

SENATE BILL No. 197

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-23-5-9.5; IC 32-19; IC 34-11-2-11; IC 36-2.

Synopsis: Various property issues. Provides that: (1) if the department of transportation (department) acts to acquire real property identified within the rights-of-way for an addition to the state highway system; and (2) if, before the owner of the affected property receives notice of the planned acquisition: (A) the lines and corners of the property have been marked and monumented; and (B) a plat of the legal survey has been entered in the legal survey record book; the department shall, not later than 45 days after taking legal title to the property, cause the new lines and corners of the property to be marked and monumented to reflect the department's right-of-way, and shall cause the plat of the resulting legal survey to be entered in the legal survey record book. Amends the statute concerning the Indiana coordinate system for describing real property to provide that coordinates based on specified coordinate systems and used to define the position of a point on a land boundary may not be presented to be recorded unless the recording document also contains: (1) the method used to relate the coordinates to the National Spatial Reference System; and (2) the name and zone of the coordinate system. Eliminates other reporting and certification requirements with respect to such recordings. Provides that if any coordinates (not specifically coordinates based on the Indiana coordinate system, as provided in current law) are used to describe a tract of land that is also described by a reference to the United States public land surveys: (1) the description by coordinates shall be construed as supplemental; and (2) in the event of a conflict, the description by reference to the United States public land surveys prevails over the description by coordinates. Provides that the statute
(Continued next page)

Effective: July 1, 2018.

Doriot

January 3, 2018, read first time and referred to Committee on Civil Law.



does not require a purchaser or mortgagee of real estate to rely on a description, any part of which depends exclusively upon the Indiana coordinate system, unless the same description was previously used in a document conveying title to the real estate. Amends the statute concerning the statute of limitations for actions for the recovery of the possession of real estate to provide that such an action that: (1) involves a line located and established by a professional surveyor; and (2) accrues before the lines are located and established by the surveyor; must be commenced before the expiration of the appeal period set forth in the statute governing county surveyors. Provides that after June 30, 2018, a county recorder may receive for recording or filing an instrument concerning an interest in or lien on property only if the following is included in the instrument presented for recording or filing: (1) The name of the surveyor or attorney who prepared the property description. (2) If the description is of property that has been previously described in a recorded instrument of conveyance, a citation to the recording information for that instrument. Makes conforming changes to cross references to Indiana Code sections amended by these provisions. Amends the Indiana Code provision concerning the establishment of property lines by means of a legal survey to: (1) eliminate the exception to the required notice when all adjoining landowners consent in writing; and (2) specify that: (A) the lines established are binding on all affected landowners, including a landowner who claims title under a claim of adverse possession; and (B) the procedures set forth apply to the department when acquiring marked and monumented real property that is within the rights-of-way for an addition to the state highway system. Makes conforming changes concerning notice of the survey in the Indiana Code provision concerning appeals of surveys.



Introduced

Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE BILL No. 197

A BILL FOR AN ACT to amend the Indiana Code concerning property.

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

1 SECTION 1. IC 8-23-5-9.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2018]: **Sec. 9.5. (a) This section applies:**
4 **(1) if the department acts under:**
5 **(A) section 9 of this chapter;**
6 **(B) IC 8-23-7; or**
7 **(C) any other lawful authority;**
8 **to acquire real property identified within the rights-of-way**
9 **for an addition to the state highway system; and**
10 **(2) if, before the date on which the owner of the property**
11 **described in subdivision (1) receives the notice required by**
12 **section 9(d)(2) of this chapter:**
13 **(A) the lines and corners of the property have been marked**
14 **and monumented; and**
15 **(B) a plat of the legal survey has been entered in the legal**



1 survey record book;
2 under IC 36-2-12-10.

3 (b) Not later than forty-five (45) days after the date on which
4 the department takes legal title to the property described in
5 subsection (a)(1), whether by purchase or condemnation, the
6 department shall cause:

7 (1) the new lines and corners of the property described in
8 subsection (a)(1) to be marked and monumented to reflect the
9 department's right-of-way; and

10 (2) the plat of the resulting legal survey to be entered in the
11 legal survey record book;

12 by a professional surveyor registered under IC 25-21.5, in
13 accordance with IC 36-2-12-10. Any costs associated with
14 complying with this section shall be provided for in the
15 department's acquisition plans, included as part of the acquisition
16 costs, and paid out of the department's funds.

