

## **IC 20-26-7**

### **Chapter 7. Property and Eminent Domain**

#### **IC 20-26-7-0.3**

##### **Legalization of certain school corporation actions in acquiring property under deed with reverter clause; school corporation rights in case of reversion**

Sec. 0.3. (a) The actions of a school corporation taken before January 1, 1989, in acquiring any interest in real estate or a real estate improvement, under a deed that contains a reverter clause that limits the use of the property by the school corporation, are legalized.

(b) If a reversion occurs under a deed described in subsection (a), the school corporation is entitled to the improvements (or the fair market value of the improvements) made to the property by the school corporation.

*As added by P.L.220-2011, SEC.327.*

#### **IC 20-26-7-0.4**

##### **Issuance of bonds or execution of lease under prior law before May 1, 1995**

Sec. 0.4. Notwithstanding P.L.25-1995, if a school corporation has conducted the hearing described in IC 20-5-52 (before its repeal, now codified in this chapter) before May 1, 1995, the school corporation may issue bonds or execute a lease for the school building construction project that was the subject of the hearing in accordance with the requirements for issuing bonds or executing a lease that were in effect before July 1, 1995.

*As added by P.L.220-2011, SEC.328.*

#### **IC 20-26-7-1**

##### **Sale of unneeded property; lease or sale to charter school; procedures**

Sec. 1. (a) As used in this section, "charter school" has the meaning set forth in IC 20-24-1-4 and includes a group or entity seeking approval from an authorizer to operate a charter school under IC 20-24-3.

(b) Except as otherwise provided in this section, if a governing body of a school corporation determines that any real or personal property:

- (1) is no longer needed for school purposes; or
- (2) should, in the interests of the school corporation, be exchanged for other property;

the governing body may sell or exchange the property in accordance with IC 36-1-11.

(c) Money derived from the sale or exchange of property under this section shall be placed in any school fund:

- (1) established under applicable law; and
- (2) that the governing body considers appropriate.

(d) A governing body may not make a covenant that prohibits the

sale of real property to another educational institution.

(e) This subsection does not apply to a school building that on July 1, 2011, is leased or loaned by the school corporation that owns the school building to another entity, if the entity is not a building corporation or other entity that is related in any way to, or created by, the school corporation or the governing body. Except as provided in subsections (k) through (n), a governing body shall make available for lease or purchase to any charter school any school building owned by the school corporation or any other entity that is related in any way to, or created by, the school corporation or the governing body, including but not limited to a building corporation, that:

(1) either:

(A) is not used in whole or in part for classroom instruction at the time the charter school seeks to lease the building; or

(B) appears on the list compiled by the department under subsection (f); and

(2) was previously used for classroom instruction; in order for the charter school to conduct classroom instruction.

(f) Not later than August 1 each calendar year, each governing body shall inform the department if a school building that was previously used for classroom instruction is closed, unused, or unoccupied. The department shall maintain a list of closed, unused, or unoccupied school buildings and make the list available on the department's Internet web site. Each school corporation shall provide a list of closed, unused, or unoccupied buildings to the department by the date set by the department. The department must update the list not later than fifteen (15) days after being notified of a closed, unused, or unoccupied building.

(g) A school building that appears for the first time on the department's list under subsection (f) shall be designated as "Unavailable until (a date two (2) years after the school building first appears on the list)" if the governing body of the school corporation that owns the school building indicates to the department, on a form prescribed by the department, that the school building may be reclaimed during that period for classroom instruction. If a governing body does not indicate that a school building may be reclaimed, the governing body shall designate the school building as "Available" on the department's list. The governing body may change the designation of a building from unavailable to available at any time. If a school building that is designated as unavailable on the department's list remains unused for classroom instruction one (1) year after being reclaimed under this subsection, the governing body shall designate the school building as "Available" on the department's list. A governing body may reclaim a school building only one (1) time under this subsection.

