, penalties, and service charges assessed against**
15 **property occupied by someone other than the owner, regardless of**
16 **whether the department has notice under section 29(e)(1) or**
17 **29(e)(2) of this chapter that the property is occupied by someone**
18 **other than the owner, shall be removed from the tax roll for an**
19 **owner who, in the manner prescribed by section 29(g) of this**
20 **chapter, files a verified demand with the county auditor.**

21 ~~(k)~~ **(n)** A board may write off a fee or penalty under subsection ~~(a)~~
22 **(b)** that is:

23 **(1)** less than forty dollars (\$40); or

24 **(2) removed from the tax roll under subsection (l) or (m).**

25 SECTION 5. IC 8-1.5-5-31, AS ADDED BY P.L.131-2005,
26 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2022]: Sec. 31. (a) A district may foreclose a lien, **other than**
28 **a lien required to be released under section 30(f) or 30(g) of this**
29 **chapter**, established by this chapter in order to collect fees and
30 penalties. The district shall recover the amount of the fees and
31 penalties, and a reasonable attorney's fee. The court shall order the sale
32 to be made without relief from valuation or appraisal laws.

33 (b) Except as otherwise provided by this chapter, actions under this
34 chapter are subject to the general statutes regarding municipal public
35 improvement assessments.

36 SECTION 6. IC 36-9-23-25, AS AMENDED BY P.L.196-2014,
37 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2022]: Sec. 25. (a) Subject to section 37 of this chapter, the
39 municipal legislative body shall, by ordinance, establish just and
40 equitable fees for the services rendered by the sewage works, and
41 provide the dates on which the fees are due.

42 (b) Just and equitable fees are the fees required to maintain the



1 sewage works in the sound physical and financial condition necessary
2 to render adequate and efficient service. The fees must be sufficient to:

- 3 (1) pay all expenses incidental to the operation of the works,
4 including legal expenses, maintenance costs, operating charges,
5 repairs, lease rentals, and interest charges on bonds or other
6 obligations;
- 7 (2) provide the sinking fund required by section 21 of this
8 chapter;
- 9 (3) provide adequate money to be used as working capital; and
- 10 (4) provide adequate money for improving and replacing the
11 works.

12 Fees established after notice and hearing under this chapter are
13 presumed to be just and equitable.

14 (c) Except as otherwise provided in a provision included in an
15 ordinance under subsection (f), **and subject to section 25.1 of this**
16 **chapter**, the fees are payable by the owner of each lot, parcel of real
17 property, or building that:

- 18 (1) is connected with the sewage works by or through any part of
19 the municipal sewer system; or
- 20 (2) uses or is served by the works.

21 Unless the municipal legislative body finds otherwise, the works are
22 considered to benefit every lot, parcel of real property, or building
23 connected or to be connected with the municipal sewer system as a
24 result of construction work under the contract, and the fees shall be
25 billed and collected accordingly.

26 (d) The municipal legislative body may use one (1) or more of the
27 following factors to establish the fees:

- 28 (1) A flat charge for each sewer connection.
- 29 (2) The amount of water used on the property.
- 30 (3) The number and size of water outlets on the property.
- 31 (4) The amount, strength, or character of sewage discharged into
32 the sewers.
- 33 (5) The size of sewer connections.
- 34 (6) Whether the property has been or will be required to pay
35 separately for any part of the sewage works.
- 36 (7) Whether the property, although vacant or unimproved, is
37 benefited by a local or lateral sewer because of the availability of
38 that sewer. However, the owner must have been notified, by
39 recorded covenants and restrictions or deed restrictions in the
40 chain of title of the owner's property, that a fee or assessment for
41 sewer availability may be charged, and the fee may reflect only
42 the capital cost of the sewer and not the cost of operation and



