

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1330

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-33-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. As used in this chapter, "person" includes a natural person, a firm, a copartnership, an association, a limited liability company, ~~and~~ a corporation, **and a political subdivision.**

SECTION 2. IC 32-33-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 10.5. Abandoned or Derelict Aircraft

Sec. 1. As used in this chapter, "abandoned aircraft" means an aircraft:

- (1) that is located or stored on the premises of:**
 - (A) a public-use airport; or**
 - (B) a fixed-base operator;****in a wrecked, inoperative, or partially dismantled condition for a period of at least sixty (60) days; and**
- (2) for which the owner or operator of the aircraft has not made, during the sixty (60) day period described in subdivision (1), any tie-down, hangaring, or rent payments for the use of the premises.**

The term does not include an aircraft that is being repaired by a person providing services under IC 32-33-10-5.

HEA 1330 — Concur



Sec. 2. As used in this chapter, "aircraft" means any contrivance used or designed for navigation of or flight in the air. The term does not include unmanned aircraft or ultralight aircraft.

Sec. 3. As used in this chapter, "derelict aircraft" means any aircraft:

- (1) that is located or stored on the premises of:
 - (A) a public-use airport; or
 - (B) a fixed-base operator;
 for a period of at least one hundred fifty (150) days; and
- (2) that, throughout the period described in subdivision (1):
 - (A) is not in a flyable condition;
 - (B) is not in compliance with applicable Federal Aviation Administration regulations allowing the aircraft to be operated in flight; and
 - (C) does not have a written repair plan approved and signed by:
 - (i) a Federal Aviation Administration certified airframe and power plant mechanic; or
 - (ii) a person authorized to perform maintenance on the aircraft in accordance with Federal Aviation Administration regulations.

Sec. 4. As used in this chapter, "fixed-base operator" means a person that provides on the premises of a public-use airport aeronautical services, including any of the following:

- (1) Aircraft fueling.
- (2) Hangaring.
- (3) Tie-down and parking.
- (4) Aircraft rental.
- (5) Aircraft maintenance.
- (6) Flight instruction.
- (7) Other aeronautical services or accommodations.

Sec. 5. As used in this chapter, "person" includes a natural person, a firm, a partnership, an association, a corporation, a limited liability company, or a political subdivision.

Sec. 6. (a) If:

- (1) the airport manager of a public-use airport; or
- (2) the general manager of a fixed-base operator;

determines that an abandoned aircraft or a derelict aircraft is located on the premises of the public-use airport or of the fixed-base operator, as applicable, the airport manager (or the airport manager's designee) or the general manager (or the general manager's designee) may dispose of the abandoned aircraft or the



derelict aircraft in the manner provided in this chapter.

(b) If a determination described in subsection (a) is made that an abandoned aircraft or a derelict aircraft is located on the premises of a public-use airport or of a fixed-base operator, and the airport manager or the general manager making the determination seeks to dispose of the abandoned aircraft or the derelict aircraft under this chapter, the airport manager (or the airport manager's designee) or the general manager (or the general manager's designee) must do the following:

(1) Determine, by contacting the Aircraft Registration Branch of the Federal Aviation Administration, the name and address of:

- (A) the last registered owner of the aircraft; and
- (B) any other person that has a legal or equitable interest in the aircraft.

(2) Subject to subsection (c), deliver to the aircraft owner and any other person having a legal or equitable interest in the aircraft a written notice stating that the aircraft:

- (A) has been determined to be abandoned or derelict; and
- (B) is subject to:

- (i) disposal and removal from the premises of the public-use airport or of the fixed-base operator;
- (ii) the recovery, by the owner or operator of the public-use airport or by the fixed-base operator, of any accrued and unpaid fees or charges incurred with respect to the aircraft while located on the premises of the public-use airport or of the fixed-base operator; and
- (iii) the foreclosure of a lien with respect to any fees and charges described in item (ii).