(h) If a charter school wishes to use a school building on the list created under subsection (f), the charter school shall send a letter of intent to the department. Within thirty (30) days after receiving a letter from a charter school, the department shall notify the school

corporation of the charter school's intent, and, within thirty (30) days after receiving notification from the department, the school corporation that owns the school building shall lease the school building to the charter school for one dollar (\$1) per year for as long as the charter school uses the school building for classroom instruction or for a term at the charter school's discretion, or sell the school building to the charter school for one dollar (\$1). The charter school must begin to use the school building for classroom instruction not later than two (2) years after acquiring the school building. If the school building is not used for classroom instruction within two (2) years after acquiring the school building, the school building shall be placed on the department's list under subsection (f). If during the term of the lease the charter school closes or ceases using the school building for classroom instruction, the school building shall be placed on the department's list under subsection (f). If a school building is sold to a charter school under this subsection and the charter school or any entity related to the charter school subsequently sells or transfers the school building to a third party, the charter school or related entity must transfer an amount equal to the gain in the property minus the adjusted basis (including costs of improvements to the school building) to the school corporation that initially sold the vacant school building to the charter school. Gain and adjusted basis shall be determined in the manner prescribed by the Internal Revenue Code and the applicable Internal Revenue Service regulations and guidelines.

(i) During the term of a lease under subsection (h), the charter school is responsible for the direct expenses related to the school building leased, including utilities, insurance, maintenance, repairs, and remodeling. The school corporation is responsible for any debt incurred for or liens that attached to the school building before the charter school leased the school building.

(j) Notwithstanding anything to the contrary in this section, and with the sole exception of a waiver provided in subsection (n), when a school building is designated as "Available" under subsection (g), the school building must remain designated as "Available" and may not be sold or otherwise disposed of for at least two (2) years. When the two (2) year period has elapsed, the school corporation may sell or otherwise dispose of the school building in accordance with IC 36-1-11.

(k) Notwithstanding subsection (e), a governing body may request a waiver from the department from the requirements of subsection (e). In order for a governing body to receive a waiver under subsection (n), the governing body must apply to the department, on a form prescribed by the department, for the waiver. The application must include a statement that the governing body believes that a charter school would not be interested in leasing or purchasing the vacant or unused school building.

(l) If the department receives a waiver request under subsection (k), the department, within five (5) days after receiving the waiver

request under subsection (k), shall notify each charter school authorizer and statewide organization representing charter schools in Indiana by certified mail of the waiver request received under subsection (k). The notice must include a copy of the governing body's waiver request.

(m) Not later than thirty (30) days after a charter school authorizer or statewide organization representing charter schools in Indiana receives a notice described in subsection (l), the charter school authorizer or a statewide organization representing charter schools may submit a qualified objection to the governing body's request for a waiver under subsection (k). The qualified objection must be submitted to the department in writing. In order for an objection to be considered a qualified objection by the department, the objection must include:

- (1) the name of the charter school that is interested in leasing or purchasing the vacant or unused school building; and
- (2) a time frame, which may not exceed one (1) year from the date of the objection, in which the charter school intends to begin providing classroom instruction in the vacant or unused school building.

(n) If the department receives a qualified objection under subsection (m), the vacant or unused school building shall remain on the department's list under subsection (f) with the designation with which the building is listed under subsection (g) at the time the department receives the waiver request. If the department does not receive a qualified objection, the department shall grant the governing body's request for a waiver. A governing body that receives a waiver under this subsection may sell or otherwise dispose of the unused or vacant school building in accordance with IC 36-1-11.

*As added by P.L.1-2005, SEC.10. Amended by P.L.234-2007, SEC.227; P.L.91-2011, SEC.27; P.L.17-2013, SEC.1; P.L.33-2014, SEC.4; P.L.5-2015, SEC.47.*

#### **IC 20-26-7-2**

##### **Property damage; insurance proceeds**

Sec. 2. A governing body of a school corporation may deposit insurance proceeds received as a result of damage to real or personal property in any school fund:

- (1) established under applicable law; and
- (2) that the governing body considers appropriate.

