

# SENATE BILL No. 385

---

## DIGEST OF INTRODUCED BILL

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

**Synopsis:** Eviction action information and tenant screening. Prohibits a court or the operator of a case management system from disclosing information relating to an eviction action: (1) if the case is dismissed or if the tenant prevails in the action or upon appeal; or (2) upon order of the court after a petition to prohibit disclosure is made by the tenant: (A) not earlier than three years after a judgment of eviction against the tenant becomes final; or (B) at least one year after the case was filed if the case remains pending with no judgment. Defines a "tenant screening report" as a report that: (1) is prepared from files compiled and maintained with respect to an applicant for the rental of a rental unit; and (2) describes the applicant's credit characteristics, rental history, or criminal history. Requires a landlord that denies an applicant's application for the rental of a rental unit based on information in a tenant screening report to mail a copy of the tenant screening report to the applicant. Provides requirements for the application process for an applicant who intends to use a housing choice voucher for the rental of a rental unit. Provides that if a landlord fails to mail an applicant a copy of the tenant screening report, as required under these provisions, an applicant may bring a cause of action in a court with jurisdiction.

**Effective:** July 1, 2022.

---

---

## Yoder

---

---

January 11, 2022, read first time and referred to Committee on Judiciary.

---

---



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. 385

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 32-31-10 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2022]:

4 **Chapter 10. Disclosure of Eviction Information**

5 **Sec. 1. This chapter applies to an eviction action regardless of**  
6 **when the eviction action is originally filed.**

7 **Sec. 2. The definitions in IC 32-31-3 apply throughout this**  
8 **chapter.**

9 **Sec. 3. As used in this chapter, "eviction action" means:**

10 (1) **an action for possession of the rental premises (as defined**  
11 **in IC 32-31-7-3), including a petition for an emergency**  
12 **possessory order under IC 32-31-6; or**

13 (2) **an action to evict the tenant from the rental premises (as**  
14 **defined in IC 32-31-7-3);**

15 **as authorized by the rental agreement or by any applicable law.**

16 **Sec. 4. (a) If a landlord files an eviction action and:**

17 (1) **the eviction action is dismissed;**



1           (2) a judgment in favor of the tenant is entered by the court;  
2           or

3           (3) a judgment is entered by the court against the tenant and  
4           the judgment is subsequently overturned or vacated on  
5           appeal;

6           the court in which the eviction action was filed shall order the clerk  
7           of the court and the operator of any state, regional, or local case  
8           management system not to disclose or permit disclosure of  
9           information related to the eviction action to any person, other than  
10          to any person under a court order, or other than to a law  
11          enforcement agency for an authorized law enforcement activity.  
12          The court shall issue an order under this subsection at the time the  
13          eviction action is dismissed, the judgment in favor of the tenant  
14          becomes final, or the opinion vacating the judgment against the  
15          tenant becomes final, as applicable.

16          (b) If an appellate court overturns or vacates a judgment  
17          entered against a tenant in an eviction action, as described in  
18          subsection (a)(3), and the court in which the action is filed then  
19          enters an order prohibiting the disclosure of any records in the  
20          action, as required under subsection (a), the appellate court shall:

21               (1) redact the opinion or memorandum decision as it appears  
22               on the computer gateway administered by the office of  
23               technology so that it does not include the name of the tenant;  
24               and

25               (2) provide a redacted copy of the opinion to any publisher or  
26               organization to whom the opinion or memorandum decision  
27               is provided after the date of the order under subsection (a).

28          The Indiana supreme court and the court of appeals are not  
29          required to redact, destroy, or otherwise dispose of any copy of an  
30          opinion or memorandum decision that includes the name of the  
31          tenant and that was created before the date of the order under  
32          subsection (a).

33          (c) This subsection applies if:

34               (1) a landlord files an eviction action; and

35               (2) a judgment is entered by the court against the tenant.

36          Not earlier than three (3) years after the date the judgment against  
37          the tenant becomes final, the tenant may petition the court in which  
38          the eviction action was filed to prohibit disclosure of information  
39          related to the eviction action to any person, other than to any  
40          person under a court order, or other than to a law enforcement  
41          agency for an authorized law enforcement activity.

42          (d) If:



- 1           (1) a landlord files an eviction action; and  
 2           (2) after at least one (1) year from the date of filing:  
 3                (A) the case remains pending; and  
 4                (B) a judgment in the eviction action has not been entered  
 5                by the court;

6 the tenant may petition the court in which the eviction action was  
 7 filed to prohibit disclosure of information related to the eviction  
 8 action to any person, other than to any person under a court order,  
 9 or other than to a law enforcement agency for an authorized law  
 10 enforcement activity, while the case remains pending.

11           (e) If a court in which an eviction action was filed fails to order  
 12 the clerk of the court and the operator of any state, regional, or  
 13 local case management system to prohibit disclosure of information  
 14 related to the eviction action under subsection (a), the tenant may  
 15 petition the court in which the action was filed to prohibit  
 16 disclosure of information related to the eviction action to any  
 17 person, other than to any person under a court order, or other than  
 18 to a law enforcement agency for an authorized law enforcement  
 19 activity.

