

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 166

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 34-11-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 11. **(a) Except as provided in subsection (b)**, an action upon contracts in writing other than those for the payment of money, and including all mortgages other than chattel mortgages, deeds of trust, judgments of courts of record, and for the recovery of the possession of real estate, must be commenced within ten (10) years after the cause of action accrues. However, an action upon contracts in writing other than those for the payment of money entered into before September 1, 1982, not including chattel mortgages, deeds of trust, judgments of courts of record, or for the recovery of the possession of real estate, must be commenced within twenty (20) years after the cause of action accrues.

(b) This subsection applies to an action:

- (1) for the recovery of the possession of real estate;**
- (2) that involves or is affected by a line located and established by a professional surveyor under IC 36-2-12-10;**
- and**
- (3) that accrues before the lines are located and established as described in subdivision (2).**

An action to which this subsection applies must be commenced before the expiration of the appeal period set forth in IC 36-2-12-14.

SEA 166 — Concur



SECTION 2. IC 36-2-12-10, AS AMENDED BY P.L.159-2018, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) The county surveyor shall maintain a legal survey record book, which must contain a record of all the legal surveys made in the county showing outline maps of each section, grant, tract, subdivision, or group of sections, grants, tracts, and subdivisions in sufficient detail so that the approximate location of each legal survey can be shown. Legal surveys shall be indexed by location.

(b) A landowner desiring to establish the location of the line between the landowner's land and that of an adjoining landowner by means of a legal survey may do so as follows:

(1) The landowner shall procure a professional surveyor registered under IC 25-21.5 to locate the line in question and shall compensate the professional surveyor.

(2) The professional surveyor shall notify the owners of adjoining lands that the professional surveyor is going to make the survey. The notice must be given by registered or certified mail at least twenty (20) days before the survey is started.

(3) The lines and corners shall be properly marked, monumented by durable material with letters and figures establishing such lines and corners, referenced, and tied to corners shown in the corner record book in the office of the county surveyor or to corners shown on a plat recorded in the plat books in the office of the county recorder.

(4) The professional surveyor shall present to the county surveyor for entry in the legal survey record book a plat of the legal survey and proof of notice to the adjoining landowners. The professional surveyor shall give notice to adjoining landowners by registered or certified mail within ten (10) days after filing of the survey.

(c) A notice under subsection (b)(4) shall include the following information:

(1) A legal survey was performed of an adjoining property under this section.

(2) The plat of the legal survey was filed with the county surveyor for entry into the legal survey record book.

(3) The lines located and established under this section are binding on all landowners affected, as well as the landowners' respective heirs and assigns, unless an appeal is taken under section 14 of this chapter.

(4) An appeal under section 14 of this chapter must be made to the circuit court of the county in which the surveyed



property is located not later than one hundred eighty (180) days after the notice of filing.

(5) If the affected landowner has reason to believe that the landowner has a claim of title under adverse possession, the landowner must:

(A) file a claim in a court with proper jurisdiction; or
(B) record an affidavit under IC 36-2-11-19(a)(4) or a deed reflecting the claim of adverse possession in the office of the recorder of the county in which the property is located; before the end of the applicable time period provided in subdivision (4).

(6) An affected landowner may not bring a claim of title under adverse possession against the state or a political subdivision.

The notice shall also include a legible copy of the plat of the legal survey.

(e) (d) The lines located and established under subsection (b) are binding on all landowners affected and their heirs and assigns, including an affected landowner who claims title under a claim of adverse possession:

(1) that has not been filed in a court with jurisdiction; or
(2) with respect to which:

(A) a deed reflecting the adverse possession; or
(B) an affidavit under IC 36-2-11-19(a)(4);

has not been recorded in the office of the recorder of the county in which the property is located;

as of the date the survey is entered into the legal survey record book under this section, unless an appeal is taken under section 14 of this chapter. The right to appeal commences when the plat of the legal survey is entered by the county surveyor in the legal survey record book.

SECTION 3. IC 36-2-12-14, AS AMENDED BY P.L.159-2018, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 14. (a) The owner of property surveyed under this chapter may appeal that survey to the circuit court, superior court, or probate court for the county

(1) within ninety (90) days if the owner is a resident of the county;
or

(2) within one (1) year if the owner is not a resident of the county;
one hundred eighty (180) days.

(b) When an appeal is taken under this section, the surveyor shall immediately transmit copies of the relevant field notes and other papers to the court, without requiring an appeal bond.



(c) The court may receive evidence of any other surveys of the same premises. If the court decides against the original survey, it may order a new survey to be made by a competent person other than the person who did the original survey, and it shall:

(1) determine the true boundary lines and corners of the lands included in the survey; and

(2) order the county surveyor to:

(A) locate and perpetuate the boundary lines and corners according to the court's findings by depositing durable markers in the proper places, below the freezing point;

(B) mark the boundary lines and corners; and

(C) enter the boundary lines and corners in the county surveyor's field notes.

(d) A new survey made under this section may be appealed under this section.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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