*As added by P.L.1-2005, SEC.10.*

#### **IC 20-26-7-3**

##### **Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.106.)*

#### **IC 20-26-7-4**

**Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.107.)*

**IC 20-26-7-5**

**Conveyance of school property to city authorized**

Sec. 5. A school corporation (as defined in IC 36-1-2-17) may convey property owned by the school corporation to a civil city or other political subdivision for civic purposes if:

- (1) the governing body adopts a resolution recommending the transfer and conveyance of the school property;
- (2) the civil city or political subdivision agrees to accept the school property; and
- (3) the governing body executes a deed for the school property.

*As added by P.L.1-2005, SEC.10. Amended by P.L.233-2015, SEC.108.*

**IC 20-26-7-6**

**Property acquired by conditional gift or bequest; annexation**

Sec. 6. A school corporation that acquires any real property by gift, devise, or bequest shall hold, use, and dispose of the real property under the terms and conditions imposed by the donor or testator.

*As added by P.L.1-2005, SEC.10.*

**IC 20-26-7-7**

**Unconditional devise or bequest**

Sec. 7. If a common school corporation has acquired or acquires any personal property or real estate by gift, devise, or bequest concerning which the donor or testator, at the time of making the gift, bequest, or devise, does not include conditions or directions concerning the gift, bequest, or devise inconsistent with this section, the principal of the gifts, devises, and bequests is inviolate, but the interest, rents, incomes, issues, and profits thereof may be expended by the school corporation.

*As added by P.L.1-2005, SEC.10. Amended by P.L.233-2015, SEC.109.*

**IC 20-26-7-8**

**Appointment of trustees to manage property acquired by gift or bequest**

Sec. 8. (a) If the board of trustees or school commissioners of a corporation governed by sections 6 through 9 of this chapter desires:

- (1) to appoint one (1) or more trustees to hold the title to any property, real or personal, acquired by the board or commissioners in the manner mentioned in sections 6 through 9 of this chapter, unless the wish and will of the donor or testator would be violated; and
- (2) to invest the principal and pay over only the net interest,

rents, issues, incomes, and profits of the fund to the school corporation for use as provided in sections 6 through 9 of this chapter;

the school corporation may name and appoint one (1) or more trustees and to vest in the trustees the title to the property, subject to trust and powers as the school corporation may impose, not inconsistent with the expressed wish or will of the donor or testator or this chapter applicable to the property if a transfer to a trustee has not been made.

(b) However, if:

(1) the managing board of the school corporation consists of less than three (3) persons; and

(2) the school corporation elects to have the property held and managed by trustees;

the corporation shall establish the terms of the trust and make the conveyance, and the judge of the circuit court of the county in which the school corporation is domiciled shall appoint at least three (3) trustees.

*As added by P.L.1-2005, SEC.10.*

#### **IC 20-26-7-9**

##### **Purpose and construction of statutes concerning property acquired by gift or bequest**

Sec. 9. (a) It is the main purpose of this chapter that the identity of the principal of gifts, bequests, and devises to the state's public schools may not be lost and that the income from investment of the gifts, bequests, and devises shall be used in giving students the public education and library advantages that could not be enjoyed if only the school and library revenue and income provided by law were available.

(b) Sections 6 through 9 of this chapter may not be construed as a limitation against the investment and reinvestment either by the school corporation itself or the trustees appointed under section 8 of this chapter, as the safety of the fund or the best interests of the recipient school corporation require.

*As added by P.L.1-2005, SEC.10.*

#### **IC 20-26-7-10**

##### **Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.110.)*

#### **IC 20-26-7-11**

##### **Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.111.)*

#### **IC 20-26-7-12**

##### **Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.112.)*

### **IC 20-26-7-13**

#### **Eminent domain; petition for appointment of appraisers**

Sec. 13. If:

- (1) the trustees of school corporations of a city or town believe;
- or
- (2) the township trustee of a township believes;

it is necessary to purchase any real estate on which to build a schoolhouse, or for any other purpose connected with the real estate, the township trustee or school trustees, or a majority of them, may file a petition in the circuit court of the county asking for the appointment of appraisers to appraise and assess the value of the real estate.