- 1 maintenance of the sewage works.
- 2 (8) The cost of collecting, treating, and disposing of garbage in a
3 sanitary manner, including equipment and wages.
- 4 (9) The amount of money sufficient to compensate the
5 municipality for the property taxes that would be paid on the
6 sewage works if the sewage works were privately owned.
- 7 (10) Any other factors the legislative body considers necessary.
- 8 Fees collected under subdivision (8) may be spent for that purpose only
9 after compliance with all provisions of the ordinance authorizing the
10 issuance of the revenue bonds for the sewage works. The board may
11 transfer fees collected in lieu of taxes under subdivision (9) to the
12 general fund of the municipality.
- 13 (e) The municipal legislative body may exercise reasonable
14 discretion in adopting different schedules of fees, or making
15 classifications in schedules of fees, based on variations in:
- 16 (1) the costs, including capital expenditures, of furnishing
17 services to various classes of users or to various locations; or
18 (2) the number of users in various locations.
- 19 (f) Notwithstanding IC 14-33-5-21, this subsection does not apply
20 to a conservancy district established under IC 14-33 for the collection,
21 treatment, and disposal of sewage and other liquid wastes. In an
22 ordinance adopted under this section, the municipal legislative body
23 may include one (1) or more of the following provisions with respect
24 to property occupied by someone other than the owner of the property:
- 25 (1) **Subject to section 25.1 of this chapter**, that fees for the
26 services rendered by the sewage works to the property are payable
27 by the person occupying the property. At the option of the
28 municipal legislative body, the ordinance may include any:
- 29 (A) requirement for a deposit to ensure payment of the fees by
30 the person occupying the property; or
31 (B) other requirement to ensure the creditworthiness of the
32 person occupying the property as the account holder or
33 customer with respect to the property;
- 34 that the municipal legislative body may lawfully impose.
- 35 (2) **Subject to section 25.1 of this chapter**, that the fees for the
36 services rendered by the sewage works to the property are payable
37 by the person occupying the property if one (1) of the following
38 conditions is satisfied:
- 39 (A) Either the property owner or the person occupying the
40 property gives to the general office of the utility written notice
41 that indicates that the person occupying the property is
42 responsible for paying the fees with respect to the property and



1 requests that the account or other customer or billing records
 2 maintained for the property be in the name of the person
 3 occupying the property. At the option of the municipal
 4 legislative body, the ordinance may provide that a document
 5 that:

6 (i) is executed by the property owner and the person
 7 occupying the property;

8 (ii) identifies the person occupying the property by name;
 9 and

10 (iii) indicates that the person occupying the property is
 11 responsible for paying the fees assessed by the utility with
 12 respect to the property;

13 serves as written notice for purposes of this clause.

14 (B) The account or other customer or billing records
 15 maintained by the utility for the property otherwise indicate
 16 that:

17 (i) the property is occupied by someone other than the
 18 owner; and

19 (ii) the person occupying the property is responsible for
 20 paying the fees.

21 (C) The property owner or the person occupying the property
 22 satisfies any other requirements or conditions that the
 23 municipal legislative body includes in the ordinance.

24 (3) **Subject to section 32.1 of this chapter**, that fees assessed
 25 against the property for the services rendered by the sewage
 26 works to the property do not constitute a lien against the property,
 27 notwithstanding section 32 of this chapter, and subject to any
 28 requirements or conditions set forth in the ordinance.

29 This subsection may not be construed to prohibit a municipal
 30 legislative body from including in an ordinance adopted under this
 31 section any other provision that the municipal legislative body
 32 considers appropriate.

33 SECTION 7. IC 36-9-23-25.1 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2022]: **Sec. 25.1. (a) This section applies to**
 36 **real property that is served by a municipality's sewage works and**
 37 **occupied by someone other than the owner, regardless of whether**
 38 **the municipality's legislative body has adopted an ordinance**
 39 **provision described in section 25(f)(1) or 25(f)(2) of this chapter.**

40 **(b) If either the owner of real property to which this section**
 41 **applies or the person occupying the property submits to the**
 42 **general office of the utility written notice that:**



