



April 3, 2017

ENGROSSED SENATE BILL No. 558

DIGEST OF SB 558 (Updated April 3, 2017 1:46 pm - DI 123)

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
(Continued next page)

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

Holdman, Buck

(HOUSE SPONSORS — EBERHART, SPEEDY, AUSTIN)

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.
February 14, 2017, engrossed.
February 16, 2017, read third time, passed. Yeas 29, nays 19.

HOUSE ACTION

March 9, 2017, read first time and referred to Committee on Judiciary.
April 3, 2017, amended, reported — Do Pass.

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Digest Continued

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 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 a housing authority retains the ability to enforce rights and remedies established by contract or federal law. Provides that a city, county, or town attorney retains the ability to bring a nuisance action against a landlord or the owner of a rental unit in certain instances. Provides that a county or municipality may not adopt or enforce any land use or planning ordinance or regulation that has the effect of: (1) controlling rental or purchase price; or (2) requiring real property to be reserved for lease or sale to certain owners. Provides that a county or municipality may not require the owner of privately owned real property to agree to: (1) any requirement that would have the effect of controlling rental or purchase price; or (2) the payment of a fee, in lieu of a requirement that would have the effect of controlling rental or purchase price, as a prerequisite to consideration or approval of: (A) certain permits; or (B) any primary, secondary, or revised plats. Provides that a county or municipality retains the right to: (1) manage and control the development of a commercial or residential property in which the county or municipality has an ownership interest; and (2) enact, enforce, or maintain any general land use or zoning regulation that does not have the effect of: (A) controlling rental or purchase price; or (B) requiring real property to be reserved for sale or lease to certain owners. Allows an owner of privately owned real property to voluntarily enter into an agreement with a county or municipality that: (1) controls rental or purchase price; or (2) requires real property to be reserved for sale or lease to certain owners; in exchange for incentives or grants.



April 3, 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.

ENGROSSED 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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1 (b) As used in this section, "penalty" refers to any of the
2 following:

3 (1) The assessment of a penalty, fine, or fee.

4 (2) Actual or threatened eviction from a rental unit, or the
5 causing of an actual or threatened eviction from a rental unit.

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

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

14 (1) the contact is made by or on behalf of:

15 (A) a victim or potential victim of abuse;

16 (B) a victim or potential victim of a crime; or

17 (C) an individual in an emergency; and

18 (2) either of the following applies:

19 (A) At the time the contact is made, the person making the
20 contact reasonably believes that law enforcement
21 assistance or other emergency assistance is necessary to
22 prevent the perpetration or escalation of abuse, a crime, or
23 an emergency.

24 (B) If abuse, a crime, or an emergency occurs, the law
25 enforcement assistance or other emergency assistance was
26 needed.

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

31 (1) is made to request law enforcement assistance or other
32 emergency assistance; and

33 (2) is not made by or on behalf of:

34 (A) a victim or potential victim of abuse;

35 (B) a victim or potential victim of a crime; or

36 (C) an individual in an emergency.

37 (f) If a political subdivision:

38 (1) imposes a penalty under an ordinance, a rule, or a
39 regulation authorized by subsection (e); and

40 (2) the prohibited contact to request law enforcement
41 assistance or other emergency assistance is made by a tenant
42 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 (h) Nothing in this section shall be construed to prevent a
7 housing authority established under IC 36-7-18 from enforcing
8 rights or remedies established by contract or federal law against a
9 landlord or owner of a rental unit.

10 (i) Nothing in this section shall be construed to prevent an
11 attorney representing a city, county, or town from bringing a
12 nuisance action described under IC 32-30-6-7(b) against a landlord
13 or owner of a rental unit when all of the following conditions are
14 met:

15 (1) Prohibited contacts (as described in subsection (e))
16 requesting law enforcement assistance or other emergency
17 assistance are made by a tenant of the landlord or owner of
18 the rental unit.

19 (2) The landlord or owner of the rental unit:

20 (A) knew of the tenant's prohibited contacts;

21 (B) could have stopped the prohibited contacts; and

22 (C) unreasonably failed to stop the prohibited contacts.

23 SECTION 3. IC 32-31-8-7 IS ADDED TO THE INDIANA CODE
24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
25 1, 2017]: Sec. 7. (a) The residential landlord-tenant statute (as
26 defined in IC 32-31-2.9-2) does not prohibit an owner or a landlord
27 from refusing to rent a rental unit on the basis of a reasonable
28 occupancy standard.

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

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

32 (2) the owner or landlord:

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

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

38 (i) den;

39 (ii) library;

40 (iii) finished basement; or

41 (iv) loft;

