



February 5, 2021

ENGROSSED HOUSE BILL No. 1056

DIGEST OF HB 1056 (Updated February 3, 2021 1:53 pm - DI 140)

Citations Affected: IC 32-21.

Synopsis: Recording requirements. Amends the requirements for instruments and conveyances to be recorded. Adds instances in which an instrument is considered validly recorded for purposes of providing constructive notice. Defines certain terms.

Effective: Upon passage.

Torr, Young J, Ellington, Hatfield

(SENATE SPONSORS — BROWN L, KOCH, FREEMAN, ROGERS)

January 4, 2021, read first time and referred to Committee on Judiciary.
January 7, 2021, amended, reported — Do Pass.
January 14, 2021, read second time, ordered engrossed. Engrossed.
January 26, 2021, read third time, passed. Yeas 95, nays 0.

SENATE ACTION

January 28, 2021, read first time and referred to Committee on Judiciary.
February 4, 2021, reported favorably — Do Pass.

EH 1056—LS 6453/DI 137



February 5, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1056

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 32-21-2-1.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 1.5. As used in this chapter, "instrument"**
4 **means:**
5 (1) **an electronic document as defined in IC 32-21-2.5-3; or**
6 (2) **any paper document as defined in IC 32-21-2.5-8(a);**
7 **that is submitted to a county recorder for recording under**
8 **IC 29-1-7-23(d), IC 32-21-2, IC 32-21-2.5, IC 32-21-3, IC 32-21-4,**
9 **IC 32-21-8-7(b), or IC 36-2-11.**
10 SECTION 2. IC 32-21-2-1.7 IS ADDED TO THE INDIANA CODE
11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
12 UPON PASSAGE]: **Sec. 1.7. As used in this chapter, "proof", with**
13 **respect to a notarial act, means a proof:**
14 (1) **under common law; or**
15 (2) **where the witness:**
16 (A) **appears before a notarial officer;**
17 (B) **was personally known by the notarial officer or**

EH 1056—LS 6453/DI 137



1 identified by the notarial officer through satisfactory
 2 evidence;
 3 (C) was not a party to, or a beneficiary of, the record being
 4 signed by the principal and the witness; and
 5 (D) took an oath or gave an affirmation and testified to the
 6 following:

- 7 (i) The witness signed the record.
- 8 (ii) The witness identified the principal who signed the
 9 record.
- 10 (iii) The witness personally observed the principal sign
 11 the same record that the witness signed.

12 SECTION 3. IC 32-21-2-3, AS AMENDED BY P.L.80-2020,
 13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (c), a
 15 conveyance, a mortgage, or an instrument of writing to be recorded
 16 must be:

- 17 (1) acknowledged by the grantor; and
- 18 (2) proved before a:
 - 19 (A) judge;
 - 20 (B) clerk of a court of record;
 - 21 (C) county auditor;
 - 22 (D) county recorder;
 - 23 (E) notary public;
 - 24 (F) mayor of a city in Indiana or any other state;
 - 25 (G) commissioner appointed in a state other than Indiana by
 26 the governor of Indiana;
 - 27 (H) minister, charge d'affaires, or consul of the United States
 28 in any foreign country;
 - 29 (I) clerk of the city county council for a consolidated city; city
 30 clerk for a second class city; or clerk-treasurer for a third class
 31 city;
 - 32 (J) clerk-treasurer for a town; or
 - 33 (K) person authorized under IC 2-3-4-1.

34 (a) Any instrument to be recorded must have one (1) of the
 35 following notarial acts:

- 36 (1) An acknowledgment (as defined in IC 33-42-0.5-2).
- 37 (2) A proof.