- 1 **(1) requests that the account or other customer or billing**
- 2 **records maintained for the property be in the name of the**
- 3 **person occupying the property; and**
- 4 **(2) includes a document that:**
 - 5 **(A) is executed by the property owner and the person**
 - 6 **occupying the property;**
 - 7 **(B) identifies the person occupying the property by name;**
 - 8 **and**
 - 9 **(C) indicates that the person occupying the property is**
 - 10 **responsible for paying the fees assessed by the utility with**
 - 11 **respect to the property;**

12 **the utility shall establish or continue service to the property in the**
 13 **name of the person occupying the property, as identified under**
 14 **subdivision (2)(B), and shall ensure that the account or other**
 15 **customer or billing records maintained by the utility for the**
 16 **property are in the name of the person occupying the property,**
 17 **subject to any requirement for a deposit to ensure payment of fees**
 18 **by the person occupying the property, or to any other requirement**
 19 **to ensure the creditworthiness of the person occupying the**
 20 **property as the account holder or customer with respect to the**
 21 **property, that the municipal legislative body may lawfully impose.**

22 SECTION 8. IC 36-9-23-32, AS AMENDED BY P.L.196-2014,
 23 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2022]: Sec. 32. (a) Except as otherwise provided **in section**
 25 **32.1 of this chapter or** in a provision included in an ordinance under
 26 section 25(f)(3) of this chapter, fees assessed against real property
 27 under this chapter or under any statute repealed by IC 19-2-5-30
 28 (repealed September 1, 1981) constitute a lien against the property
 29 assessed. The lien is superior to all other liens except tax liens. Except
 30 as provided in subsections (b) and (c), the lien attaches when notice of
 31 the lien is filed in the county recorder's office under section 33 of this
 32 chapter.

33 (b) A fee is not enforceable as a lien against a subsequent owner of
 34 property unless the lien for the fee was recorded with the county
 35 recorder before the conveyance to the subsequent owner. If the property
 36 is conveyed before the lien can be filed, the municipality shall notify
 37 the person who owned the property at the time the fee became payable.
 38 The notice must inform the person that payment, including penalty fees
 39 for delinquencies, is due not more than fifteen (15) days after the date
 40 of the notice. If payment is not received within one hundred eighty
 41 (180) days after the date of the notice, the amount due may be
 42 expensed as a bad debt loss.



1 (c) Except as otherwise provided in **section 32.1 of this chapter** or
 2 in a provision included in an ordinance under section 25(f)(3) of this
 3 chapter, a lien attaches against real property occupied by someone
 4 other than the owner only if the utility notifies the owner not later than
 5 twenty (20) days after the time the utility fees become sixty (60) days
 6 delinquent. A notice sent to the owner under this subsection must be
 7 sent by first class mail or by certified mail, return receipt requested (or
 8 an equivalent service permitted under IC 1-1-7-1) to:

- 9 (1) the owner of record of real property with a single owner; or
 10 (2) at least one (1) of the owners of real property with multiple
 11 owners;

12 at the last address of the owner for the property as indicated in the
 13 records of the county auditor on the date of the notice of the
 14 delinquency, or to another address specified by the owner, in a written
 15 notice to the utility, at which the owner requests to receive a notice of
 16 delinquency under this subsection. The cost of sending notice under
 17 this subsection is an administrative cost that may be billed to the
 18 owner.

19 (d) The municipality shall release:

- 20 (1) liens filed with the county recorder after the recorded date of
 21 conveyance of the property; and
 22 (2) delinquent fees incurred by the seller;

23 upon receipt of a verified demand in writing from the purchaser. The
 24 demand must state that the delinquent fees were not incurred by the
 25 purchaser as a user, lessee, or previous owner, and that the purchaser
 26 has not been paid by the seller for the delinquent fees.

