

IC 36-5-6

Chapter 6. Town Clerk-Treasurer

IC 36-5-6-1

Application of chapter

Sec. 1. This chapter applies to all towns.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-6-2

Clerk and fiscal officer

Sec. 2. The clerk-treasurer elected under this chapter is both the town clerk and the town fiscal officer.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-6-3

Residency; term of office

Sec. 3. (a) The clerk-treasurer must reside within the town as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The clerk-treasurer forfeits office if the clerk-treasurer ceases to be a resident of the town.

(b) Except as provided in subsection (c), (d), (e), or (f), the term of office of the clerk-treasurer is four (4) years, beginning at noon January 1 after election and continuing until a successor is elected and qualified.

(c) The term of office of a clerk-treasurer elected under IC 36-5-1-10.1 following the incorporation of the town:

- (1) begins at noon November 30 following the election; and
- (2) continues until noon January 1 following the next municipal election scheduled under IC 3-10-6-5 or IC 3-10-7-6 and until the clerk-treasurer's successor is elected and qualified.

(d) The term of office of a clerk-treasurer subject to an ordinance described by IC 3-10-6-2.6 is:

- (1) one (1) year if the clerk-treasurer is elected at the next municipal election not conducted in a general election year; and
- (2) four (4) years for the successors of the clerk-treasurer described in subdivision (1);

beginning at noon January 1 after the clerk-treasurer's election and continuing until the clerk-treasurer's successor is elected and qualified.

(e) The term of office of a clerk-treasurer subject to an ordinance described by IC 3-10-7-2.7 is:

- (1) three (3) years if the clerk-treasurer is elected at the next municipal election not conducted in a general election year; and
- (2) four (4) years for the successors of the clerk-treasurer described in subdivision (1);

beginning noon January 1 after the clerk-treasurer's election and continuing until the clerk-treasurer's successor is elected and qualified.

(f) The term of office of a clerk-treasurer subject to an ordinance described by IC 3-10-7-2.9 is:

- (1) the term of office provided by the ordinance, not to exceed four (4) years, for the clerk-treasurer elected in the first election cycle after adoption of the ordinance; and
- (2) four (4) years for the successors of the clerk-treasurer described in subdivision (1).

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.3-1987, SEC.562; P.L.3-1993, SEC.277; P.L.4-1996, SEC.104; P.L.109-2015, SEC.61.

IC 36-5-6-4

Election

Sec. 4. The clerk-treasurer shall be elected under IC 3-10-6 or IC 3-10-7 by the voters of the whole town.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.5-1986, SEC.56.

IC 36-5-6-5

Oaths, depositions, and acknowledgments

Sec. 5. The clerk-treasurer may administer oaths, take depositions, and take acknowledgments of instruments required by statute to be acknowledged.

As added by Acts 1980, P.L.212, SEC.4.

IC 36-5-6-5.1

Office space provided

Sec. 5.1. If office space exists in a building owned or leased by the town, the legislative body shall provide suitable office space for the:

- (1) clerk-treasurer; and
- (2) staff and records of the clerk-treasurer.

As added by P.L.69-1995, SEC.12.

IC 36-5-6-6

Powers and duties

Sec. 6. (a) The clerk-treasurer shall do the following:

- (1) Receive and care for all town money and pay the money out only on order of the town legislative body.
- (2) Keep accounts showing when and from what sources the clerk-treasurer has received town money and when and to whom the clerk-treasurer has paid out town money.
- (3) Prescribe payroll and account forms for all town offices.
- (4) Prescribe the manner in which creditors, officers, and employees shall be paid.
- (5) Manage the finances and accounts of the town and make investments of town money.
- (6) Prepare for the legislative body the budget estimates of miscellaneous revenue, financial statements, and the proposed tax rate.

(7) Maintain custody of the town seal and the records of the legislative body.

(8) Issue all licenses authorized by statute and collect the fees fixed by ordinance.

(9) Serve as clerk of the legislative body by attending its meetings and recording its proceedings.

(10) Administer oaths, take depositions, and take acknowledgment of instruments that are required by statute to be acknowledged, without charging a fee.

(11) Serve as clerk of the town court under IC 33-35-3-2, if the judge of the court does not serve as clerk of the court or appoint a clerk of the court under IC 33-35-3-1.

(12) Perform all other duties prescribed by statute.

(b) A clerk-treasurer is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the requirements set forth in subsection (a), unless the act or omission constitutes gross negligence or an intentional disregard of the requirements.

As added by Acts 1980, P.L.212, SEC.4. Amended by Acts 1981, P.L.17, SEC.27; P.L.189-1988, SEC.5; P.L.10-1997, SEC.33; P.L.33-1998, SEC.11; P.L.98-2004, SEC.162.

IC 36-5-6-7

Deputies and employees

Sec. 7. (a) The clerk-treasurer shall appoint the number of deputies and employees needed for the effective operation of the office, with the approval of the town legislative body. The clerk-treasurer's deputies and employees serve at the clerk-treasurer's pleasure.

(b) If a town owns a utility and the clerk-treasurer is directly responsible for the billing and collection of that utility's rates and charges, the clerk-treasurer shall appoint those employees who are also responsible for that billing and collection. These employees serve at the clerk-treasurer's pleasure.

As added by Acts 1980, P.L.212, SEC.4. Amended by P.L.189-1988, SEC.6.

IC 36-5-6-8

Employment of attorneys or legal research assistants

Sec. 8. (a) A clerk-treasurer may hire or contract with competent attorneys or legal research assistants on terms the clerk-treasurer considers appropriate.

(b) Appropriations for the salaries of attorneys and legal research assistants employed under this section shall be approved in the annual budget.

(c) Appropriations for the salaries of attorneys and legal research assistants employed under this section shall be approved in the annual budget and must be allocated to the clerk-treasurer for the payment of attorneys' and legal research assistants' salaries.

As added by P.L.69-1995, SEC.13. Amended by P.L.98-2000,

SEC.24.

IC 36-5-6-9

Vacancy in office

Sec. 9. (a) This section applies if an office of town clerk-treasurer is vacant and the town legislative body is unable to fill the office under IC 3-13-9-3.

(b) The town legislative body may select a town legislative body member, who shall assume the duties of the office of town clerk-treasurer. For purposes of Article 2, Section 9 of the Constitution of the State of Indiana and Indiana law, if a town legislative body member serves as the ex officio town clerk-treasurer, the duties assumed by the town legislative body member:

- (1) are considered part of the duties prescribed by law for the office of town legislative body member; and
- (2) are not considered a second office.

A town legislative body member may not receive any additional compensation for assuming the duties of the town clerk treasurer.

(c) The town legislative body may enter into an interlocal agreement under IC 36-1-7 with the town clerk-treasurer and town legislative body of another town in the state to assist the town legislative body member selected under subsection (b) in performing the duties of the clerk-treasurer's office. The agreement may not last longer than the remainder of the vacant clerk-treasurer's term and must meet the requirements of IC 36-1-7.

(d) If an agreement cannot be reached under subsection (c), the town legislative body may enter into a contract with a certified public accountant to assist the town legislative body member selected under subsection (b) in performing the duties of the clerk-treasurer's office. The contract may not last longer than the remainder of the vacant clerk-treasurer's term.

As added by P.L.120-2015, SEC.3.