*As added by P.L.1-2005, SEC.10.*

### **IC 20-26-7-14**

#### **Eminent domain; appointment of appraisers**

Sec. 14. Ten (10) days after a petition is filed under section 13 of this chapter, the court shall appoint:

- (1) one (1) disinterested freeholder residing in the school corporation or township where the real estate is located; and
- (2) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana to appraise and assess the value of the real estate. One (1) of the appraisers appointed under subdivision (2) must reside not more than fifty (50) miles from the real estate.

*As added by P.L.1-2005, SEC.10. Amended by P.L.113-2006, SEC.14.*

### **IC 20-26-7-15**

#### **Eminent domain; oath of appraisers; payment of damages; trial; appeal**

Sec. 15. (a) Before making the appraisal and assessment, the appraisers shall take an oath before the clerk of the court to make a fair, true, and honest appraisal of the real estate.

(b) After taking the oath under subsection (a), the appraisers shall examine the real estate, hear evidence they consider necessary, and make a report of their appraisal to the court not more than five (5) days after their appointment.

(c) After the examination under subsection (b), the township trustee or school trustees of the school corporation, or a majority of them, may pay to the clerk of the court, for the use of the owner or owners of the real estate, the amount assessed.

(d) When the payment is made under subsection (c) and the payment is shown to the court hearing the cause:

- (1) the title to the real estate vests immediately in the school corporation for school purposes;
- (2) the court shall cause the real estate to be conveyed to the

school corporation by a commissioner appointed for that purpose; and

(3) the school corporation may immediately take possession of the real estate for the purpose.

(e) When the report of the appraisers is filed, any party to the action, not later than ten (10) days, may except to the amount of the appraisal and valuation of the real estate and a trial may be had on the exception before the court as other civil causes are tried. The court shall fix the amount of the appraisal and assessment, and any party to the action may appeal the judgment of the court as other civil cases are appealed.

(f) If the township trustee or school trustees, or a majority of them, except to the amount of the appraisal and assessment:

(1) the court shall convey the real estate to the school corporation;

(2) the title to the real estate vests immediately in the school corporation for the purposes; and

(3) subsequent proceedings upon the exceptions affect only the amount of the appraisal and assessments.

*As added by P.L.1-2005, SEC.10. Amended by P.L.233-2015, SEC.113.*

#### **IC 20-26-7-16**

##### **Eminent domain; offer of reasonable value to owners before petition; costs of subsequent action**

Sec. 16. Before the filing of the petition, the township trustee or school trustees, or a majority of them, may offer or tender to the owner or owners of the real estate an amount considered a reasonable value for the real estate. If the amount fixed by the appraisers or by the court later becomes the same or less than the amount tendered:

(1) the cause shall be prosecuted at the cost of the owner or owners of the real estate; and

(2) upon exception to the amount fixed by the appraisers, if the exceptor does not increase the amount of the appraisal and assessment, the action on the exception shall be at the cost of the exceptor.

If an amount has not been tendered by the township trustee or school trustees, or a majority of them, and an exception is not taken, the action shall be prosecuted at the cost of the petitioners.

*As added by P.L.1-2005, SEC.10.*

#### **IC 20-26-7-17**

##### **Purchase or improvement of property and buildings for school purposes; notice to taxpayers; right to appeal**

Sec. 17. (a) A school corporation may:

(1) purchase buildings or lands, or both, for school purposes; and

(2) improve the buildings or lands, or both.

(b) Notwithstanding this section through section 18 of this chapter



limiting the purchase of school buildings, a school corporation may:

- (1) purchase suitable buildings or lands, or both, adjacent to school property for school purposes; and
- (2) improve the buildings or lands, or both, after giving notice to the taxpayers of the intention of the school corporation to purchase.