38 (b) A notarial act described in subsection (a)(1) must be
 39 performed:

- 40 (1) by a notarial officer (as defined in IC 33-42-0.5-19);
- 41 (2) by a remote notary public (as defined in IC 33-42-0.5-27);
- 42 or



- 1 **(3) in compliance with:**
 2 **(A) IC 33-42-9-8;**
 3 **(B) IC 33-42-9-9;**
 4 **(C) IC 33-42-9-10; or**
 5 **(D) IC 33-42-9-11.**
- 6 **(c) The notarial act described in subsection (a)(2) must be**
 7 **performed:**
 8 **(1) by a notarial officer (as defined in IC 33-42-0.5-19); or**
 9 **(2) in compliance with:**
 10 **(A) IC 33-42-9-8;**
 11 **(B) IC 33-42-9-9;**
 12 **(C) IC 33-42-9-10; or**
 13 **(D) IC 33-42-9-11.**
- 14 ~~(b)~~ **(d) In addition to the requirements specified under subsections**
 15 **(a) and (b), an instrument subsection (a); a conveyance may not be**
 16 **recorded after June 30, 2007, unless it meets the requirements of:**
 17 **(1) this article;**
 18 **(2) the notarial requirements for an acknowledgment or for**
 19 **a proof; and**
 20 **(3) IC 36-2-11. of this subsection. The conveyance**
- 21 **(e) A conveyance must include a statement containing substantially**
 22 **the following information:**
 23 "The mailing address to which statements should be mailed under
 24 IC 6-1.1-22-8.1 is [insert proper mailing address]. The mailing
 25 address of the grantee is [insert proper mailing address]."
 26 The mailing address for the grantee must be a street address or a rural
 27 route address. A conveyance complies with this subsection if it
 28 contains the address or addresses required by this subsection at the end
 29 of the conveyance and immediately preceding or following the
 30 statements required by IC 36-2-11-15.
- 31 ~~(e) This section does not apply to the Indiana department of~~
 32 ~~transportation.~~
- 33 **(f) If the instrument is executed in a foreign country, where the**
 34 **instrument, its acknowledgment, or its proof is in a language other**
 35 **than English, the instrument must include a translation from the**
 36 **other language into English.**
- 37 SECTION 4. IC 32-21-4-0.5 IS ADDED TO THE INDIANA CODE
 38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 39 UPON PASSAGE]: **Sec. 0.5. For purposes of section 1 of this**
 40 **chapter, the general assembly makes the following findings:**
 41 **(1) It is in the public interest for any conveyance, as defined**
 42 **in section 1(a) of this chapter, and any mortgage recorded in**



1 the office of the Indiana county recorder to not be attacked
2 due to technical deficiencies.

3 (2) The ability to rely upon documents indexed and recorded
4 in the public land records of an Indiana county recorder
5 provides stability to the ownership of Indiana real property
6 and to Indiana's statewide and local real estate economies.

7 (3) Making or keeping these subsections in section 1 of this
8 chapter, retroactive will not upset any vested substantive
9 rights, liabilities, or duties.

10 (4) This section is intended to express the original legislative
11 intent of IC 32-21-4-1 more clearly.

12 SECTION 5. IC 32-21-4-1, AS AMENDED BY P.L.236-2015,
13 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 UPON PASSAGE]: Sec. 1. (a) ~~The following~~ As used in this section,
15 "conveyance" means an electronic document as defined in
16 IC 32-21-2.5-3 or a paper document as defined in IC 32-21-2.5-8(a)
17 that is:

18 (1) a deed or other instrument concerning land or an interest
19 in land, except a last will and testament;

20 (2) a lease or memorandum of lease for a term exceeding
21 three (3) years;

22 (3) a transfer on death deed as defined under
23 IC 32-17-14-3(16) or an affidavit pursuant to
24 IC 32-17-14-26(b)(20); or

25 (4) a land contract or a memorandum of land contract for the
26 sale and purchase of land.

27 (b) A conveyance or mortgage must be recorded in the recorder's
28 office ~~of in~~ the county where the land is situated: ~~located~~.