42 that could reasonably be used as a sleeping area, unless



- 1 **doing so would violate applicable state and local codes,**
 2 **including fire codes.**
- 3 **(c) An owner or landlord is not required to consider a kitchen,**
 4 **dining room, living room, bathroom, hallway, or closet as a**
 5 **sleeping area.**
- 6 SECTION 4. IC 36-1-24 IS ADDED TO THE INDIANA CODE AS
 7 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 8 JANUARY 1, 2017 (RETROACTIVE)]:
- 9 **Chapter 24. Sales or Leases of Real Property; Prohibited**
 10 **Regulations**
- 11 **Sec. 1. A county or municipality may not adopt or enforce a**
 12 **land use or planning ordinance or regulation that would have the**
 13 **effect of:**
- 14 (1) **controlling the amount of rent charged or the purchase**
 15 **price agreed upon for a transaction pertaining to the lease or**
 16 **purchase of privately owned residential or commercial real**
 17 **property; or**
- 18 (2) **requiring real property to be designated or reserved for**
 19 **lease or sale to a group of occupants, owners, or residents**
 20 **classified by income or assets.**
- 21 **Sec. 2. A county or municipality may not require an owner of**
 22 **privately owned real property to agree to:**
- 23 (1) **a requirement that would have an effect described in**
 24 **section 1(1) or 1(2) of this chapter; or**
- 25 (2) **the payment of a fee, in lieu of a requirement described in**
 26 **section 1(1) or 1(2) of this chapter, as a prerequisite to the**
 27 **approval or consideration of:**
- 28 (A) **any building or land use permit;**
- 29 (B) **any land use petition including, but not limited to,**
 30 **variances, special exceptions, conditional use permits,**
 31 **zoning ordinances, or rezoning ordinances; or**
- 32 (C) **any primary, secondary, or revised plats.**
- 33 **Sec. 3. This chapter does not impair the right of a county or**
 34 **municipality to:**
- 35 (1) **manage or control the development of commercial or**
 36 **residential real property in which the county or municipality**
 37 **has an ownership interest; or**
- 38 (2) **enact, enforce, or maintain a general land use regulation**
 39 **or zoning ordinance that does not have an effect described in**
 40 **section 1(1) or 1(2) of this chapter.**
- 41 **Sec. 4. This chapter does not impair the right of an owner to**
 42 **voluntarily agree to a requirement that would have an effect**



1 described in section 1(1) or 1(2) of this chapter in exchange for
2 incentives or grants provided by the county or municipality to the
3 owner of the privately owned real property.

4 SECTION 5. IC 36-7-2-11 IS ADDED TO THE INDIANA CODE
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
6 JANUARY 1, 2017 (RETROACTIVE)]; **Sec. 11. Any:**

- 7 (1) land use ordinance or regulation;
8 (2) general or specific planning ordinance or regulation; or
9 (3) land use petition (as described in IC 36-1-24-2) conditioned
10 upon the:

11 (A) payment of a fee; or

12 (B) assumption of a requirement described in
13 IC 36-1-24-1(1) or IC 36-1-24-1(2);

14 that is adopted by a county or municipality after December 31,
15 2016, and that violates IC 36-1-24 is void.

16 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

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 558, 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 3, between lines 5 and 6, begin a new paragraph and insert:

"(h) Nothing in this section shall be construed to prevent a housing authority established under IC 36-7-18 from enforcing rights or remedies established by contract or federal law against a landlord or owner of a rental unit.

(i) Nothing in this section shall be construed to prevent an attorney representing a city, county, or town from bringing a

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nuisance action described under IC 32-30-6-7(b) against a landlord or owner of a rental unit when all of the following conditions are met:

- (1) Prohibited contacts (as described in subsection (e)) requesting law enforcement assistance or other emergency assistance are made by a tenant of the landlord or owner of the rental unit.
- (2) The landlord or owner of the rental unit:
 - (A) knew of the tenant's prohibited contacts;
 - (B) could have stopped the prohibited contacts; and
 - (C) unreasonably failed to stop the prohibited contacts."

Page 3, delete lines 31 through 42, begin a new paragraph and insert:

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

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

Sec. 1. A county or municipality may not adopt or enforce a land use or planning ordinance or regulation that would have the effect of:

- (1) controlling the amount of rent charged or the purchase price agreed upon for a transaction pertaining to the lease or purchase of privately owned residential or commercial real property; or
- (2) requiring real property to be designated or reserved for lease or sale to a group of occupants, owners, or residents classified by income or assets.

Sec. 2. A county or municipality may not require an owner of privately owned real property to agree to:

- (1) a requirement that would have an effect described in section 1(1) or 1(2) of this chapter; or
- (2) the payment of a fee, in lieu of a requirement described in section 1(1) or 1(2) of this chapter, as a prerequisite to the approval or consideration of:
 - (A) any building or land use permit;
 - (B) any land use petition including, but not limited to, variances, special exceptions, conditional use permits, zoning ordinances, or rezoning ordinances; or
 - (C) any primary, secondary, or revised plats.

Sec. 3. This chapter does not impair the right of a county or municipality to:



- (1) manage or control the development of commercial or residential real property in which the county or municipality has an ownership interest; or**
- (2) enact, enforce, or maintain a general land use regulation or zoning ordinance that does not have an effect described in section 1(1) or 1(2) of this chapter.**

Sec. 4. This chapter does not impair the right of an owner to voluntarily agree to a requirement that would have an effect described in section 1(1) or 1(2) of this chapter in exchange for incentives or grants provided by the county or municipality to the owner of the privately owned real property."

Page 4, delete lines 1 through 33, begin a new paragraph and insert:

"SECTION 5. IC 36-7-2-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]: **Sec. 11. Any:**

- (1) land use ordinance or regulation;**
- (2) general or specific planning ordinance or regulation; or**
- (3) land use petition (as described in IC 36-1-24-2) conditioned upon the:**

(A) payment of a fee; or

(B) assumption of a requirement described in IC 36-1-24-1(1) or IC 36-1-24-1(2);

that is adopted by a county or municipality after December 31, 2016, and that violates IC 36-1-24 is void."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 558 as reprinted February 14, 2017.)

MCNAMARA

Committee Vote: yeas 5, nays 3.

