

# SENATE BILL No. 230

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 32-31.

**Synopsis:** Enforcement of habitability standards. Allows a city, county, or town to bring a nuisance action against a tenant or other person responsible for a nuisance. Defines "essential services" as certain utility services needed for the safe and habitable occupation by a tenant of the tenant's rental unit. Defines "essential systems" as certain systems used to deliver essential services to a rental unit. Requires a landlord to repair or replace an essential system not later than 24 hours after being notified by a tenant that the tenant's rental unit is without essential services under certain circumstances. Provides that a tenant may enforce a statutory obligation of a landlord by providing notice of the landlord's noncompliance and allows for certain remedies to the tenant for the landlord's noncompliance. Provides that, during the pendency of a court action brought by a tenant to enforce a statutory obligation of a landlord, the court may order the tenant to make the regular rental payments otherwise due under the rental agreement to the clerk of the court or an attorney trust account, to be held in trust for disbursement to the prevailing party, as ordered by the court.

**Effective:** July 1, 2022.

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January 6, 2022, read first time and referred to Committee on Local Government.

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Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

# SENATE BILL No. 230



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 32-31-1-22, AS AMENDED BY P.L.86-2018,
- 2 SECTION 227, IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2022]: Sec. 22. (a) The definitions in
- 4 IC 32-31-3 apply throughout this section.
- 5 (b) As used in this section, "penalty" refers to any of the following:
- 6 (1) The assessment of a penalty, fine, or fee.
- 7 (2) Actual or threatened eviction from a rental unit, or the causing
- 8 of an actual or threatened eviction from a rental unit.
- 9 (c) As used in this section, "political subdivision" has the meaning
- 10 set forth in IC 36-1-2-13.
- 11 (d) Except as provided in subsection (e), a political subdivision may
- 12 not adopt or enforce any ordinance, rule, or regulation that imposes a
- 13 penalty, or allows for the imposition of a penalty, against a tenant, an
- 14 owner, or a landlord for a contact made to request law enforcement
- 15 assistance or other emergency assistance for one (1) or more rental
- 16 units if:
- 17 (1) the contact is made by or on behalf of:



- 1 (A) a victim or potential victim of abuse;  
 2 (B) a victim or potential victim of a crime; or  
 3 (C) an individual in an emergency; and  
 4 (2) either of the following applies:  
 5 (A) At the time the contact is made, the person making the  
 6 contact reasonably believes that law enforcement assistance or  
 7 other emergency assistance is necessary to prevent the  
 8 perpetration or escalation of abuse, a crime, or an emergency.  
 9 (B) If abuse, a crime, or an emergency occurs, the law  
 10 enforcement assistance or other emergency assistance was  
 11 needed.
- 12 (e) Subject to subsections (f) and (g), this section does not prohibit  
 13 a political subdivision from adopting or enforcing an ordinance, a rule,  
 14 or a regulation that imposes a penalty for a contact that:  
 15 (1) is made to request law enforcement assistance or other  
 16 emergency assistance; and  
 17 (2) is not made by or on behalf of:  
 18 (A) a victim or potential victim of abuse;  
 19 (B) a victim or potential victim of a crime; or  
 20 (C) an individual in an emergency.
- 21 (f) If:  
 22 (1) a political subdivision imposes a penalty under an ordinance,  
 23 a rule, or a regulation authorized by subsection (e); and  
 24 (2) the prohibited contact to request law enforcement assistance  
 25 or other emergency assistance is made by a tenant in a rental unit;  
 26 the penalty imposed must be assessed against the tenant of the rental  
 27 unit and not against the landlord or owner of the rental unit.
- 28 (g) Any penalty that is assessed under an ordinance, a rule, or a  
 29 regulation authorized by subsection (e) may not exceed two hundred  
 30 fifty dollars (\$250).
- 31 (h) Nothing in this section shall be construed to prevent a housing  
 32 authority established under IC 36-7-18 from enforcing rights or  
 33 remedies established by contract or federal law against a landlord or  
 34 owner of a rental unit.
- 35 (i) Nothing in this section shall be construed to prevent an attorney  
 36 representing a city, county, or town from:  
 37 (1) bringing a nuisance action described under IC 32-30-6-7(b)  
 38 against a landlord, ~~or~~ owner of a rental unit, **tenant, or other**  
 39 **person responsible for the nuisance; or**  
 40 **(2) recovering damages, fees, and costs that are permitted**  
 41 **under IC 32-30-6-7 and IC 32-30-6-8.**  
 42 SECTION 2. IC 32-31-8-5 IS AMENDED TO READ AS



1       FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 5. (a) **As used in this**  
 2 **section, "essential services" means:**

- 3           **(1) electricity;**  
 4           **(2) gas;**  
 5           **(3) heat;**  
 6           **(4) water; or**  
 7           **(5) other services;**

8 **needed for the safe and habitable occupation by a tenant of the**  
 9 **tenant's rental unit.**