29 ~~(1) A conveyance or mortgage of land or of any interest in land.~~

30 ~~(2) A lease for more than three (3) years.~~

31 ~~(b) (c)~~ (c) A conveyance or mortgage memorandum of lease, or lease
32 takes priority according to the time of its ~~filing~~ recording. The
33 conveyance or mortgage memorandum of lease, or lease is fraudulent
34 and void as against any subsequent purchaser, lessee, or mortgagee in
35 good faith and for a valuable consideration if the purchaser's, lessee's,
36 or mortgagee's deed, mortgage, or lease is first recorded.

37 ~~(c) (d)~~ (d) This subsection applies regardless of when an instrument is
38 recorded. If:

39 (1) an instrument ~~referred to in subsection (a)~~ is recorded; and

40 (2) the instrument: ~~does not comply with the:~~

41 (A) ~~does not comply with the~~ requirements of:

42 (i) IC 32-21-2-3, including whether there was both an



1 **acknowledgment and proof on the instrument; or**
2 (ii) IC 32-21-2-7; ~~or~~
3 **(B) does not comply with the** technical requirements of
4 IC 36-2-11-16(c);
5 **(C) was executed and included an acknowledgment**
6 **executed pursuant to the terms of any executive order**
7 **issued by the governor or an order of the supreme court;**
8 **or**
9 **(D) was recorded and indexed by a county recorder as an**
10 **electronic record (as defined in IC 26-2-8-102);**
11 the instrument is validly recorded and provides constructive notice of
12 the contents of the instrument as of the date of ~~filing~~ **recording.**
13 **SECTION 6. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1056, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 1, delete "IC 32-21-2-1.4" and insert "IC 32-21-2-1.5".

Page 1, line 3, delete "Sec. 1.4." and insert "**Sec. 1.5.**".

Page 1, line 5, delete "(as defined in IC 32-21-2.5-3);" and insert "**as defined in IC 32-21-2.5-3;**".

Page 1, line 6, delete "a paper" and insert "**any paper**".

Page 1, line 6, delete "(as defined in IC 32-21-2.5-8(a));" and insert "**as defined in IC 32-21-2.5-8(a);**".

Page 1, line 7, delete "submitted" and insert "**that is submitted**".

Page 1, line 7, delete "recording." and insert "**recording under IC 29-1-7-23(d), IC 32-21-2, IC 32-21-2.5, IC 32-21-3, IC 32-21-4, IC 32-21-8-7(b), or IC 36-2-11.**".

Page 1, line 8, delete "IC 32-21-2-1.6" and insert "IC 32-21-2-1.7".

Page 1, line 10, delete "Sec. 1.6." and insert "**Sec. 1.7.**".

Page 1, line 11, delete "means the following:" and insert "**means a proof:**".

Page 1, line 12, delete "A proof".

Page 1, line 12, delete "law." and insert "**law; or**

(2) where the witness:

(A) appears before a notarial officer;

(B) was personally known by the notarial officer or identified by the notarial officer through satisfactory evidence;

(C) was not a party to, or a beneficiary of, the record being signed by the principal and the witness; and

(D) took an oath or gave an affirmation and testified to the following:

(i) The witness signed the record.

(ii) The witness identified the principal who signed the record.

(iii) The witness personally observed the principal sign the same record that the witness signed."

Page 1, delete lines 13 through 17.

Page 2, delete lines 1 through 14.

Page 2, line 37, delete "An" and insert "**Any**".

Page 2, line 37, delete "a notarial act that" and insert "**one (1) of the following notarial acts:**".



Page 2, delete line 38.

Page 2, line 39, delete "an" and insert "**An**".

Page 2, line 39, delete "IC 33-42-0.5-2); or" and insert "**IC 33-42-0.5-2).**".

Page 2, line 40, delete "a" and insert "**A**".

Page 2, line 41, delete "An acknowledgment under" and insert "**A notarial act described in**".

Page 3, line 4, delete "with IC 33-42-9-8, IC 33-42-9-9," and insert "**with:**

- (A) **IC 33-42-9-8;**
- (B) **IC 33-42-9-9;**
- (C) **IC 33-42-9-10; or**
- (D) **IC 33-42-9-11.**"

Page 3, delete line 5.