17 SECTION 2. IC 32-19-2-2, AS AMENDED BY P.L.57-2013,
18 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2018]: Sec. 2. ~~(a)~~ Coordinates based on the Indiana coordinate
20 system of 1927, ~~or~~ the Indiana coordinate system of 1983, ~~or any other~~
21 ~~coordinate system published by an agency of the federal~~
22 ~~government or of the state, including the Indiana Geospatial~~
23 ~~Coordinate System~~, purporting to define the position of a point on a
24 land boundary may not be presented to be recorded in any public land
25 records or deed records unless the recording document also contains:

26 (1) a description of the nearest first-order or second-order
27 horizontal geodetic control monument from which the coordinates
28 being recorded were determined; ~~the method used to relate the~~
29 ~~coordinates to the National Spatial Reference System;~~ and

30 (2) the method of survey for the determination: ~~name and zone~~
31 ~~of the coordinate system, including the:~~

32 (A) datum;

33 (B) datum realization; and

34 (C) units;

35 used.

36 (b) If the position of the described first-order or second-order
37 geodetic control monument is not published by the National Geodetic
38 Survey (or its successors); the recording document must contain a
39 certification signed by a professional surveyor registered under
40 IC 25-21.5 stating that the subject control monument and its
41 coordinates were established and determined in conformance with the
42 specifications given in IC 32-19-1-3.



1 (c) The publishing of the existing control stations or the acceptance
 2 with intent to publish the newly established control stations by the
 3 National Geodetic Survey constitutes evidence of adherence to the
 4 FGCC specifications. Horizontal geodetic control monuments shall be
 5 permanently monumented and control data sheets prepared and filed
 6 so that a densification of the control network is accomplished.

7 (d) The surveying techniques and positioning systems used to
 8 produce first-order or second-order geodetic precision shall be
 9 identified. Annotation must accompany state plane coordinate values
 10 when they are used to less than second-order precision.

11 SECTION 3. IC 32-19-3-1 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. If coordinates ~~based~~
 13 ~~on the Indiana coordinate system~~ are used to describe any tract of land,
 14 ~~which that~~, in the same document, is also described by reference to any
 15 subdivision, line, or corner of the United States public land surveys:

16 (1) the description by coordinates shall be construed as
 17 supplemental to the basic description of the subdivision, line, or
 18 corner contained in the official plats and field notes filed of
 19 record; and

20 (2) in the event of any conflict, the description by reference to the
 21 subdivision, line, or corner of the United States public land
 22 surveys prevails over the description by coordinates.

23 SECTION 4. IC 32-19-3-2 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. This article does not
 25 require a purchaser or mortgagee to rely on a description, any part of
 26 which depends exclusively upon the Indiana coordinate system, **unless**
 27 **the same description was previously used in a document conveying**
 28 **title to the real estate being transferred or mortgaged.**

29 SECTION 5. IC 34-11-2-11 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 11. **(a) Except as**
 31 **provided in subsection (b)**, an action upon contracts in writing other
 32 than those for the payment of money, and including all mortgages other
 33 than chattel mortgages, deeds of trust, judgments of courts of record,
 34 and for the recovery of the possession of real estate, must be
 35 commenced within ten (10) years after the cause of action accrues.
 36 However, an action upon contracts in writing other than those for the
 37 payment of money entered into before September 1, 1982, not
 38 including chattel mortgages, deeds of trust, judgments of courts of
 39 record, or for the recovery of the possession of real estate, must be
 40 commenced within twenty (20) years after the cause of action accrues.