10       **(b) As used in this section, "essential system" means a system,**  
 11 **or one (1) or more parts or components of a system, that:**

- 12           **(1) is described in subsection (c)(4); and**  
 13           **(2) is:**

- 14               **(A) used for; or**  
 15               **(B) necessary to;**

16 **the delivery of one (1) or more essential services to a rental**  
 17 **unit.**

18 **(c) A landlord shall do the following:**

- 19           (1) Deliver the rental premises to a tenant in compliance with the  
 20 rental agreement, and in a safe, clean, and habitable condition.  
 21           (2) Comply with all health and housing codes applicable to the  
 22 rental premises.  
 23           (3) Make all reasonable efforts to keep common areas of a rental  
 24 premises in a clean and proper condition.  
 25           (4) Provide and maintain the following items in a rental premises  
 26 in good and safe working condition, if provided on the premises  
 27 at the time the rental agreement is entered into:  
 28               (A) Electrical systems.  
 29               (B) Plumbing systems sufficient to accommodate a reasonable  
 30 supply of hot and cold running water at all times.  
 31               (C) Sanitary systems.  
 32               (D) Heating, ventilating, and air conditioning systems. A  
 33 heating system must be sufficient to adequately supply heat at  
 34 all times.  
 35               (E) Elevators, if provided.  
 36               (F) Appliances supplied as an inducement to the rental  
 37 agreement.

38       **(d) Subject to subsections (e) and (f), a landlord shall repair or**  
 39 **replace an essential system not later than twenty-four (24) hours**  
 40 **after being notified by a tenant that the tenant's rental unit is**  
 41 **without one (1) or more essential services as a result of:**

- 42           **(1) a malfunction in the essential system; or**



- 1           (2) the landlord's failure to otherwise maintain the essential  
 2           system in good and safe working condition.
- 3           (e) The twenty-four (24) hour period set forth in subsection (d)  
 4           does not apply if:
- 5           (1) the tenant's rental unit is without one (1) or more essential  
 6           services because of a malfunction in an essential system, and  
 7           the malfunction is the direct result of the tenant's commission  
 8           of waste to the essential system or the rental unit; or  
 9           (2) the landlord makes a good faith attempt within the  
 10          twenty-four (24) hour period set forth in subsection (d) to  
 11          undertake the needed repairs to, or replacement of, an  
 12          essential system through:
- 13           (A) the landlord's own efforts; or  
 14           (B) the services of:
- 15           (i) a contractor; or  
 16           (ii) an employee or agent of the landlord;  
 17          and the landlord or person described in clause (B) is unable to  
 18          begin or complete the needed repairs or replacement within  
 19          the twenty-four (24) hour period set forth in subsection (d).
- 20          (f) Subsection (d) does not:
- 21          (1) prohibit a landlord from interrupting, shutting off, or  
 22          terminating one (1) or more essential services to a rental unit  
 23          as needed:
- 24           (A) in an emergency;  
 25           (B) to make good faith repairs; or  
 26           (C) for construction; or
- 27          (2) require a landlord to pay for one (1) or more essential  
 28          services provided to a rental unit if the landlord has not  
 29          agreed to do so under the rental agreement.
- 30          SECTION 3. IC 32-31-8-5.5 IS ADDED TO THE INDIANA CODE  
 31          AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 32          1, 2022]: **Sec. 5.5. (a) In addition to, or instead of, bringing an  
 33          action under section 6 of this chapter, a tenant may enforce an  
 34          obligation of a landlord under this chapter by doing the following:**
- 35           (1) Delivering to the landlord, at least thirty (30) days before  
 36           the tenant's next regular rental payment is due under the  
 37           rental agreement, a written notice that includes the following:
- 38           (A) A statement of the nature of the landlord's alleged  
 39           failure to comply with one (1) or more requirements of this  
 40           chapter.
- 41           (B) A good faith estimate of the cost of any repairs or other  
 42           actions necessary to remedy the conditions resulting from



1 the landlord's alleged failure to comply.

2 (C) A statement that, if the landlord fails to make the  
3 repairs or take the actions identified under clause (B)  
4 before the tenant's next regular rental payment is due  
5 under the rental agreement, the tenant intends to:

6 (i) withhold from the tenant's next regular rental  
7 payment due under the rental agreement the estimated  
8 cost of the repairs or other actions identified under  
9 clause (B); and

10 (ii) use the money withheld to make the repairs or take  
11 the actions necessary to remedy the conditions identified  
12 under clause (B).

13 A tenant shall deliver a notice under this subdivision to the  
14 person authorized to act as agent for the owner under  
15 IC 32-31-3-18(a)(2) at the address required to be disclosed for  
16 that person under IC 32-31-3-18(a).