27 (e) **This subsection applies to real property that is served by a**
 28 **municipality's sewage works and occupied by someone other than**
 29 **the owner. Regardless of whether:**

- 30 (1) **the utility has notice under section 25.1 of this chapter, or**
 31 **through an ordinance provision described in section 25(f)(2)**
 32 **of this chapter, that the property is occupied by someone**
 33 **other than the owner; or**
 34 (2) **the municipality has adopted an ordinance provision**
 35 **described in section 25(f)(3) of this chapter;**

36 **the municipality shall release any lien filed with the county**
 37 **recorder for user fees assessed against the property and shall**
 38 **release any delinquent user fees incurred by the person who**
 39 **occupies the property and is responsible for paying the user fees**
 40 **with respect to the property, upon receipt of a verified demand in**
 41 **writing from the owner of the property. The demand must state**
 42 **that the delinquent fees were not incurred by the owner as a user**



1 **of the sewage works and that the owner has not been paid by the**
 2 **person occupying the property for the delinquent user fees.**

3 SECTION 9. IC 36-9-23-32.1 IS ADDED TO THE INDIANA
 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2022]: **Sec. 32.1. A lien does not attach for**
 6 **user fees assessed against property occupied by someone other**
 7 **than the owner if either of the following applies:**

8 **(1) The utility has notice under section 25.1 of this chapter, or**
 9 **through an ordinance provision described in section 25(f)(2)**
 10 **of this chapter, that the property is occupied by someone**
 11 **other than the owner.**

12 **(2) The municipality has adopted an ordinance provision**
 13 **described in section 25(f)(3) of this chapter and any**
 14 **requirements or conditions included in the ordinance have**
 15 **been satisfied.**

16 SECTION 10. IC 36-9-23-33, AS AMENDED BY P.L.21-2017,
 17 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2022]: Sec. 33. (a) Subsections (c) through ~~(f)~~ **(f) and**
 19 **subsections (i) through (l)** do not apply to unpaid fees and penalties
 20 assessed against property occupied by someone other than the property
 21 owner if **either of the following applies:**

22 (1) The municipal legislative body has adopted an ordinance
 23 provision described in section 25(f) of this chapter concerning
 24 property occupied by someone other than the property owner **and:**

25 ~~(2)~~ **(A)** the ordinance provision described in section 25(f) of
 26 this chapter provides that fees assessed against the property for
 27 services rendered by the sewage works to the property do not
 28 constitute a lien against the property, as described in section
 29 25(f)(3) of this chapter; and

30 ~~(3)~~ **(B)** any requirements or conditions ~~(A)~~ described in section
 31 25(f)(1) or 25(f)(2) of this chapter; and ~~(B)~~ included in the
 32 ordinance have been satisfied.

33 **(2) The utility has notice under section 25.1 of this chapter, or**
 34 **through an ordinance provision described in section 25(f)(2)**
 35 **of this chapter, that real property is occupied by someone**
 36 **other than the owner.**

37 (b) An officer described in subsection (c) may defer enforcing the
 38 collection of unpaid fees and penalties assessed under this chapter until
 39 the unpaid fees and penalties have been due and unpaid for at least
 40 ninety (90) days. However, in the case of property that is occupied by
 41 someone other than the owner, this subsection does not relieve the
 42 utility of its duty under section 32(c) of this chapter to notify the owner



1 not later than twenty (20) days after the time user fees become sixty
2 (60) days delinquent.

3 (c) Except as provided in subsection ~~(m)~~, (o), the officer charged
4 with the collection of fees and penalties assessed under this chapter
5 shall enforce their payment. As often as the officer determines is
6 necessary in a calendar year, the officer shall prepare either of the
7 following:

8 (1) A list of the delinquent fees and penalties that are enforceable
9 under this section, which must include the following:

10 (A) The name or names of the owner or owners of each lot or
11 parcel of real property on which fees are delinquent.

12 (B) A description of the premises, as shown by the records of
13 the county auditor.

14 (C) The amount of the delinquent fees, together with the
15 penalty.

16 (2) An individual instrument for each lot or parcel of real property
17 on which the fees are delinquent.