41 **(b) This subsection applies to an action:**

42 **(1) for the recovery of the possession of real estate;**



1 **(2) that involves or is affected by a line located and**
 2 **established by a professional surveyor under IC 36-2-12-10;**
 3 **and**

4 **(3) that accrues before the lines are located and established as**
 5 **described in subdivision (2).**

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

9 SECTION 6. IC 36-2-7.5-5, AS AMENDED BY P.L.171-2006,
 10 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2018]: Sec. 5. ~~(a)~~ An individual preparing a document for
 12 recording or filing shall make the affirmation and ~~statement~~ **statements**
 13 required by IC 36-2-11-15(c), ~~and~~ IC 36-2-11-15(d), ~~and~~
 14 **IC 36-2-11-15(e).**

15 SECTION 7. IC 36-2-11-15, AS AMENDED BY P.L.160-2007,
 16 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2018]: Sec. 15. (a) This section does not apply to:

- 18 (1) an instrument executed before July 1, 1959, or recorded before
 19 July 26, 1967;
 20 (2) a judgment, order, or writ of a court;
 21 (3) a will or death certificate;
 22 (4) an instrument executed or acknowledged outside Indiana; or
 23 (5) a federal lien on real property or a federal tax lien on personal
 24 property, as described in section 25 of this chapter.

25 (b) The recorder may receive for record or filing an instrument that
 26 conveys, creates, encumbers, assigns, or otherwise disposes of an
 27 interest in or lien on property only if:

- 28 (1) the name of the person and governmental agency, if any, that
 29 prepared the instrument is printed, typewritten, stamped, or
 30 signed in a legible manner at the conclusion of the instrument;
 31 **and**

32 **(2) for an instrument received by the recorder after June 30,**
 33 **2018:**

34 **(A) the name of the surveyor or attorney who prepared the**
 35 **description of the property; or**

36 **(B) if the description is of property that has been**
 37 **previously described in a recorded instrument of**
 38 **conveyance, a citation to the recording information for**
 39 **that instrument;**

40 **is printed, typewritten, stamped, or written in a legible**
 41 **manner at the conclusion of the instrument; and**

42 ~~(2)~~ **(3) all Social Security numbers in the document are redacted,**



1 unless required by law.

2 (c) An instrument complies with subsection (b)(1) if it contains a
3 statement in the following form:

4 "This instrument was prepared by (name)."

5 **(d) With respect to an instrument received by the recorder after**
6 **June 30, 2018, the instrument complies with subsection (b)(2) if it**
7 **contains a statement in one (1) of the following forms, as**
8 **applicable:**

9 "The description of the property set forth in this instrument
10 was prepared by (name)."

11 "The description of the property set forth in this instrument
12 is from (deed record and page, or instrument number)."

13 ~~(d)~~ (e) An instrument complies with subsection ~~(b)(2)~~ (b)(3) if it
14 contains a statement in the following form at the conclusion of the
15 instrument and immediately preceding or following the statement
16 required by subsection (b)(1):

17 "I affirm, under the penalties for perjury, that I have taken
18 reasonable care to redact each Social Security number in this
19 document, unless required by law (name)."

20 SECTION 8. IC 36-2-11-25, AS AMENDED BY P.L.171-2006,
21 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2018]: Sec. 25. (a) This section applies to:

23 (1) a lien arising under Section 107 of the Comprehensive
24 Environmental Response, Compensation and Liability Act, 42
25 U.S.C. 9601 et seq. (commonly known as the Superfund Law);
26 and

27 (2) any other federal lien on real property or any federal tax lien
28 on personal property provided for in the statutes or regulations of
29 the United States.

30 In order for a lien covered by this section to be perfected, notice of the
31 lien must be filed in the office of the recorder of the county in which
32 the real or personal property subject to the lien is located.

33 (b) When a notice of a lien covered by this section is presented to
34 the recorder for filing, the recorder shall enter it appropriately in the
35 entry book and in the miscellaneous record. The entries made under
36 this subsection must show the date of filing, the book and page number
37 or instrument number, the name of the person named in the notice, a
38 legal description of the property, if appropriate, and any serial number
39 or other identifying number given in the notice.

