

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 ENROLLED ACT No. 558

AN ACT to amend the Indiana Code concerning property.

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

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

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

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

(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.**

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(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;**

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

(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).

(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 nuisance action described under IC 32-30-6-7(b) against a landlord or owner of a rental unit.

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.

SECTION 4. IC 36-1-24.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017 (RETROACTIVE)]:

Chapter 24.2. 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.

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 36-1-24.2-2) conditioned upon the:

(A) payment of a fee; or

(B) assumption of a requirement described in IC 36-1-24.2-1(1) or IC 36-1-24.2-1(2);

that is adopted by a county or municipality after December 31, 2016, and that violates IC 36-1-24.2 is void.

SECTION 6. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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