The taxpayers of the school corporation have the same right of appeal under the same procedure as provided for in IC 6-1.1-20-5 through IC 6-1.1-20-6.

*As added by P.L.1-2005, SEC.10. Amended by P.L.146-2008, SEC.466; P.L.233-2015, SEC.114.*

#### **IC 20-26-7-18 Version a**

##### **Authorization of bonds for purchase or improvement of property and buildings; issuance procedure**

*Note: This version of section amended by P.L.184-2015, SEC.10. See also following version of this section amended by P.L.233-2015, SEC.115.*

Sec. 18. Subject to IC 5-3-1-3(h), a school corporation may issue and sell bonds under the general statutes governing the issuance of bonds to purchase and improve buildings or lands, or both. All laws relating to approval (if required) in a local public question under IC 6-1.1-20, the filing of petitions, remonstrances, and objecting petitions, giving notices of the filing of petitions, the determination to issue bonds, and the appropriation of the proceeds of the bonds are applicable to the issuance of bonds under sections 17 through 19 of this chapter.

*As added by P.L.1-2005, SEC.10. Amended by P.L.146-2008, SEC.467; P.L.184-2015, SEC.10.*

#### **IC 20-26-7-18 Version b**

##### **Authorization of bonds for purchase or improvement of property and buildings; issuance procedure**

*Note: This version of section amended by P.L.233-2015, SEC.115. See also preceding version of this section amended by P.L.184-2015, SEC.10.*

Sec. 18. A school corporation may issue and sell bonds under the general statutes governing the issuance of bonds to purchase and improve buildings or lands, or both. All laws relating to approval (if required) in a local public question under IC 6-1.1-20, the filing of petitions, remonstrances, and objecting petitions, giving notices of the filing of petitions, the determination to issue bonds, and the appropriation of the proceeds of the bonds are applicable to the issuance of bonds under section 17 of this chapter.

*As added by P.L.1-2005, SEC.10. Amended by P.L.146-2008, SEC.467; P.L.233-2015, SEC.115.*

#### **IC 20-26-7-19**

##### **Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.116.)*

**IC 20-26-7-20**

**Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.117.)*

**IC 20-26-7-21**

**Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.118.)*

**IC 20-26-7-22**

**Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.119.)*

**IC 20-26-7-23**

**Repealed**

*(As added by P.L.1-2005, SEC.10. Amended by P.L.1-2006, SEC.327. Repealed by P.L.233-2015, SEC.120.)*

**IC 20-26-7-24**

**Repealed**

*(As added by P.L.1-2005, SEC.10. Amended by P.L.1-2006, SEC.328. Repealed by P.L.233-2015, SEC.121.)*

**IC 20-26-7-25**

**Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.122.)*

**IC 20-26-7-26**

**Duties and liabilities of school corporations with respect to municipal assessments for public improvements**

Sec. 26. (a) A common school corporation:

- (1) has the same powers; and
- (2) is subject to the same duties and liabilities;

concerning municipal assessments for the cost of public improvements affecting the common school corporation's real estate that private owners of real estate possess or to which private owners of real estate are subject.

(b) The real estate of a common school corporation is subject to liens for municipal assessments for public improvements if the real estate:

- (1) had been owned by a private owner; and
- (2) would have been subject to a lien at the time the lien was attached.

(c) A penalty or an attorney's fee concerning a municipal assessment may not be collected from a school corporation.  
*As added by P.L.1-2005, SEC.10.*

#### **IC 20-26-7-27**

##### **Inspection of heating systems and fuel lines used for school purposes**

Sec. 27. The superintendent of a school corporation shall cause an annual inspection to be conducted of all heating systems and supporting gas, oil, propane, or any other fuel lines used for school purposes.

