



Reprinted
February 14, 2017

SENATE BILL No. 558

DIGEST OF SB 558 (Updated February 13, 2017 4:07 pm - DI 128)

Citations Affected: IC 32-31; IC 36-1; IC 36-7.

Synopsis: Leases and sales of real property. Amends the statute concerning landlord and tenant relations to provide that a unit may not regulate rental rates for privately owned real property, through a zoning ordinance or otherwise, unless the regulation is authorized by an act of the general assembly. (Current law provides that regulation of rental rates for such property must be authorized by an act of the general assembly.) Prohibits a political subdivision from imposing certain penalties against a tenant, an owner, or a landlord for a contact made to request law enforcement or other emergency assistance for one or more rental units if: (1) the contact is made by or on behalf of: (A) a victim or potential victim of abuse; (B) a victim or potential victim of a crime; or (C) an individual in an emergency; and (2) certain conditions apply. Specifies that a political subdivision is not prohibited from adopting an ordinance, a rule, or a regulation to impose a penalty for a request for law enforcement or other emergency assistance if the request is not made by or on behalf of: (1) a victim or potential victim of abuse; (2) a victim or potential victim of a crime; or (3) an individual in an emergency. Provides that if a political subdivision: (1) imposes a penalty under any such authorized ordinance, rule, or regulation; and (2) the prohibited request for law enforcement is made
(Continued next page)

Effective: January 1, 2017 (retroactive); July 1, 2017.

Holdman, Buck

January 18, 2017, read first time and referred to Committee on Civil Law.
January 31, 2017, amended, reported favorably — Do Pass.
February 13, 2017, read second time, amended, ordered engrossed.

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Digest Continued

by a tenant in a rental unit; the penalty imposed must be assessed against the tenant and not against the landlord or owner of the rental unit. Provides that any such penalty may not exceed \$250. Provides that the residential landlord-tenant statute does not prohibit an owner or landlord from refusing to rent a rental unit on the basis of a reasonable occupancy standard. Provides the type of occupancy standard that is presumed reasonable. Prohibits a county or municipality from: (1) establishing the sales or lease price for real property that it does not own or have the right to lease, or requiring that real property be designated for sale or lease to any particular class or group of residents, occupants, or owners; or (2) adopting or enforcing any: (A) land use regulation; (B) general or specific planning provision; or (C) condition of approval; that has the same effect. Voids any: (1) land use regulation; (2) general or specific planning provision; or (3) condition of approval; that is adopted by a county or municipality after December 31, 2016, and that violates these provisions.



Reprinted
February 14, 2017

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 558

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 32-31-1-20 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 20. (a) **Subject to**
3 **IC 36-1-3-8.5**, this section does not apply to privately owned real
4 property for which government funds or benefits have been allocated
5 from the United States government, the state, or a political subdivision
6 for the express purpose of providing reduced rents to low or moderate
7 income tenants.

8 (b) **Regulation of A unit (as defined in IC 36-1-2-23) may not**
9 **regulate** rental rates for privately owned real property, **must be**
10 **through a zoning ordinance or otherwise, unless the regulation is**
11 **authorized by an act of the general assembly.**

12 SECTION 2. IC 32-31-1-22 IS ADDED TO THE INDIANA CODE
13 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2017]: Sec. 22. (a) **The definitions in IC 32-31-3 apply throughout**
15 **this section.**

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(b) As used in this section, "penalty" refers to any of the following:

- (1) The assessment of a penalty, fine, or fee.
- (2) Actual or threatened eviction from a rental unit, or the causing of an actual or threatened eviction from a rental unit.

(c) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(d) Except as provided in subsection (e), a political subdivision may not adopt or enforce any ordinance, rule, or regulation that imposes a penalty, or allows for the imposition of a penalty, against a tenant, an owner, or a landlord for a contact made to request law enforcement assistance or other emergency assistance for one (1) or more rental units if:

- (1) the contact is made by or on behalf of:
 - (A) a victim or potential victim of abuse;
 - (B) a victim or potential victim of a crime; or
 - (C) an individual in an emergency; and
- (2) either of the following applies:
 - (A) At the time the contact is made, the person making the contact reasonably believes that law enforcement assistance or other emergency assistance is necessary to prevent the perpetration or escalation of abuse, a crime, or an emergency.
 - (B) If abuse, a crime, or an emergency occurs, the law enforcement assistance or other emergency assistance was needed.

(e) Subject to subsections (f) and (g), this section does not prohibit a political subdivision from adopting or enforcing an ordinance, a rule, or a regulation that imposes a penalty for a contact that:

- (1) is made to request law enforcement assistance or other emergency assistance; and
- (2) is not made by or on behalf of:
 - (A) a victim or potential victim of abuse;
 - (B) a victim or potential victim of a crime; or
 - (C) an individual in an emergency.

(f) If a political subdivision:

- (1) imposes a penalty under an ordinance, a rule, or a regulation authorized by subsection (e); and
- (2) the prohibited contact to request law enforcement assistance or other emergency assistance is made by a tenant in a rental unit;



1 the penalty imposed must be assessed against the tenant of the
2 rental unit and not against the landlord or owner of the rental unit.

