



January 19, 2018

SENATE BILL No. 197

DIGEST OF SB 197 (Updated January 18, 2018 11:20 am - DI 128)

Citations Affected: IC 25-21.5; IC 32-19; IC 34-11; IC 36-2.

Synopsis: Various property issues. 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 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.

(Continued next page)

Effective: July 1, 2018.

Doriot

January 3, 2018, read first time and referred to Committee on Civil Law.
 January 18, 2018, amended, reported favorably — Do Pass.

SB 197—LS 6272/DI 101



Digest Continued

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 the lines established are binding on all affected landowners, including a landowner who claims title under a claim of adverse possession. Defines "original survey". Defines "retracement survey". Provides that, other than for descriptions of lots in new subdivisions, any new or modified real property description prepared by a professional surveyor as a product of an original survey or a retracement survey must include a caption that identifies: (1) the name and registration number of the professional surveyor preparing the description; and (2) the plat of survey produced as part of the original survey or retracement survey, including certain specified information. Repeals the section in the statute concerning the Indiana coordinate system that provides that the statute 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. Makes conforming changes.

SB 197—LS 6272/DI 101



January 19, 2018

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 25-21.5-1-6.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2018]: **Sec. 6.5. "Original survey" means a**
4 **survey that is executed for purposes of locating and describing real**
5 **property that has not been previously described in one (1) or more**
6 **documents conveying an interest in the real property.**

7 SECTION 2. IC 25-21.5-1-8.7 IS ADDED TO THE INDIANA
8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2018]: **Sec. 8.7. "Retracement survey" means**
10 **a survey of real property that has been previously described in one**
11 **(1) or more documents conveying an interest in the real property.**

12 SECTION 3. IC 25-21.5-9-9 IS ADDED TO THE INDIANA CODE
13 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2018]: **Sec. 9. (a) This section does not apply to descriptions of**
15 **lots in new subdivisions.**

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1 **(b) Any new or modified real property description prepared by**
 2 **a professional surveyor as a product of an original survey or a**
 3 **retracement survey must include a caption that identifies:**

4 **(1) the name and professional surveyor registration number**
 5 **of the professional surveyor who prepared the description;**
 6 **and**

7 **(2) the plat of survey produced as a part of the original survey**
 8 **or retracement survey, including the following information:**

9 **(A) The date of the surveyor's certification.**

10 **(B) The date of the last revision, if any, to the survey.**

11 **(C) Any associated project or job number.**

12 **(D) The name of the survey company, if any.**

13 SECTION 4. IC 32-19-2-2, AS AMENDED BY P.L.57-2013,
 14 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2018]: Sec. 2. ~~(a)~~ Coordinates based on the Indiana coordinate
 16 system of 1927, ~~or~~ the Indiana coordinate system of 1983, **or any other**
 17 **coordinate system published by an agency of the federal**
 18 **government or of the state, including the Indiana Geospatial**
 19 **Coordinate System**, purporting to define the position of a point on a
 20 land boundary may not be presented to be recorded in any public land
 21 records or deed records unless the recording document also contains:

22 (1) a description of the nearest first-order or second-order
 23 horizontal geodetic control monument from which the coordinates
 24 being recorded were determined; the method used to relate the
 25 coordinates to the National Spatial Reference System; and

26 (2) the method of survey for the determination: **name and zone**
 27 **of the coordinate system, including the:**

28 **(A) datum;**

29 **(B) datum realization; and**

30 **(C) units;**

31 **used.**

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

39 (c) The publishing of the existing control stations or the acceptance
 40 with intent to publish the newly established control stations by the
 41 National Geodetic Survey constitutes evidence of adherence to the
 42 FGCC specifications. Horizontal geodetic control monuments shall be



1 permanently monumented and control data sheets prepared and filed
2 so that a densification of the control network is accomplished:

3 (d) The surveying techniques and positioning systems used to
4 produce first-order or second-order geodetic precision shall be
5 identified. Annotation must accompany state plane coordinate values
6 when they are used to less than second-order precision:

7 SECTION 5. IC 32-19-3-1 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. If coordinates based
9 on the Indiana coordinate system are used to describe any tract of land,
10 which that, in the same document, is also described by reference to any
11 subdivision, line, or corner of the United States public land surveys:

12 (1) the description by coordinates shall be construed as
13 supplemental to the basic description of the subdivision, line, or
14 corner contained in the official plats and field notes filed of
15 record; and

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

19 SECTION 6. IC 32-19-3-2 IS REPEALED [EFFECTIVE JULY 1,
20 2018]. Sec. 2: This article does not require a purchaser or mortgagee to
21 rely on a description, any part of which depends exclusively upon the
22 Indiana coordinate system.