18 (d) The officer shall record a copy of each list or each individual
19 instrument with the county recorder who shall charge a fee for
20 recording the list or each individual instrument in accordance with the
21 fee schedule established in IC 36-2-7-10. The officer shall then mail to
22 each property owner on the list or on an individual instrument a notice
23 stating that a lien against the owner's property has been recorded.
24 Except for a county having a consolidated city, a service charge of five
25 dollars (\$5), which is in addition to the recording fee charged under
26 this subsection and under subsection (g), shall be added to each
27 delinquent fee that is recorded.

28 (e) This subsection applies only to a county containing a
29 consolidated city. Using the lists and instruments prepared under
30 subsection (c) and recorded under subsection (d), the officer shall
31 certify to the county auditor, according to a schedule agreed upon by
32 the county treasurer and the officer, a list of the unpaid liens for
33 collection with the next cycle's property tax installment. The county
34 and its officers and employees are not liable for any material error in
35 the information on the list.

36 (f) This subsection applies to a county not described in subsection
37 (e). Using the lists and instruments prepared under subsection (c) and
38 recorded under subsection (d), the officer shall, not later than ten (10)
39 days after the list or each individual instrument is recorded under
40 subsection (d), certify to the county auditor a list of the unpaid liens for
41 collection with the next May installment of property taxes. The county
42 and its officers and employees are not liable for any material error in



1 the information on this list.

2 (g) The officer shall release any recorded lien when the delinquent
3 fees, penalties, service charges **(if applicable)**, and recording fees have
4 been fully paid. The county recorder shall charge a fee for releasing the
5 lien in accordance with IC 36-2-7-10.

6 **(h) The municipality shall release any recorded lien when a
7 verified demand has been filed with the county auditor under
8 section 32(d) or 32(e) of this chapter. The county recorder may not
9 charge a fee for releasing a lien under this subsection.**

10 ~~(h)~~ (i) On receipt of the list under subsection (e) or (f), the county
11 auditor of each county shall add a fifteen dollar (\$15) certification fee
12 for each lot or parcel of real property on which fees are delinquent,
13 which fee is in addition to all other fees and charges. The county
14 auditor shall immediately enter on the tax duplicate for the
15 municipality the delinquent fees, penalties, service charges **(if
16 applicable)**, recording fees, and certification fees, which are due not
17 later than the due date of the next cycle's installment of property taxes.
18 The county treasurer shall then include any unpaid charges for the
19 delinquent fee, penalty, service charge **(if applicable)**, recording fee,
20 and certification fee to the owner or owners of each lot or parcel of
21 property, at the time the next cycle's property tax installment is billed.

22 ~~(i)~~ (j) After certification of liens under subsection (f), the officer
23 may not collect or accept delinquent fees, penalties, service charges **(if
24 applicable)**, recording fees, or certification fees from property owners
25 whose property has been certified to the county auditor. This
26 subsection does not apply to a county containing a consolidated city.

27 ~~(j)~~ (k) If a delinquent fee, penalty, service charge **(if applicable)**,
28 recording fee, and certification fee are not paid, they shall be collected
29 by the county treasurer in the same way that delinquent property taxes
30 are collected.

31 ~~(k)~~ (l) At the time of each semiannual tax settlement, the county
32 treasurer shall certify to the county auditor all fees, charges, and
33 penalties that have been collected. The county auditor shall deduct the
34 service charges **(if applicable)** and certification fees collected by the
35 county treasurer and pay over to the officer the remaining fees and
36 penalties due the municipality. The county treasurer shall retain the
37 service charges **(if applicable)** and certification fees that have been
38 collected, and shall deposit them in the county general fund.

39 ~~(l)~~ (m) Fees, penalties, and service charges **(if applicable)** that were
40 not recorded before a recorded conveyance shall be removed from the
41 tax roll for a purchaser who, in the manner prescribed by section 32(d)
42 of this chapter, files a verified demand with the county auditor.