17 (2) Subject to subsection (b):

18 (A) withholding from the tenant's next regular rental  
19 payment due under the rental agreement following  
20 delivery of the notice under subdivision (1), the estimated  
21 cost of the repairs or other actions identified under  
22 subdivision (1)(B); and

23 (B) using the money withheld to make the repairs or take  
24 the actions necessary to remedy the conditions identified  
25 under subdivision (1)(B);

26 if the landlord fails or refuses to make the repairs or take the  
27 actions necessary to remedy the condition described in the  
28 tenant's notice under subdivision (1) before the due date of the  
29 tenant's next regular rental payment following delivery of the  
30 notice under subdivision (1).

31 (b) A tenant:

32 (1) may not take any action described in subsection (a)(2) if  
33 the tenant prevents the landlord from having reasonable  
34 access to the rental premises to make any repairs or take any  
35 action necessary to remedy the condition described in the  
36 tenant's notice under subsection (a)(1) before the due date of  
37 the tenant's next regular rental payment following delivery of  
38 the notice under subsection (a)(1); and

39 (2) shall refund to the landlord any amount withheld under  
40 subsection (a)(2)(A) that exceeds the actual costs incurred by  
41 the tenant in making any repairs or taking any actions under  
42 subsection (a)(2)(B), by including the excess amount in the



1 next rental payment due under the rental agreement following  
 2 completion of the repairs or other actions under subsection  
 3 (a)(2)(B). If no rental payments are due under the rental  
 4 agreement following completion of the repairs or other  
 5 actions under subsection (a)(2)(B), the landlord may withhold  
 6 the amount of the excess from any security deposit due to the  
 7 tenant under IC 32-31-3.

8 A tenant is not entitled to withhold from subsequent rental  
 9 payments due under the rental agreement, or otherwise demand  
 10 from the landlord, any amounts incurred by the tenant in making  
 11 any repairs or taking any actions under subsection (a)(2)(B) that  
 12 exceed the cost estimates for the repairs or actions set forth in  
 13 subsection (a)(1)(B).

14 SECTION 4. IC 32-31-8-6.5 IS ADDED TO THE INDIANA CODE  
 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 16 1, 2022]: Sec. 6.5. (a) This section applies to an action that is filed  
 17 under section 6 of this chapter after June 30, 2022.

18 (b) During the pendency of an action to which this section  
 19 applies, if the tenant continues to occupy the rental unit upon  
 20 which the action is based, the court may issue a provisional order  
 21 that requires the tenant to make regular rental payments otherwise  
 22 due to the landlord under the rental agreement to:

- 23 (1) the clerk of the court, who shall hold the payments in trust  
 24 for the parties; or  
 25 (2) an attorney trust account;

26 as directed by the court. The funds held by the clerk or in an  
 27 attorney trust account under this subsection may not be disbursed  
 28 unless the court issues an order for their disbursement.

29 (c) Subject to subsection (e), if the tenant is the prevailing party  
 30 in the action under section 6 of this chapter, the tenant is entitled  
 31 to a refund of payments made under an order issued by the court  
 32 under subsection (b). The amount of the refund:

- 33 (1) shall be determined by the court after taking into  
 34 consideration:  
 35 (A) the estimated cost of any repairs or other action  
 36 necessary to remedy the condition that was the basis of the  
 37 tenant's action under section 6 of this chapter;  
 38 (B) any expenses incurred by the tenant in undertaking any  
 39 repairs or other action necessary to remedy the condition  
 40 that was the basis of the tenant's action under section 6 of  
 41 this chapter;  
 42 (C) any efforts undertaken by the landlord before or after



1           the filing of the tenant's action under section 6 of this  
2           chapter to remedy the condition that was the basis of the  
3           tenant's action under section 6 of this chapter; and

4           **(D) any other factors that justice may require; and**

5           **(2) shall be disbursed to the tenant upon order of the court.**

6           **(d) Subject to subsection (e), if the tenant is not the prevailing**  
7           **party in the action under section 6 of this chapter, the tenant is not**  
8           **entitled to a refund of any rental payments made under an order**  
9           **issued by the court under subsection (b), and any amounts held in**  
10           **trust by the clerk of the court or in an attorney trust fund shall,**  
11           **upon order of the court, be disbursed to the landlord and credited**  
12           **against the amount of the regular rental payments due to the**  
13           **landlord under the rental agreement during the pendency of the**  
14           **action.**

15           **(e) The court may reduce the amount of:**

16           **(1) a refund to be disbursed to a tenant in an order under**  
17           **subsection (c), if the court determines that the tenant**  
18           **contributed in any way to the necessity of repairs or other**  
19           **action needed to remedy the condition that was the basis of**  
20           **the tenant's action under section 6 of this chapter; or**

21           **(2) any amounts to be disbursed to a landlord in an order**  
22           **under subsection (d), if the court determines that the**  
23           **landlord's failure to comply with one (1) or more of the**  
24           **requirements of this chapter contributed in any way to the**  
25           **necessity of repairs or other action needed to remedy the**  
26           **condition that was the basis of the tenant's action under**  
27           **section 6 of this chapter;**

28           **as justice may require.**