20           (f) A petition under subsection (c), (d), or (e) must set forth:

- 21                (1) the case number or cause number for the eviction action;  
 22                (2) the date the eviction action was dismissed, if applicable;  
 23                (3) the date of the judgment in the case, if applicable;  
 24                (4) the date the judgment was overturned or vacated, if  
 25                applicable;  
 26                (5) the date of the petitioner's birth; and  
 27                (6) either of the following:

28                    (A) The petitioner's driver's license number, state  
 29                    identification card number, or photo exempt identification  
 30                    card number.

31                    (B) The last four (4) digits of the petitioner's Social  
 32                    Security number.

33           (g) The court may, with respect to a petition filed under  
 34 subsection (c), (d), or (e):

- 35                (1) summarily grant the petition;  
 36                (2) set the matter for hearing; or  
 37                (3) summarily deny the petition, if the court determines that:  
 38                    (A) the petition is insufficient; or  
 39                    (B) based on the evidence before the court, the petitioner  
 40                    is not entitled to have access to information related to the  
 41                    eviction action restricted.

42           (h) If the court does not summarily grant or summarily deny a



1 petition filed under subsection (c), (d), or (e), the court shall set the  
2 matter for a hearing.

3 (i) After a hearing is held under subsection (h), the court shall  
4 grant the petition filed under:

5 (1) subsection (c), if the tenant is entitled to relief under  
6 subsection (c);

7 (2) subsection (d), if the tenant is entitled to relief under  
8 subsection (d); or

9 (3) subsection (e), if the tenant is entitled to relief under  
10 subsection (a).

11 (j) If the court grants a petition filed under subsection (c), (d),  
12 or (e):

13 (1) the court shall order the clerk of the court and the  
14 operator of any state, regional, or local case management  
15 system not to disclose or permit disclosure of information  
16 related to the eviction action to any person, other than to any  
17 person under a court order, or other than to a law  
18 enforcement agency for an authorized law enforcement  
19 activity; and

20 (2) subsection (b) applies if the court determines that the  
21 tenant is entitled to relief under subsection (a)(3).

22 SECTION 2. IC 32-31-11 IS ADDED TO THE INDIANA CODE  
23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
24 JULY 1, 2022]:

25 **Chapter 11. Tenant Screening and Application Requirements**

26 **Sec. 1.** As used in this chapter, "applicant" means an individual  
27 who has submitted an application to a landlord for the rental of a  
28 rental unit.

29 **Sec. 2.** As used in this chapter, "housing choice voucher" means  
30 a voucher that provides a subsidy for the rental of a rental unit of  
31 an individual's choice under Section 8 of the United States Housing  
32 Act of 1937 (42 U.S.C. 1437f).

33 **Sec. 3.** As used in this chapter, "landlord" means:

34 (1) the owner, lessor, or sublessor of a rental unit; or

35 (2) a person authorized to exercise any aspect of the  
36 management of a rental unit.

37 **Sec. 4.** As used in this chapter, "rental unit" has the meaning set  
38 forth in IC 32-31-3-8.

39 **Sec. 5.** As used in this chapter, "tenant screening report" means  
40 a report that:

41 (1) is prepared from files compiled and maintained with  
42 respect to an applicant; and



- 1           (2) describes the applicant's credit characteristics, rental  
2           history, or criminal history.
- 3           **Sec. 6. A landlord must have:**
- 4           (1) a purpose related to housing; and
- 5           (2) the written permission of the applicant, including the  
6           applicant's signature;
- 7           to obtain a tenant screening report concerning an applicant.
- 8           **Sec. 7. (a) If a landlord denies the application of an applicant for**  
9           **the rental of a rental unit based partly or completely on**  
10          **information in a tenant screening report concerning the applicant,**  
11          **the landlord must provide the applicant with a copy of the tenant**  
12          **screening report, including the name, address, and telephone**  
13          **number of the person that supplied the tenant screening report.**  
14          **The landlord must mail the applicant a copy of the tenant**  
15          **screening report not more than thirty (30) days after the**  
16          **applicant's application is denied.**
- 17          **(b) At the time of application, an applicant must provide the**  
18          **landlord with a proper mailing address to which to deliver the copy**  
19          **of the tenant screening report. A landlord is not liable under this**  
20          **chapter if the tenant does not provide the landlord with a proper**  
21          **mailing address for the applicant.**
- 22          **Sec. 8. If an applicant intends to use a housing choice voucher**  
23          **for the rental of a rental unit the following apply:**
- 24          (1) The application fee for the rental unit may not exceed  
25          twenty dollars (\$20).
- 26          (2) If the applicant's application is denied, the landlord must  
27          return the full amount of the application fee to the applicant.
- 28          (3) The applicant is automatically entitled to a copy of the  
29          applicant's tenant screening report, regardless of whether the  
30          applicant's application is approved or denied.
- 31          **Sec. 9. If a landlord fails to comply with section 7(a) of this**  
32          **chapter, an applicant may bring a cause of action in a court with**  
33          **jurisdiction. If the applicant is the prevailing party in an action**  
34          **under this chapter, the applicant may obtain recovery of attorney's**  
35          **fees and court costs, as ordered by the court.**