1 (n) User fees, penalties, and service charges (if applicable)
2 assessed against property occupied by someone other than the
3 owner, regardless of whether:

4 (1) the utility has notice under section 25.1 of this chapter, or
5 through an ordinance provision described in section 25(f)(2)
6 of this chapter, that the property is occupied by someone
7 other than the owner; or

8 (2) the municipality has adopted an ordinance provision
9 described in section 25(f)(3) of this chapter;

10 shall be removed from the tax roll for an owner who, in the manner
11 prescribed by section 32(e) of this chapter, files a verified demand
12 with the county auditor.

13 ~~(m)~~ (o) A board may write off a fee or penalty under subsection (b)
14 that is:

15 (1) for less than two hundred dollars (\$200); or

16 (2) removed from the tax roll under subsection (m) or (n).

17 SECTION 11. IC 36-9-23-34 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 34. (a) A municipality
19 or board may foreclose a lien, **other than a lien required to be**
20 **released under section 33(g) or 33(h) of this chapter**, established by
21 this chapter in order to collect fees and penalties. The municipality or
22 board shall recover the amount of the fees and penalties, and a
23 reasonable attorney's fee. The court shall order the sale to be made
24 without relief from valuation or appraisal laws.

25 (b) Except as otherwise provided by this chapter, actions under this
26 chapter are subject to the general statutes regarding municipal public
27 improvement assessments.

28 SECTION 12. IC 36-9-25-11, AS AMENDED BY P.L.257-2019,
29 SECTION 163, IS AMENDED TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2022]: Sec. 11. (a) In connection with its duties,
31 the board may fix fees for the treatment and disposal of sewage and
32 other waste discharged into the sewerage system, collect the fees, and
33 establish and enforce rules governing the furnishing of and payment for
34 sewage treatment and disposal service. The fees must be just and
35 equitable and shall be paid by any user of the sewage works and, except
36 as otherwise provided in an ordinance provision described in
37 subsection (l), the owner of every lot, parcel of real property, or
38 building that is connected with and uses the sewage works of the
39 district by or through any part of the sewerage system. This section
40 applies to owners of property that is partially or wholly exempt from
41 taxation, as well as owners of property subject to full taxation.

42 (b) The board may change fees from time to time. The fees, together



1 with the taxes levied under this chapter, must at all times be sufficient
 2 to produce revenues sufficient to pay operation, maintenance, and
 3 administrative expenses, to pay the principal and interest on bonds as
 4 they become due and payable, and to provide money for the revolving
 5 fund authorized by this chapter.

6 (c) Fees may not be established until a public hearing has been held
 7 at which all the users of the sewage works and owners of property
 8 served or to be served by the works, including interested parties, have
 9 had an opportunity to be heard concerning the proposed fees. After
 10 introduction of the resolution fixing fees, and before they are finally
 11 adopted, notice of the hearing setting forth the proposed schedule of
 12 fees shall be given by publication in accordance with IC 5-3-1. After
 13 the hearing the resolution establishing fees, either as originally
 14 introduced or as amended, shall be passed and put into effect.
 15 However, fees related to property that is subject to full taxation do not
 16 take effect until they have been approved by ordinance of the municipal
 17 legislative body or, in the case of a district described in section 3(b)(2)
 18 of this chapter, under section 11.3 of this chapter.

19 (d) A copy of the schedule of the fees shall be kept on file in the
 20 office of the board and must be open to inspection by all interested
 21 parties. The fees established for any class of users or property served
 22 shall be extended to cover any additional premises thereafter served
 23 that fall within the same class, without the necessity of hearing or
 24 notice.

25 (e) A change of fees may be made in the same manner as fees were
 26 originally established. However, if a change is made substantially pro
 27 rata for all classes of service, hearing or notice is not required, but
 28 approval of the change by ordinance of the municipal legislative body
 29 is required, and, in the case of a district described in section 3(b)(2) of
 30 this chapter, approval under section 11.3 of this chapter is required.

31 (f) If a fee established is not paid within the time fixed by the board,
 32 the board may recover, in a civil action in the name of the municipality,
 33 the amount, together with a penalty of ten percent (10%) and a
 34 reasonable attorney's fee from:

- 35 (1) the delinquent user; or
- 36 (2) the owner of the property;

37 subject to any ordinance described in subsection (l).