3 (g) Any penalty that is assessed under an ordinance, a rule, or
4 a regulation authorized by subsection (e) may not exceed two
5 hundred fifty dollars (\$250).

6 SECTION 3. IC 32-31-8-7 IS ADDED TO THE INDIANA CODE
7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2017]: Sec. 7. (a) The residential landlord-tenant statute (as
9 defined in IC 32-31-2.9-2) does not prohibit an owner or a landlord
10 from refusing to rent a rental unit on the basis of a reasonable
11 occupancy standard.

12 (b) For purposes of this section, an occupancy standard is
13 presumed reasonable if:

14 (1) it permits two (2) individuals per bedroom; and

15 (2) the owner or landlord:

16 (A) does not include infants less than one (1) year of age in
17 the individuals per bedroom count under subdivision (1);
18 and

19 (B) increases the number of individuals per unit by
20 considering whether the configuration of a unit includes a:

21 (i) den;

22 (ii) library;

23 (iii) finished basement; or

24 (iv) loft;

25 that could reasonably be used as a sleeping area, unless
26 doing so would violate applicable state and local codes,
27 including fire codes.

28 (c) An owner or landlord is not required to consider a kitchen,
29 dining room, living room, bathroom, hallway, or closet as a
30 sleeping area.

31 SECTION 4. IC 36-1-24 IS ADDED TO THE INDIANA CODE AS
32 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
33 JANUARY 1, 2017 (RETROACTIVE)]:

34 Chapter 24. Sales or Leases of Real Property; Prohibited
35 Regulations

36 Sec. 1. Except as provided in section 2 of this chapter and
37 subject to section 3 of this chapter, a county or municipality:

38 (1) may not:

39 (A) establish the sales or lease price for real property that
40 it does not own or have the right to lease, either directly or
41 through one (1) of its boards, agencies, or commissions; or

42 (B) require that real property be designated for sale or



1 lease to any particular class or group of residents,
 2 occupants, or owners; and
 3 (2) may not:
 4 (A) adopt or enforce any land use regulation or general or
 5 specific planning provision; or
 6 (B) impose as a condition for approving a building or use
 7 permit a requirement or fee;
 8 that has the effect of establishing the sales or lease price for
 9 real property or of requiring that real property be designated
 10 for sale or lease to any particular class or group of residents,
 11 occupants, or owners.
 12 Sec. 2. This chapter does not abrogate or limit the authority of
 13 a county or municipality to adopt or enforce any:
 14 (1) land use regulation;
 15 (2) general or specific planning provision; or
 16 (3) condition of approval;
 17 that creates or implements an incentive, a density bonus, or
 18 another voluntary provision or condition designed to increase the
 19 supply of moderate or lower cost housing.
 20 Sec. 3. Any:
 21 (1) land use regulation;
 22 (2) general or specific planning provision; or
 23 (3) condition of approval;
 24 that is adopted by a county or municipality after December 31,
 25 2016, and that violates section 1 of this chapter is void.
 26 SECTION 5. IC 36-7-2-11 IS ADDED TO THE INDIANA CODE
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 28 JANUARY 1, 2017 (RETROACTIVE)]: Sec. 11. Any:
 29 (1) land use regulation;
 30 (2) general or specific planning provision; or
 31 (3) condition of approval;
 32 that is adopted by a county or municipality after December 31,
 33 2016, and that violates IC 36-1-24-1 is void.
 34 SECTION 6. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Civil Law, to which was referred Senate Bill No. 558, 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 3, delete lines 2 through 12.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 558 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 5, Nays 2.

 SENATE MOTION

Madam President: I move that Senate Bill 558 be amended to read as follows:

Page 3, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 3. IC 32-31-8-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2017]: **Sec. 7. (a) The residential landlord-tenant statute (as defined in IC 32-31-2.9-2) does not prohibit an owner or a landlord from refusing to rent a rental unit on the basis of a reasonable occupancy standard.**

(b) For purposes of this section, an occupancy standard is presumed reasonable if:

(1) it permits two (2) individuals per bedroom; and

(2) the owner or landlord:

(A) does not include infants less than one (1) year of age in the individuals per bedroom count under subdivision (1); and

(B) increases the number of individuals per unit by considering whether the configuration of a unit includes a:

(i) den;

(ii) library;

(iii) finished basement; or

(iv) loft;

that could reasonably be used as a sleeping area, unless doing so would violate applicable state and local codes,



including fire codes.

(c) An owner or landlord is not required to consider a kitchen, dining room, living room, bathroom, hallway, or closet as a sleeping area."

Page 3, line 10, delete ";" and insert "**that it does not own or have the right to lease, either directly or through one (1) of its boards, agencies, or commissions;**".

Renumber all SECTIONS consecutively.

(Reference is to SB 558 as printed February 1, 2017.)

HOLDMAN

SENATE MOTION

Madam President: I move that Senate Bill 558 be amended to read as follows:

Page 2, line 27, delete "subsection (f)," and insert "**subsections (f) and (g),**".

Page 3, between lines 1 and 2, begin a new paragraph and insert:

"(g) Any penalty that is assessed under an ordinance, a rule, or a regulation authorized by subsection (e) may not exceed two hundred fifty dollars (\$250)."

(Reference is to SB 558 as printed February 1, 2017.)

YOUNG M