23 SECTION 7. IC 34-11-2-11 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 11. (a) **Except as**
25 **provided in subsection (b)**, an action upon contracts in writing other
26 than those for the payment of money, and including all mortgages other
27 than chattel mortgages, deeds of trust, judgments of courts of record,
28 and for the recovery of the possession of real estate, must be
29 commenced within ten (10) years after the cause of action accrues.
30 However, an action upon contracts in writing other than those for the
31 payment of money entered into before September 1, 1982, not
32 including chattel mortgages, deeds of trust, judgments of courts of
33 record, or for the recovery of the possession of real estate, must be
34 commenced within twenty (20) years after the cause of action accrues.

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

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

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

39 **and**

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

42 **An action to which this subsection applies must be commenced**



1 **before the expiration of the appeal period set forth in**
 2 **IC 36-2-12-14.**

3 SECTION 8. IC 36-2-12-10, AS AMENDED BY P.L.57-2013,
 4 SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2018]: Sec. 10. (a) The county surveyor shall maintain a legal
 6 survey record book, which must contain a record of all the legal
 7 surveys made in the county showing outline maps of each section,
 8 grant, tract, subdivision, or group of sections, grants, tracts, and
 9 subdivisions in sufficient detail so that the approximate location of
 10 each legal survey can be shown. Legal surveys shall be indexed by
 11 location.

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

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

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

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

24 ~~(4)~~ (3) The lines and corners shall be properly marked,
 25 monumented by durable material with letters and figures
 26 establishing such lines and corners, referenced, and tied to
 27 corners shown in the corner record book in the office of the
 28 county surveyor or to corners shown on a plat recorded in the plat
 29 books in the office of the county recorder.

30 ~~(5)~~ (4) The professional surveyor shall present to the county
 31 surveyor for entry in the legal survey record book a plat of the
 32 legal survey and proof of notice to ~~or waiver of notice by~~ the
 33 adjoining landowners. The professional surveyor shall give notice
 34 to adjoining landowners by registered or certified mail within ten
 35 (10) days after filing of the survey.

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

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

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

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



1 **(B) an affidavit under IC 36-2-11-19(a)(4);**
 2 **has not been recorded in the office of the recorder of the**
 3 **county in which the property is located;**
 4 **as of the date the survey is entered into the legal survey record**
 5 **book under this section,** unless an appeal is taken under section 14 of
 6 this chapter. The right to appeal commences when the plat of the legal
 7 survey is ~~recorded~~ **entered** by the county surveyor in the legal survey
 8 record book.

9 SECTION 9. IC 36-2-12-14, AS AMENDED BY P.L.84-2016,
 10 SECTION 170, IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2018]: Sec. 14. (a) The owner of property
 12 surveyed under this chapter may appeal that survey to the circuit court,
 13 superior court, or probate court for the county:

- 14 (1) within ninety (90) days if the owner is a resident of the county;
 15 ~~and was served with notice of the survey;~~ or
 16 (2) within one (1) year if the owner is not a resident of the county.
 17 ~~and notice was by publication.~~

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

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

- 25 (1) determine the true boundary lines and corners of the lands
 26 included in the survey; and
 27 (2) order the county surveyor to:
 28 (A) locate and perpetuate the boundary lines and corners
 29 according to the court's findings by depositing durable markers
 30 in the proper places, below the freezing point;
 31 (B) mark the boundary lines and corners; and
 32 (C) enter the boundary lines and corners in the county
 33 surveyor's field notes.

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



COMMITTEE REPORT

Madam President: The Senate Committee on Civil Law, to which was referred Senate Bill No. 197, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 15.

Page 2, delete lines 1 through 16, begin a new paragraph and insert:

"SECTION 1. IC 25-21.5-1-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 6.5. "Original survey" means a survey that is executed for purposes of locating and describing real property that has not been previously described in one (1) or more documents conveying an interest in the real property.**

SECTION 2. IC 25-21.5-1-8.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 8.7. "Retracement survey" means a survey of real property that has been previously described in one (1) or more documents conveying an interest in the real property.**

SECTION 3. IC 25-21.5-9-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 9. (a) This section does not apply to descriptions of lots in new subdivisions.**

(b) Any new or modified real property description prepared by a professional surveyor as a product of an original survey or a retracement survey must include a caption that identifies:

- (1) the name and professional surveyor registration number of the professional surveyor who prepared the description; and**
- (2) the plat of survey produced as a part of the original survey or retracement survey, including the following information:**
 - (A) The date of the surveyor's certification.**
 - (B) The date of the last revision, if any, to the survey.**
 - (C) Any associated project or job number.**
 - (D) The name of the survey company, if any."**

Page 3, delete lines 23 through 28, begin a new paragraph and insert:

"SECTION 6. IC 32-19-3-2 IS REPEALED [EFFECTIVE JULY 1, 2018]. **Sec. 2: This article does not require a purchaser or mortgagee to rely on a description, any part of which depends exclusively upon the Indiana coordinate system."**

Page 4, delete lines 9 through 42.

Delete page 5.

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Page 6, delete lines 1 through 21.

Page 7, line 9, strike "or waiver of notice by".

Page 7, delete lines 28 through 29.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 197 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 4, Nays 1.