*As added by P.L.1-2005, SEC.10.*

#### **IC 20-26-7-27.5**

##### **Abatement of certain violations**

Sec. 27.5. (a) Notwithstanding any other law, if:

(1) as a result of an inspection of a school building under IC 22-14-2-11 that is not an inspection to determine compliance with a legal standard for accreditation, the division of fire and building safety of the department of homeland security determines that there is a violation of a fire safety law at the school building;

(2) the fire safety law that the division determines has been violated at the school building incorporates a standard that:

(A) was not a fire safety law at the time of the construction or renovation of the school building and is being applied retroactively to the building by an employee of the division of fire and building safety; or

(B) previously was not applicable to the building; and

(3) the violation is not a condition that creates an immediate safety hazard and is monitored under daily maintenance and supervision;

the school corporation shall abate the violation before the earlier of one (1) year after the violation determination or six (6) months after the start of the school corporation's next budget year following the violation determination.

(b) The expense of the abatement may be paid out of funds appropriated for such purposes in the budget year following a violation determination under subsection (a).

*As added by P.L.132-2007, SEC.6.*

#### **IC 20-26-7-28**

##### **Record and report of heating system and fuel line inspection**

Sec. 28. A report of the inspection described in section 27 of this chapter shall be made to the division of fire and building safety before September 1 of each year. The report shall be made on forms prescribed and approved by the division of fire and building safety.

*As added by P.L.1-2005, SEC.10. Amended by P.L.1-2006, SEC.329.*

**IC 20-26-7-29**

**Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.123.)*

**IC 20-26-7-30**

**Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.124.)*

**IC 20-26-7-31**

**Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.125.)*

**IC 20-26-7-32**

**Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.126.)*

**IC 20-26-7-33**

**Repealed**

*(As added by P.L.1-2005, SEC.10. Amended by P.L.231-2005, SEC.32; P.L.1-2006, SEC.330. Repealed by P.L.233-2015, SEC.127.)*

**IC 20-26-7-34**

**Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.128.)*

**IC 20-26-7-35**

**Repealed**

*(As added by P.L.1-2005, SEC.10. Repealed by P.L.233-2015, SEC.129.)*

**IC 20-26-7-36**

**School building construction or alteration; feasibility study**

Sec. 36. Before the governing body exercises power granted by any law to spend more than one million dollars (\$1,000,000) to build, repair, or alter school buildings that would be financed by:

- (1) entering into a lease agreement under IC 20-47-2-11 through IC 20-47-2-14 or IC 20-47-3-9 through IC 20-47-3-12;
- (2) issuing bonds under IC 20-48-1; or
- (3) any other available method;

the governing body may order the preparation and pay the costs of a feasibility study.

*As added by P.L.1-2005, SEC.10. Amended by P.L.2-2006, SEC.123.*

**IC 20-26-7-37**

**School building construction or alteration; hearing and notice**

Sec. 37. (a) If the governing body proposes to construct, repair, or alter a school building at a cost of more than one million dollars (\$1,000,000) that would be financed by:

- (1) entering into a lease agreement under IC 20-47-2-11 through IC 20-47-2-14 or IC 20-47-3-9 through IC 20-47-3-12;
- (2) issuing bonds under IC 20-48-1; or
- (3) any other available method;

the governing body must hold a public hearing at which explanations of the potential value of the proposed project to the school corporation and to the community shall be given and at which interested parties may present testimony and questions.

(b) Notice of the hearing shall be given in accordance with IC 5-3-1. The notice must state that on a given day, time, and place, the governing body will meet to discuss and hear objections and support to the proposed construction.

*As added by P.L.1-2005, SEC.10. Amended by P.L.2-2006, SEC.124.*

**IC 20-26-7-38**

**School building construction or alteration; resolution**

Sec. 38. At the public hearing and before bids for construction of the project are invited, the governing body shall adopt a resolution that specifies the following:

- (1) The educational purpose the building will serve.
- (2) The estimated cost of construction, including the cost of land.
- (3) Any other pertinent information, including the estimated impact on the tax rate and the proposed sources of funding.

