

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. 1605

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 8-23-9-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 21. Every contract for highway work ~~authorized to be made under this chapter~~ shall be made in the name of the state **and** signed by the commissioner and the contracting parties. ~~and acknowledged before an officer authorized by law to administer oaths.~~ The contract shall be submitted to and approved by the attorney general with regard to legality and form.

SECTION 2. IC 8-23-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) A bidder desiring to submit to the department a bid for the performance of a contract the department proposes to let must apply to the department for qualification and must use for that purpose the forms prescribed and furnished by the department. All applications must be verified by the applicant.

(b) The department shall act within thirty (30) days upon an application for qualification. Upon the receipt of an application for qualification, the department shall examine and may investigate the application and shall determine whether the applicant is competent and responsible and possesses the financial resources that satisfy this chapter.

(c) If the applicant is found to possess the qualifications prescribed by this chapter and by the rules adopted by the department, the

HEA 1605



department shall issue a certificate of qualification, which shall be valid for the period of ~~one (1) year~~; **twenty-four (24) months**, or a shorter period of time that the department prescribes, unless revoked by the department for cause. The certificate of qualification must contain a statement fixing the aggregate amount of uncompleted work that the applicant will be permitted to have at any time under a contract with the department and may also, in the discretion of the department, contain a statement limiting a bidder to the submission of bids upon a certain class or classes of work. Subject to any restrictions as to amount or class of work, the certificate of qualification authorizes its holder to bid on all work on which bids are taken by the department during the period of time specified.

(d) A certificate of qualification may be revoked by the department only after notice to the qualified bidder and an opportunity to be heard. The notice must be in writing and must state the grounds of the proposed revocation.

SECTION 3. IC 8-23-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) A bidder may not be given a certificate of qualification unless the bidder's financial statement and the investigation made by the department show that the bidder possesses net current assets sufficient in the judgment of the department to render it probable that the bidder can satisfactorily execute contracts and meet obligations incurred. All applications for qualification must expressly authorize the department to obtain all information considered pertinent with respect to the financial worth and assets and liabilities of the applicant from banks or other financial institutions, surety companies, dealers in material, equipment, or supplies, or other persons having business transactions with an applicant and must expressly authorize all financial institutions or other persons to furnish information requested by the department.

(b) ~~The financial statement furnished by an applicant for qualification of more than one million dollars (\$1,000,000) must be prepared and attested as audited by an independent:~~

- (1) ~~certified public accountant registered and in good standing in any state; or~~
- (2) ~~public accountant registered and in good standing in Indiana.~~

(c) ~~The financial statement furnished by an applicant for qualification of more than two hundred thousand dollars (\$200,000) but not more than one million dollars (\$1,000,000) must be prepared and attested as reviewed by an independent:~~

- (1) ~~certified public accountant registered and in good standing in any state; or~~

HEA 1605



(2) public accountant registered and in good standing in Indiana.

~~(d)~~ **(b)** A qualification of two hundred thousand dollars (\$200,000) or less may be granted by the department if the financial statement furnished by the applicant is certified as correct by an officer of the company. The department may require all qualified bidders to file financial statements from time to time at intervals it prescribes. **The department shall adopt rules under IC 4-22-2, including emergency rules adopted in the manner provided under IC 4-22-2-37.1, that establish the requirements for financial statements furnished to the department by potential applicants for the purpose of determining an applicant's eligibility and financial capacity under this chapter.**

~~(e)~~ **(c)** This chapter shall be administered without reference to the residence of applicants, and its provisions and the rules of the department adopted under this chapter apply equally to residents and nonresidents of Indiana. This chapter does not apply to the purchase of material, equipment, and supplies or to the construction and maintenance of buildings.

~~(f)~~ **(d)** Notwithstanding IC 5-14-3-4(a)(5), a financial statement submitted to the department under this chapter is considered confidential financial information for the purposes of IC 5-14-3.

SECTION 4. IC 32-21-2-3, AS AMENDED BY P.L.187-2018, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) ~~For~~ **Except as provided in subsection (c)**, a conveyance, a mortgage, or an instrument of writing to be recorded ~~it~~ must be:

- (1) acknowledged by the grantor; or
- (2) proved before a:
 - (A) judge;
 - (B) clerk of a court of record;
 - (C) county auditor;
 - (D) county recorder;
 - (E) notary public;
 - (F) mayor of a city in Indiana or any other state;
 - (G) commissioner appointed in a state other than Indiana by the governor of Indiana;
 - (H) minister, charge d'affaires, or consul of the United States in any foreign country;
 - (I) clerk of the city county council for a consolidated city, city clerk for a second class city, or clerk-treasurer for a third class city;
 - (J) clerk-treasurer for a town; or
 - (K) person authorized under IC 2-3-4-1.

HEA 1605



(b) In addition to the requirements under subsection (a), a conveyance may not be recorded after June 30, 2007, unless it meets the requirements of this subsection. The conveyance must include a statement containing substantially the following information:

"The mailing address to which statements should be mailed under IC 6-1.1-22-8.1 is [insert proper mailing address]. The mailing address of the grantee is [insert proper mailing address]."

The mailing address for the grantee must be a street address or a rural route address. A conveyance complies with this subsection if it contains the address or addresses required by this subsection at the end of the conveyance and immediately preceding or following the statements required by IC 36-2-11-15.

(c) This section does not apply to the Indiana department of transportation.

SECTION 5. IC 32-31-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. **(a) This section does not apply to any lease that is entered into by the Indiana department of transportation under IC 8-23-2.**

(b) Not more than forty-five (45) days after its execution, a lease of real estate for a period longer than three (3) years shall be recorded in the Miscellaneous Record in the recorder's office of the county in which the real estate is located.

SECTION 6. IC 32-31-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. **(a) This section does not apply to any lease that is entered into by the Indiana department of transportation under IC 8-23-2.**

(b) If a lease for a period longer than three (3) years is not recorded within forty-five (45) days after its execution, the lease is void against any subsequent purchaser, lessee, or mortgagee who acquires the real estate in good faith and for valuable consideration.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1605