38 (g) Except as otherwise provided in subsection (h) **or (m)**, or in an
 39 ordinance provision described in subsection (l), fees assessed against
 40 real property under this section also constitute a lien against the
 41 property assessed. The lien attaches at the time of the filing of the
 42 notice of lien in the county recorder's office. The lien is superior to all



1 other liens except tax liens, and shall be enforced and foreclosed in the
 2 same manner as is provided for liens under IC 36-9-23-33 and
 3 IC 36-9-23-34.

4 (h) A fee assessed against real property under this section
 5 constitutes a lien against the property assessed only when the fee is
 6 delinquent for no more than three (3) years from the day after the fee
 7 is due.

8 (i) In addition to the:

9 (1) penalties under subsections (f) and (g); or

10 (2) alternative penalty available under section 11.5 of this
 11 chapter;

12 a delinquent user may not discharge water into the public sewers and
 13 may have the property disconnected from the public sewers.

14 (j) The authority to establish a user fee under this section includes
 15 fees to recover the cost of construction of sewage works from industrial
 16 users as defined and required under federal statute or rule. Any
 17 industrial users' cost recovery fees may become a lien upon the real
 18 property and shall be collected in the manner provided by law. In
 19 addition, the imposition of the fees, the use of the amounts collected,
 20 and the criteria for the fees must be consistent with the regulations of
 21 the federal Environmental Protection Agency.

22 (k) The authority to establish a user fee under this section includes
 23 fees to recover the costs associated with providing financial assistance
 24 under section 42 of this chapter. A fee that is:

25 (1) established under this subsection or any other law; and

26 (2) used to provide financial assistance under section 42 of this
 27 chapter;

28 is considered just and equitable if the project for which the financial
 29 assistance is provided otherwise complies with the requirements of this
 30 chapter.

31 (l) For purposes of this subsection, "municipal legislative body"
 32 refers to the legislative body of each municipality in the district, in the
 33 case of a district described in section 3(b)(2) of this chapter. This
 34 subsection does not apply to a conservancy district established under
 35 IC 14-33 for the collection, treatment, and disposal of sewage and other
 36 liquid wastes. In an ordinance adopted under this chapter, the
 37 municipal legislative body may include one (1) or more of the
 38 following provisions with respect to property occupied by someone
 39 other than the owner of the property:

40 (1) That fees for the services rendered by the sewerage system to
 41 the property are payable by the person occupying the property. At
 42 the option of the municipal legislative body, the ordinance may



- 1 include any:
- 2 (A) requirement for a deposit to ensure payment of the fees by
- 3 the person occupying the property; or
- 4 (B) other requirement to ensure the creditworthiness of the
- 5 person occupying the property as the account holder or
- 6 customer with respect to the property;
- 7 that the municipal legislative body may lawfully impose.
- 8 (2) That the fees for the services rendered by the sewerage system
- 9 to the property are payable by the person occupying the property
- 10 if one (1) of the following conditions is satisfied:
- 11 (A) Either the property owner or the person occupying the
- 12 property gives to the board written notice that indicates that
- 13 the person occupying the property is responsible for paying the
- 14 fees with respect to the property and requests that the account
- 15 or other customer or billing records maintained for the
- 16 property be in the name of the person occupying the property.
- 17 At the option of the municipal legislative body, the ordinance
- 18 may provide that a document that:
- 19 (i) is executed by the property owner and the person
- 20 occupying the property;
- 21 (ii) identifies the person occupying the property by name;
- 22 and
- 23 (iii) indicates that the person occupying the property is
- 24 responsible for paying the fees assessed by the board with
- 25 respect to the property;
- 26 serves as written notice for purposes of this clause.
- 27 (B) The account or other customer or billing records
- 28 maintained by the board for the property otherwise indicate
- 29 that:
- 30 (i) the property is occupied by someone other than the
- 31 owner; and
- 32 (ii) the person occupying the property is responsible for
- 33 paying the fees.
- 34 (C) The property owner or the person occupying the property
- 35 satisfies any other requirements or conditions that the
- 36 municipal legislative body includes in the ordinance.
- 37 (3) That fees assessed against the property for the services
- 38 rendered by the sewerage system to the property do not constitute
- 39 a lien against the property, notwithstanding subsection (g), and
- 40 subject to any requirements or conditions set forth in the
- 41 ordinance.
- 42 This subsection may not be construed to prohibit a municipal



1 legislative body from including in an ordinance adopted under this
 2 chapter any other provision that the municipal legislative body
 3 considers appropriate.