40 (c) When a certificate of discharge of a federal lien covered by this
41 section is issued by the proper officer and presented for filing in the
42 office of the recorder of the county where the notice of lien was filed,



1 the recorder shall record the certificate of discharge as a release of the
 2 lien. However, to be recorded under this subsection, the certificate
 3 must refer to the recorder's book and page number or instrument
 4 number under which the lien was recorded.

5 (d) When recording a release of a lien under subsection (c), the
 6 recorder shall inscribe, in the margin of each entry made to record the
 7 lien under subsection (a), a reference to the place where the release is
 8 recorded.

9 (e) Upon the recording of the certificate of discharge as a release
 10 under subsection (c) and the inscribing of the references to the release
 11 under subsection (d), a certificate of discharge of a lien covered by this
 12 section operates as a full discharge and satisfaction of the lien, unless
 13 the references to the release inscribed under subsection (d) specifically
 14 note the release as a partial lien release.

15 (f) A federal lien on real property and a federal tax lien on personal
 16 property are not subject to the:

17 (1) requirement to redact Social Security numbers as described in
 18 IC 36-2-7.5-1.5; or

19 (2) requirements to include statements in a recorded or filed
 20 instrument as described in section 15(c), ~~and 15(d), and 15(e)~~ of
 21 this chapter.

22 SECTION 9. IC 36-2-12-10, AS AMENDED BY P.L.57-2013,
 23 SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2018]: Sec. 10. (a) The county surveyor shall maintain a legal
 25 survey record book, which must contain a record of all the legal
 26 surveys made in the county showing outline maps of each section,
 27 grant, tract, subdivision, or group of sections, grants, tracts, and
 28 subdivisions in sufficient detail so that the approximate location of
 29 each legal survey can be shown. Legal surveys shall be indexed by
 30 location.

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

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

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

41 ~~(3) If all the owners of the adjoining lands consent in writing, the~~
 42 ~~notice is not necessary.~~



1 ~~(4)~~ (3) The lines and corners shall be properly marked,
 2 monumented by durable material with letters and figures
 3 establishing such lines and corners, referenced, and tied to
 4 corners shown in the corner record book in the office of the
 5 county surveyor or to corners shown on a plat recorded in the plat
 6 books in the office of the county recorder.

7 ~~(5)~~ (4) The professional surveyor shall present to the county
 8 surveyor for entry in the legal survey record book a plat of the
 9 legal survey and proof of notice to or waiver of notice by the
 10 adjoining landowners. The professional surveyor shall give notice
 11 to adjoining landowners by registered or certified mail within ten
 12 (10) days after filing of the survey.

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

17 **(1) that has not been filed in a court with jurisdiction; or**

18 **(2) with respect to which:**

19 **(A) a deed reflecting the adverse possession; or**

20 **(B) an affidavit under IC 36-2-11-19(a)(4);**

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

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

28 **(d) The procedures set forth in this section apply to the Indiana**
 29 **department of transportation when acting under IC 8-23-5-9.5.**

30 SECTION 10. IC 36-2-12-14, AS AMENDED BY P.L.84-2016,
 31 SECTION 170, IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2018]: Sec. 14. (a) The owner of property
 33 surveyed under this chapter may appeal that survey to the circuit court,
 34 superior court, or probate court for the county:

35 (1) within ninety (90) days if the owner is a resident of the county;
 36 **and was served with notice of the survey; or**

37 (2) within one (1) year if the owner is not a resident of the county.
 38 **and notice was by publication.**

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

42 (c) The court may receive evidence of any other surveys of the same



1 premises. If the court decides against the original survey, it may order
2 a new survey to be made by a competent person other than the person
3 who did the original survey, and it shall:
4 (1) determine the true boundary lines and corners of the lands
5 included in the survey; and
6 (2) order the county surveyor to:
7 (A) locate and perpetuate the boundary lines and corners
8 according to the court's findings by depositing durable markers
9 in the proper places, below the freezing point;
10 (B) mark the boundary lines and corners; and
11 (C) enter the boundary lines and corners in the county
12 surveyor's field notes.
13 (d) A new survey made under this section may be appealed under
14 this section.