Page 3, line 6, delete "A proof under" and insert "**The notarial act described in**".

Page 3, line 8, delete "with IC 33-42-9-8, IC 33-42-9-9," and insert "**with:**

- (A) **IC 33-42-9-8;**
- (B) **IC 33-42-9-9;**
- (C) **IC 33-42-9-10; or**
- (D) **IC 33-42-9-11.**"

Page 3, delete line 9.

Page 3, line 10, reset in roman "In addition to the requirements".

Page 3, line 10, after "requirements" insert "**specified**".

Page 3, line 10, reset in roman "under".

Page 3, line 10, after "under" insert "**subsections (a) and (b), an instrument**".

Page 3, line 11, reset in roman "may not be recorded".

Page 3, line 11, reset in roman "unless it meets".

Page 3, line 12, reset in roman "the requirements".

Page 3, line 12, after "requirements" insert "**of:**

- (1) **this article;**
- (2) **the notarial requirements for an acknowledgment or for a proof; and**
- (3) **IC 36-2-11.**"

Page 3, line 12, delete "An instrument", begin a new paragraph and insert:

"**(e) A conveyance**".

Page 3, line 25, delete "(e)" and insert "**(f)**".

Page 3, line 25, delete "an" and insert "**the**".

Page 3, line 25, delete "country and the" and insert "**country,**".



Page 3, line 26, delete "instrument or the instrument's acknowledgment or proof" and insert **"where the instrument, its acknowledgment, or its proof"**.

Page 3, line 29, delete "IC 32-21-4-0.2" and insert "IC 32-21-4-0.5".

Page 3, line 31, delete "Sec. 0.2." and insert **"Sec. 0.5."**

Page 3, line 31, delete "The" and insert **"For purposes of section 1 of this chapter, the"**.

Page 3, line 32, delete "findings of fact regarding sections 0.4 and 1 of this" and insert **"findings:**

(1) It is in the public interest for any conveyance, as defined in section 1(a) of this chapter, and any mortgage recorded in the office of the Indiana county recorder to not be attacked due to technical deficiencies.

(2) The ability to rely upon documents indexed and recorded in the public land records of an Indiana county recorder provides stability to the ownership of Indiana real property and to Indiana's statewide and local real estate economies.

(3) Making or keeping these subsections in section 1 of this chapter, retroactive will not upset any vested substantive rights, liabilities, or duties.

(4) This section is intended to express the original legislative intent of IC 32-21-4-1 more clearly."

Page 3, delete lines 33 through 42.

Page 4, delete lines 1 through 12.

Page 4, line 15, after "following" insert **"As used in this section, "conveyance" means an electronic document as defined in IC 32-21-2.5-3 or a paper document as defined in IC 32-21-2.5-8(a) that is:**

(1) a deed or other instrument concerning land or an interest in land, except a last will and testament;

(2) a lease or memorandum of lease for a term exceeding three (3) years;

(3) a transfer on death deed as defined under IC 32-17-14-3(16) or an affidavit pursuant to IC 32-17-14-26(b)(20); or

(4) a land contract or a memorandum of land contract for the sale and purchase of land.

(b)".

Page 4, line 16, delete "of land or of any interest in land".

Page 4, line 17, strike "of" and insert **"in"**.

Page 4, line 17, strike "situated." and insert **"located."**

Page 4, line 20, strike "(b)" and insert **"(c)"**.



Page 4, line 26, strike "(c)" and insert "(d)".
Page 4, line 28, strike "referred to in subsection (a)".
Page 4, line 37, delete "an" and insert "any".

and when so amended that said bill do pass.

(Reference is to HB 1056 as introduced.)

TORR

Committee Vote: yeas 11, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1056, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1056 as printed January 7, 2021.)

BROWN L, Chairperson

Committee Vote: Yeas 9, Nays 0

