

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1295

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AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-1-11-3, AS AMENDED BY P.L.257-2013, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) This section does not apply to the disposal of real property under section 5, 5.5, 5.9, 8, or 18 of this chapter.

(b) Disposal of real property under this chapter is subject to the approval of:

- (1) the executive of the political subdivision or agency; or
- (2) the fiscal body of the political subdivision or agency, if there is no executive.

The executive or fiscal body may not approve a disposal of property without conducting a public hearing after giving notice under IC 5-3-1. However, in a municipality the executive shall designate a board or commission of the municipality to give notice, conduct the hearing, and notify the executive of its recommendation.

(c) Except as provided in section 3.2 of this chapter, in addition, the fiscal body of a unit must approve **the following**:

- (1) Every sale of real property ~~having that has~~ an appraised value of **at least**:

- (A) **except as provided in clause (B) and subsection (d)**, fifty thousand dollars (\$50,000); or ~~more~~;
- (B) **an amount greater than fifty thousand dollars (\$50,000) that is specified in an ordinance or a resolution**

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**adopted by the fiscal body of the unit under subsection (d).**

(2) Every lease of real property for which the total annual rental payments will be twenty-five thousand dollars (\$25,000) or more.  
and

(3) Every transfer of real property under section 14 or 15 of this chapter.

**(d) The fiscal body of a unit may adopt an ordinance (in the case of a county or municipality) or a resolution (in the case of a township) to increase the threshold that applies under subsection (c)(1) to an amount greater than fifty thousand dollars (\$50,000).**

SECTION 2. IC 36-1-11-5, AS AMENDED BY P.L.188-2011, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) As used in this section, "abutting landowner" means an owner of property that:

(1) touches, borders on, or is contiguous to the property that is the subject of sale; and

(2) does not constitute a:

(A) public easement; or

(B) public right-of-way.

(b) As used in this section, "offering price" means the appraised value of real property plus all costs associated with the sale, including:

(1) appraisal fees;

(2) title insurance;

(3) recording fees; and

(4) advertising costs.

(c) The disposing agent may proceed under this section if either of the following applies:

(1) The assessed value of a tract of real property to be sold is less than:

**(A) except as provided in clause (B) and subsection (i), fifteen thousand dollars (\$15,000); or**

**(B) an amount greater than fifteen thousand dollars (\$15,000) that is specified in an ordinance or a resolution adopted by the fiscal body of the political subdivision under subsection (i);**

based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired.

(2) If the property has not been assessed and the property was previously part of a public right-of-way.

(d) The disposing agent may determine that:

(1) the highest and best use of the tract is sale to an abutting landowner;

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- (2) the cost to the public of maintaining the tract equals or exceeds the estimated fair market value of the tract; or
- (3) it is economically unjustifiable to sell the tract under section 4 of this chapter.

(e) Within ten (10) days after the disposing agent makes a determination under subsection (d), the disposing agent shall publish a notice in accordance with IC 5-3-1 identifying the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must also include the offering price and a statement that:

- (1) the property may not be sold to a person who is ineligible under section 16 of this chapter; and
- (2) an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:
  - (A) beneficiary of the trust; and
  - (B) settlor empowered to revoke or modify the trust.

At the time of publication of notice under this subsection, the disposing agent shall send notice by certified mail to all abutting landowners. This notice shall contain the same information as the published notice.

(f) The disposing agent shall also have each tract appraised. The appraiser must be professionally engaged in making appraisals, a person licensed under IC 25-34.1, or an employee of the political subdivision who is familiar with the value of the tract. However, if the assessed value of a tract is less than six thousand dollars (\$6,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the disposing agent is not required to have the tract appraised.

(g) If, within ten (10) days after the date of publication of the notice under subsection (e), the disposing agent receives an eligible offer to purchase a tract listed in the notice at or in excess of the offering price, the disposing agent shall conduct the negotiation and sale of the tract under section 4(c) through 4(g) of this chapter.

(h) Notwithstanding subsection (g), if within ten (10) days after the date of publication of the notice under subsection (e) the disposing agent does not receive from any person other than an abutting landowner an eligible offer to purchase the tract at or in excess of the offering price, the disposing agent shall conduct the negotiation and sale of the tract as follows:

- (1) If only one (1) abutting landowner makes an eligible offer to purchase the tract, then subject to section 16 of this chapter and without further appraisal or notice, the disposing agent shall offer to negotiate for the sale of the tract with that abutting landowner.

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(2) If more than one (1) eligible abutting landowner submits an offer to purchase the tract, the other eligible abutting landowners who submit offers shall be informed of the highest offer received and be given an opportunity to submit one (1) additional offer. The tract shall be sold to the eligible abutting landowner who submits the highest offer for the tract and who complies with any requirement under subsection (e)(2).

(3) If no eligible abutting landowner submits an offer to purchase the tract, the disposing agent may sell the tract to any person who submits the highest offer for the tract, except a person who is ineligible to purchase the tract under section 16 of this chapter.

**(i) The fiscal body of a political subdivision may adopt an ordinance (in the case of a county or municipality) or a resolution (in the case of any other political subdivision) to increase the threshold that applies under subsection (c)(1) to an amount greater than fifteen thousand dollars (\$15,000).**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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