SENATE BILL No. 280

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-31.

Synopsis: Tenant's right to make repairs. Provides that in certain circumstances, a tenant in a residential rental agreement may provide for repairs to be made to the dwelling unit and deduct the cost of the repairs from the tenant's rent.

Effective: July 1, 2014.

Breaux

January 13, 2014, read first time and referred to Committee on Civil Law.

Introduced

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 280

A BILL FOR AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-31-2.9-2, AS AMENDED BY P.L.22-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. As used in this chapter, "residential landlord-tenant statute" refers to any of the following:

(1) IC 32-31-3.
(2) IC 32-31-4.
(3) IC 32-31-5.
(4) IC 32-31-6.
(5) IC 32-31-7.
(6) IC 32-31-8.
(7) IC 32-31-9.
(8) IC 32-31-10.

SECTION 2. IC 32-31-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) A tenant may bring an action in a court with jurisdiction to enforce an obligation of a landlord under this chapter.

(b) A tenant may not bring an action under this chapter unless the following conditions are met:

(1) The tenant gives the landlord notice of the landlord's noncompliance with a provision of this chapter.

(2) The landlord has been given a reasonable amount of time to make repairs or provide a remedy of the condition described in the tenant's notice. The tenant may not prevent the landlord from having access to the rental premises to make repairs or provide a remedy to the condition described in the tenant's notice.

(3) The landlord fails or refuses to repair or remedy the condition described in the tenant's notice.

(c) This section may not be construed to limit a tenant's rights under IC 32-31-3, IC 32-31-5, ~~or~~ IC 32-31-6, **or IC 32-31-10.**

(d) If the tenant is the prevailing party in an action under this section, the tenant may obtain any of the following, if appropriate under the circumstances:

(1) Recovery of the following:

(A) Actual damages and consequential damages.

(B) Attorney's fees and court costs.

(2) Injunctive relief.

(3) Any other remedy appropriate under the circumstances.

(e) A landlord's liability for damages under subsection (d) begins when:

(1) the landlord has notice or actual knowledge of noncompliance; and

(2) the landlord has:

(A) refused to remedy the noncompliance; or

(B) failed to remedy the noncompliance within a reasonable amount of time following the notice or actual knowledge;

whichever occurs first.

SECTION 3. IC 32-31-10 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 10. Tenant's Right to Repair

Sec. 1. (a) This chapter applies only to a rental agreement for a dwelling unit that is entered into or renewed after June 30, 2014.

(b) This chapter does not apply to the following:

(1) Public housing as defined in 42 U.S.C. 1437a(b) (Section 3(b) of the United States Housing Act of 1937).

(2) Owner occupied rental property having six (6) or fewer dwelling units.

(c) This chapter does not apply if the condition requiring repair

was caused by the deliberate or negligent act or omission of the tenant, a member of the tenant's family, or another person on the premises with the tenant's consent.

Sec. 2. The definitions in IC 32-31-3 apply throughout this chapter.

Sec. 3. As used in this chapter, "emergency" includes the following:

(1) A condition that will cause irreparable harm to the dwelling unit or any fixture attached to the dwelling unit if not immediately repaired.

(2) A condition that poses an immediate threat to the health or safety of an occupant of the dwelling unit or any common area.

Sec. 4. As used in this chapter, "law" includes any of the following:

(1) An Indiana statute.

(2) An administrative rule adopted under IC 4-22-2.

(3) A local ordinance or regulation.

Sec. 5. A waiver of the application of this chapter by a landlord or tenant, by contract or otherwise, is void.

Sec. 6. (a) If a repair is required to a dwelling unit under the rental agreement or under a law and the reasonable cost of the repair does not exceed the lesser of:

(1) five hundred dollars ($500); or

(2) fifty percent (50%) of the monthly rent;

the tenant may notify the landlord in writing of the tenant's intention to have the repair made at the landlord's expense.

(b) A tenant must give notice under this chapter by registered or certified mail or other restricted delivery service to the address of the landlord or an agent of the landlord as indicated in the rental agreement. If the rental agreement does not indicate an address to which notices may be sent to the landlord, the tenant may send notice to the landlord's last known address.

Sec. 7. If the landlord fails to make the repair:

(1) not later than fourteen (14) days after being notified by the tenant as provided in this chapter; or

(2) more promptly as conditions require in the case of an emergency;

the tenant may have the repair made in a workmanlike manner and in compliance with the appropriate law.

Sec. 8. (a) After submitting to the landlord a paid bill from the person making the repair, the tenant may deduct from the tenant's

rent the amount of the bill, not to exceed the lesser of the following:

(1) The limits specified by section 6 of this chapter.

(2) The reasonable price then customarily charged for the repair.

(b) If not clearly indicated on the bill submitted by the tenant, the tenant shall also provide to the landlord in writing, at the time of the submission of the bill to the landlord, the name, address, and telephone number of the person who performed the repair.

Sec. 9. (a) The tenant is responsible for ensuring that:

(1) the repairs are performed in a workmanlike manner in compliance with applicable law;

(2) the person hired by the tenant to perform the repairs holds the appropriate valid license or certificate required by law to make the repairs; and

(3) the person who performs the repairs is adequately insured to cover any bodily harm or property damage that is caused by the negligence or substandard performance of the repairs by the person.

(b) The tenant is responsible for any damages to the premises caused by the person hired by the tenant. A tenant may not exercise the remedies provided for in this chapter if the tenant does not comply with this section.

Sec. 10. A tenant may not assert as a defense to an action for rent or eviction that rent was withheld under this chapter unless the tenant meets all the requirements provided for in this chapter.

Sec. 11. For purposes of IC 32-28-3, IC 32-33-9, or other mechanic's lien laws, repairs performed or materials furnished under this chapter may not be construed as having been performed or furnished under the authority or with permission of the landlord.