

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.

## HOUSE ENROLLED ACT No. 1056

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AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 32-21-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. As used in this chapter, "instrument" means:**

- (1) **an electronic document as defined in IC 32-21-2.5-3; or**
- (2) **any paper document as defined in IC 32-21-2.5-8(a);**

**that is submitted to a county recorder for 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.**

SECTION 2. IC 32-21-2-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.7. As used in this chapter, "proof", with respect to a notarial act, means a proof:**

- (1) **under common 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**

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**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.**

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

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

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

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

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

- (1) by a notarial officer (as defined in IC 33-42-0.5-19);**
- (2) by a remote notary public (as defined in IC 33-42-0.5-27);**
- or**
- (3) in compliance 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.**

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**(c) The notarial act described in subsection (a)(2) must be performed:**

- (1) by a notarial officer (as defined in IC 33-42-0.5-19); or**
- (2) in compliance 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.**

**(d) In addition to the requirements specified under subsections (a) and (b), an instrument subsection (a); a conveyance may not be recorded after June 30, 2007, unless it meets the requirements of:**

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

**(e) A conveyance must include a statement containing substantially the following information:**

"The mailing address to which statements should be mailed under IC 6-1.1-22-8.1 is [insert proper mailing address]. The mailing address of the grantee is [insert proper mailing address]."

The mailing address for the grantee must be a street address or a rural route address. A conveyance complies with this subsection if it contains the address or addresses required by this subsection at the end of the conveyance and immediately preceding or following the statements required by IC 36-2-11-15.

**(e) This section does not apply to the Indiana department of transportation.**

**(f) If the instrument is executed in a foreign country, where the instrument, its acknowledgment, or its proof is in a language other than English, the instrument must include a translation from the other language into English.**

SECTION 4. IC 32-21-4-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. For purposes of section 1 of this chapter, the general assembly makes the following 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.**

SECTION 5. IC 32-21-4-1, AS AMENDED BY P.L.236-2015, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) ~~The following~~ **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) A conveyance or mortgage must be recorded in the recorder's office of in the county where the land is situated: located.**

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

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

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

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

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

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

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

~~(i) IC 32-21-2-3, including whether there was both an acknowledgment and proof on the instrument; or~~

~~(ii) IC 32-21-2-7; or~~

~~(B) does not comply with the technical requirements of IC 36-2-11-16(c);~~

~~(C) was executed and included an acknowledgment~~

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**executed pursuant to the terms of any executive order issued by the governor or an order of the supreme court;**

**or**

**(D) was recorded and indexed by a county recorder as an electronic record (as defined in IC 26-2-8-102);**

the instrument is validly recorded and provides constructive notice of the contents of the instrument as of the date of ~~file~~ **recording.**

**SECTION 6. An emergency is declared for this act.**

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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