*As added by P.L.1-2005, SEC.10.*

**IC 20-26-7-39**

**Sale or exchange of unneeded school property to state; terms of agreement**

Sec. 39. (a) If:

- (1) a school corporation; and
- (2) the state, either in the name of the state or in the name of the trustees of an agency of the state;

each own improved or unimproved real estate that lies within the boundaries of the school corporation and that is not needed or required for the purpose for which it was acquired, the school corporation and the state may sell, trade, exchange, or convey to or with each other the unneeded real estate upon such terms and conditions mutually agreed upon and incorporated in an agreement between the trustees or board of trustees of the school corporation and the state or, if the real estate is held in the name of the trustees of an agency of the state, by the trustees.

(b) A value must be assigned to each parcel of real estate involved in the sale, trade, or exchange in the agreement. The assigned value must be the fair market value of the real estate as determined by three

(3) appraisers appointed as follows:

(1) One (1) to be appointed by the board of trustees of the school corporation.

(2) One (1) to be appointed by the state or, if the real estate is held in the name of the trustees of an agency of the state, by the trustees.

(3) One (1) to be appointed by the two (2).

(c) The agreement must provide for payment by the party owning the real estate of the smaller value to the other party of the difference of value of the properties.

*As added by P.L.1-2005, SEC.10.*

#### **IC 20-26-7-40**

##### **Sale or exchange of unneeded school property to state; execution of deed**

Sec. 40. Whenever:

(1) an agreement described in section 39 of this chapter is executed; and

(2) the payment of any money is made;

deeds of conveyance shall be executed by the trustees or board of trustees of the school corporation and by the state for the transfer of state owned real estate.

*As added by P.L.1-2005, SEC.10.*

#### **IC 20-26-7-41**

##### **Township schools; sale of unused school land**

Sec. 41. A township trustee may, whenever:

(1) a schoolhouse is removed to a different location or a new one erected for the school in a different place; and

(2) the land where the schoolhouse is situated belongs unconditionally to the township, town, or city;

sell the land, if the trustee believes it is advantageous to the township, town, or city to do so. The township trustee shall sell the land for the highest price that can be obtained for the land. Upon payment of the purchase money to the township, town, or city, the township trustee shall execute to the purchaser a deed of conveyance, which must be sufficient to vest in the purchaser the title the township, town, or city has to the land. The money derived from the sale becomes a part of the school revenue.

*As added by P.L.2-2006, SEC.125.*

#### **IC 20-26-7-42**

##### **Township schools; subsequent conveyance to correct error in prior conveyance**

Sec. 42. (a) If an officer authorized to sell school land sells any lands without a title to the land, the officer or the officer's successor in office may convey other land of equal value that is agreed upon by the officer and the purchaser, purchaser's heirs, or purchaser's assigns. If an agreement is not made, the purchase money, with interest, shall

be repaid to the purchaser, purchaser's heirs, purchaser's executors, purchaser's administrators, or purchaser's assigns.

(b) Purchase money may not be repaid until the prosecuting attorney has:

- (1) investigated the facts of the case; and
- (2) certified to the correctness of the claim.

*As added by P.L.2-2006, SEC.126.*

**IC 20-26-7-43**

**Repealed**

*(As added by P.L.2-2006, SEC.127. Repealed by P.L.233-2015, SEC.130.)*

**IC 20-26-7-44**

**Repealed**

*(As added by P.L.2-2006, SEC.128. Repealed by P.L.233-2015, SEC.131.)*

**IC 20-26-7-45**

**Legalization of certain school corporation actions in acquiring property under deed with reverter clause; school corporation rights in case of reversion**

Sec. 45. (a) The actions of a school corporation taken before January 1, 1993, in acquiring any interest in real estate or a real estate improvement under a deed that contains a reverter clause that limits the use of the property by the school corporation are legalized.

(b) If a reversion occurs under a deed described in subsection (a), the school corporation is entitled to the improvements or the fair market value of the improvements made to the property by the school corporation.

*As added by P.L.220-2011, SEC.329.*