4 **(m) A lien attaches for user fees assessed against property**
 5 **occupied by someone other than the owner only if the board**
 6 **provides the notice required under section 11.2 of this chapter to**
 7 **the owner at the latest address of the owner as shown on the**
 8 **property tax records of the county in which the property is located.**
 9 **However, a lien does not attach for user fees assessed against**
 10 **property occupied by someone other than the owner if either of the**
 11 **following applies:**

12 **(1) The board has notice under section 11.4 of this chapter, or**
 13 **through an ordinance provision described in subsection (l)(2),**
 14 **that the property is occupied by someone other than the**
 15 **owner.**

16 **(2) The municipal legislative body has adopted an ordinance**
 17 **provision described in subsection (l)(3) and any requirements**
 18 **or conditions included in the ordinance have been satisfied.**

19 **(n) Regardless of whether the board has notice under section**
 20 **11.4 of this chapter, or through an ordinance provision described**
 21 **in subsection (l)(2), that property is occupied by someone other**
 22 **than the owner, the board shall release:**

23 **(1) any lien filed with the county recorder for user fees**
 24 **assessed against property occupied by someone other than the**
 25 **owner; and**

26 **(2) delinquent user fees incurred by the person who occupies**
 27 **the property and is responsible for paying the user fees**
 28 **assessed by the board with respect to the property;**

29 **upon receipt of a verified demand in writing from the owner of the**
 30 **property. The demand must state that the delinquent fees were not**
 31 **incurred by the owner as a user of the sewage works and that the**
 32 **owner has not been paid by the person occupying the property for**
 33 **the delinquent user fees.**

34 SECTION 13. IC 36-9-25-11.4 IS ADDED TO THE INDIANA
 35 CODE AS A NEW SECTION TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2022]: **Sec. 11.4. (a) For purposes of this**
 37 **section, "municipal legislative body" refers to the legislative body**
 38 **of each municipality in the district, in the case of a district**
 39 **described in section 3(b)(2) of this chapter.**

40 **(b) This section applies to real property that is served by a**
 41 **district's sewage works and occupied by someone other than the**
 42 **owner, regardless of whether the municipal legislative body has**



1 **adopted an ordinance provision described in section 11(l)(1) or**
2 **11(l)(2) of this chapter.**
3 **(c) If either the owner of real property to which this section**
4 **applies or the person occupying the property submits to the board**
5 **written notice that:**
6 **(1) requests that the account or other customer or billing**
7 **records maintained for the property be in the name of the**
8 **person occupying the property; and**
9 **(2) includes a document that:**
10 **(A) is executed by the property owner and the person**
11 **occupying the property;**
12 **(B) identifies the person occupying the property by name;**
13 **and**
14 **(C) indicates that the person occupying the property is**
15 **responsible for paying the fees assessed by the board with**
16 **respect to the property;**
17 **the board shall establish or continue service to the property in the**
18 **name of the person occupying the property, as identified under**
19 **subdivision (2)(B), and shall ensure that the account or other**
20 **customer or billing records maintained by the board for the**
21 **property are in the name of the person occupying the property,**
22 **subject to any requirement for a deposit to ensure payment of fees**
23 **by the person occupying the property, or to any other requirement**
24 **to ensure the creditworthiness of the person occupying the**
25 **property as the account holder or customer with respect to the**
26 **property, that the board or the municipal legislative body may**
27 **lawfully impose.**