(c) The following requirements apply to the notice required under subsection (b)(2):

(1) The notice must include the following:

- (A) A description of the aircraft by Federal Aviation Administration N-Number, manufacturer name, model designation, and serial number.
- (B) The facts supporting the determination that the aircraft is abandoned or derelict and is subject to disposal and removal from the premises of the public-use airport or of the fixed-base operator.
- (C) The amount of any accrued and unpaid fees or charges:
 - (i) incurred with respect to the aircraft while located on



the premises of the public-use airport or of the fixed-base operator; and

(ii) for which a lien is being asserted.

(D) A statement that upon receipt of the notice, the aircraft owner has thirty (30) days to:

(i) remove the aircraft from the premises of the public-use airport or of the fixed-base operator; and

(ii) pay any accrued and unpaid fees or charges identified under clause (C).

(E) A statement that the public-use airport's owner or operator, or the fixed-base operator, as applicable, may:

(i) assert a lien for any accrued and unpaid fees or charges identified under clause (C) that are not paid within the thirty (30) day period described in clause (D);

(ii) remove and dispose of the aircraft from the premises of the public-use airport or of the fixed-base operator if the aircraft is not removed from the premises within the thirty (30) day period described in clause (D); and

(iii) sell the aircraft at a public auction or bid on the aircraft if it is made available for disposal by means of a public auction.

(F) A statement that the public-use airport's owner or operator, or the fixed-base operator, as applicable, may scrap the aircraft if no bids are received for the aircraft during a public auction of the aircraft.

(G) The hand signature of an authorized signatory for:

(i) the owner or operator of the public-use airport; or

(ii) the fixed-base operator;

as applicable, located immediately above the title of the signatory.

(2) Not later than thirty (30) days after the determination is made that the aircraft is abandoned or derelict, the notice must:

(A) be delivered to the aircraft owner and any other person having a legal or equitable interest in the aircraft by:

(i) certified mail, return receipt requested, and by first class United States mail, postage prepaid;

(ii) a nationally recognized overnight courier service; or

(iii) personal delivery; and

(B) be filed with the Aircraft Registration Branch of the Federal Aviation Administration.

(3) If the registered owner of an aircraft cannot be found or



served, notice by publication may be used in lieu of personal service, courier service, or certified mail.

Sec. 7. (a) A complaint for a declaratory judgment:

- (1) finding that an aircraft is abandoned or derelict; and**
- (2) authorizing:**
 - (A) the disposal of the aircraft by means of a public auction and removal of the aircraft from the premises of a public-use airport or of a fixed-base operator;**
 - (B) the recovery of any accrued and unpaid fees or charges incurred with respect to the aircraft while located on the premises of the public-use airport or of the fixed-base operator; and**
 - (C) the foreclosure of a lien for the fees and charges described in clause (B);**

must be filed in the circuit or superior court of the county where the aircraft is located.

(b) A complaint described in subsection (a) must be filed not later than sixty (60) days after the written notice described in section 6 of this chapter is delivered in accordance with section 6(c)(2) of this chapter.

Sec. 8. (a) This section applies if a complaint is filed under section 7 of this chapter and the plaintiff recovers:

- (1) a judgment in any sum; or**
- (2) a judgment:**
 - (A) declaring that an aircraft is abandoned or derelict; and**
 - (B) authorizing the disposal of the aircraft by means of a public auction and removal of the aircraft from the premises of a public-use airport or of a fixed-base operator.**

(b) Any net proceeds resulting from the sale or disposal of an aircraft under this chapter shall be paid to:

- (1) the owner of the aircraft and any other person having a legal or equitable interest in the aircraft, in proportion to each person's legal or equitable interest in the aircraft; or**
- (2) if the owner of the aircraft or any other person having a legal or equitable interest in the aircraft cannot be found, to the attorney general as unclaimed property under IC 32-34-1.**

(c) In an action brought under section 7 of this chapter, the plaintiff may also recover as part of the judgment in the action reasonable attorney's fees incurred by the plaintiff in bringing and prosecuting the action.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1330 — Concur

