

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. 1664

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 8-1-2-1.2, AS AMENDED BY P.L.1-2009, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. (a) **As used in this section, "association" refers to a condominium association or a homeowners association.**

(b) **As used in this section, "common areas and facilities", with respect to a condominium, has the meaning set forth in IC 32-25-2-4.**

(c) **As used in this section, "condominium association" refers to:**

- (1) the association of co-owners (as defined in IC 32-25-2-2);
- (2) the board of directors; or
- (3) the manager or managing agent;

for a condominium that is subject to IC 32-25.

(d) **As used in this section, "condominium unit" has the meaning set forth in IC 32-25-2-9.**

(e) **As used in this section, "co-owner", with respect to a condominium, has the meaning set forth in IC 32-25-2-11.**

(f) **As used in this section, "dwelling unit" means a room or rooms:**

- (1) suitable for residential occupancy; and
- (2) containing plumbing for water or sewage disposal service.

The term includes a lot in a mobile home community or similar

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multi-user installation. The term does not include hotels, motels, or other similar transient lodging.

(g) As used in this section, "homeowners association" has the meaning set forth in IC 32-25.5-2-4. The term includes the board of directors of a homeowners association acting on behalf of the homeowners association.

(a) (h) As used in this section, "landlord" refers to:

- (1) a landlord an owner of a dwelling unit that is rented or leased to another person; or**
- (2) a person acting on a landlord's behalf of a person described in subdivision (1).**

(i) As used in this section, "member" refers to a member of a homeowners association.

(j) As used in this section, "water or sewer utility" means:

- (1) a public utility (as defined in IC 8-1-2-1(a));**
- (2) a municipally owned utility (as defined in IC 8-1-2-1(h));**
- (3) a not-for-profit utility (as defined in IC 8-1-2-125(a));**
- (4) a cooperatively owned corporation;**
- (5) a conservancy district established under IC 14-33; or**
- (6) a regional district established under IC 13-26;**

that provides water service, sewage disposal service, or both water and sewage disposal service, to the public.

(b) (k) A landlord or an association that distributes water or sewage disposal service from a public utility or a municipally owned water or sewer utility to one (1) or more dwelling units, condominium units, or members is not a public utility solely by reason of engaging in this activity if the landlord complies with all does either of the following:

- (1) The landlord or association charges a flat fee that:**
 - (A) is assessed at regular intervals, such as monthly or annually; and**
 - (B) includes water or sewage disposal service; without separately itemizing or billing for the water or sewage disposal service included in the fee.**
- (+)(2) Subject to subsection (1), the landlord or association bills tenants, co-owners, or members separately from rent, for:**
 - (A) the water or sewage disposal service distributed; and**
 - (B) any costs permitted by subsection (c): (1)(4).**

(l) A landlord or an association that bills tenants, co-owners, or members under subsection (k)(2) shall comply with the following:

- (2) (1) In the case of a landlord, the total charge for the water or sewage disposal services described in subdivision (+)(A) is**



may not ~~more than~~ **exceed** what the landlord paid the **water or sewer** utility for the same services, less the landlord's own use.

(2) In the case of an association, the total charge for the water or sewage disposal service may not exceed what the association paid the water or sewer utility for the same services, including amounts paid to the utility for water or sewage disposal service provided for common areas and facilities.

(3) The landlord ~~makes or association shall make~~ a disclosure to the **each** tenant, **co-owner, or member** that satisfies subsection ~~(d)~~: **(m)**. A disclosure required by this subdivision must be **included in one (1) or more of the following, as applicable:**

(A) The lease.

(B) The tenant's first bill. ~~or~~

(C) The co-owner's or member's first bill or assessment for the water or sewage disposal service.

(D) The property's covenants, conditions and restrictions, bylaws, governing documents (as defined in IC 32-25.5-2-3), condominium instruments (as defined in IC 32-25-2-8), or other similar documents.

~~(E)~~ **(E) A separate writing separate from the lease signed by the tenant, before entering into the lease: co-owner, or member.**

~~(e)~~ **(4) A landlord or an association may charge only the following costs: under subsection ~~(b)(1)(B)~~:**

~~(1)~~ **(A) A reasonable initial set-up fee.**

~~(2)~~ **(B) A reasonable administrative fee that may not exceed four dollars (\$4) per month.**

~~(3)~~ **(C) A reasonable fee for the return for insufficient funds of an instrument in payment of charges.**

~~(d)~~ **(m) A disclosure required by subsection ~~(b)(3)~~ (1)(3) must:**

(1) be printed using a font that is not smaller than the largest font used in ~~the lease~~; **any other part of the document in which the disclosure is included;** and

(2) include the following:

(A) A description of the water or sewage disposal services to be provided.

(B) An itemized statement of the fees that will be charged as permitted under subsection ~~(e)~~: **(1)(4)**.

(C) The following statement: "If you believe you are being charged in violation of this disclosure or if you believe you are being billed in excess of the utility services provided to you as



described in this disclosure, you have a right under Indiana law to file a complaint with the Indiana Utility Regulatory Commission. You may contact the Commission at (insert phone number for ~~the tenant to contact~~ the Commission).".

(e) (n) If a complaint is filed under section 34.5 or 54 of this chapter alleging that a landlord **or an association** may be acting as a **public utility** in violation of this section, the commission shall:

- (1) consider the issue; and
- (2) if the commission considers necessary, enter an order requiring that billing be adjusted to comply with this section.

SECTION 2. IC 32-25-8-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.5. (a) As used in this section, "condominium association" refers to:**

- (1) the association of co-owners (as defined in IC 32-25-2-2);**
- (2) the board of directors; or**
- (3) the manager or managing agent;**

for a condominium that is subject to this article.

(b) A condominium association that distributes water or sewage disposal service from a water or sewer utility to one (1) or more condominium units is not a public utility solely by reason of engaging in this activity if the condominium association complies with IC 8-1-2-1.2.

SECTION 3. IC 32-25.5-3-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. A homeowners association (including a board acting on behalf of a homeowners association) that distributes water or sewage disposal service from a water or sewer utility to one (1) or more members of the homeowners association is not a public utility solely by reason of engaging in this activity if the homeowners association complies with IC 8-1-2-1.2.**

SECTION 4. **An emergency is declared for this act.**



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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