

IC 36-7-37

Chapter 37. Determination of Abandoned Property

IC 36-7-37-1

Determination of abandonment by court or hearing authority

Sec. 1. (a) Except as provided in subsections (b) and (c), as an alternative to seeking a determination of abandonment under any other statute:

(1) the executive of a county, city, or town that has jurisdiction in the location of a property may petition a court for a determination that the property is abandoned; or

(2) an enforcement authority, as defined by IC 36-7-9-2, may seek a determination from a hearing authority under IC 36-7-9.

The hearing authority may make a determination of abandonment using the standards set forth in IC 32-30-10.6-5 after notice to the owner and a hearing under IC 36-7-9-7.

(b) If a person gives notice to the executive of the county, city, or town that has jurisdiction in the location of the property that the person is an owner of record for the property, all proceedings under this chapter are terminated. An owner of the property may give notice in person, by telephone, by electronic mail, or by United States mail.

(c) This chapter does not apply to a property covered by an installment payment plan under IC 6-1.1-10-16.

As added by P.L.247-2015, SEC.50.

IC 36-7-37-2

Petition or order for determination of abandonment; contents

Sec. 2. A petition filed with the court under this chapter or an order by an enforcement authority under IC 36-7-9-7 with respect to property for which a determination of abandonment is being sought under this chapter must do all the following:

(1) Include a statement of the jurisdiction of the county, city, or town in the location of the property.

(2) Allege that the property is abandoned.

(3) Include evidence that one (1) or more of the conditions set forth in IC 32-30-10.6-5(a), which constitute prima facie evidence, apply.

(4) Include a statement that if the property is determined to be abandoned and any property taxes are delinquent, the property may be sold by the county at tax sale and the owner will have no right of redemption with respect to the property after the sale.

As added by P.L.247-2015, SEC.50.

IC 36-7-37-3

Service of petition or order

Sec. 3. A petition under this section or an order by an enforcement

authority under IC 36-7-9-7 with respect to property for which a determination of abandonment is being sought under this chapter shall be served on:

- (1) any person with a substantial property interest of public record in the tract of real property; and
- (2) any other appropriate party;

in the manner prescribed by the Indiana Rules of Trial Procedure in the case of a petition or in the manner prescribed by IC 36-7-9-7 in the case of an order by an enforcement authority.

As added by P.L.247-2015, SEC.50.

IC 36-7-37-4

Order to show cause why property should not be determined abandoned; order to appear

Sec. 4. Upon receiving a request for a determination of abandonment from an enforcement authority, or an executive of a county, city, or town through a petition or motion filed with the court and served on the required parties in accordance with this chapter, or if an enforcement authority requests an abandonment determination from the hearing authority and has served the request as provided in IC 36-7-9, the court or hearing authority shall issue an order to show cause as to why the property should not be found to be abandoned and directing the petitioner, the owner, and any other person or party the court or hearing authority considers appropriate to appear before the court or hearing authority on a date and time specified in the order under subdivision (1). The court's or hearing authority's order under this section must do the following:

- (1) Direct the parties subject to the order to appear before the court or hearing authority on a date and time specified by the court or hearing authority. The date specified under this subdivision must not be:

- (A) earlier than fifteen (15) days; or
- (B) later than twenty-five (25) days;

after the date of the court's or hearing authority's order under this section.

- (2) Notify the parties subject to the order that any party ordered to appear:

(A) may present evidence or objections on the issue of abandonment to the court or hearing authority:

- (i) in writing before the appearance date specified by the court or hearing authority under subdivision (1); or
- (ii) in writing or by oral testimony on the date and at the time specified by the court or hearing authority under subdivision (1);

in the manner specified by the court or hearing authority; and

- (B) has the right to be represented by an attorney when appearing before the court or hearing authority.

- (3) Notify the parties subject to the order that if a party fails to:
 - (A) submit written evidence or objections to the court or hearing authority before the appearance date specified by the court or hearing authority under subdivision (1); or
 - (B) appear before the court or hearing authority on the date and at the time specified by the court or hearing authority under subdivision (1);the party's failure to submit evidence or objections or to appear before the court or hearing authority will result in a finding of abandonment by the court or hearing authority.

As added by P.L.247-2015, SEC.50.

IC 36-7-37-5

Right to present evidence; right to counsel

Sec. 5. A party subject to an order issued by the court or hearing authority under this chapter has the following rights, as described in the court's or hearing authority's order under section 4 of this chapter:

- (1) The right to present evidence or objections on the issue of abandonment to the court or hearing authority:
 - (A) in writing before the appearance date specified in the court's or hearing authority's order under section 4(1) of this chapter; or
 - (B) in writing or by oral testimony on the date and at the time specified in the court's or hearing authority's order under section 4(1) of this chapter;in the manner specified by the court or hearing authority.
- (2) The right to be represented by an attorney when appearing before the court or hearing authority.

As added by P.L.247-2015, SEC.50.

IC 36-7-37-6

Timing of notice of sale of vacant or abandoned property

Sec. 6. (a) This section applies to:

- (1) a petition by the executive of a county, city, or town for a court order of abandonment; and
- (2) an order by an enforcement authority under IC 36-7-9-7.

(b) Instead of providing notice at least one hundred twenty (120) days before the date of a certification under IC 6-1.1-24-1.5, the executive of the county, city, or town that is filing the petition or the enforcement authority that issued the order under IC 36-7-9-7 may provide the notice referred to in IC 6-1.1-24-2.3 at least one hundred twenty (120) days before the petition is filed under this chapter or the order is sent under IC 36-7-9-7.

(c) A court order or hearing authority determination of abandonment under this chapter authorizes the sale of the property and transfer of the deed of the property under IC 6-1.1-24.

As added by P.L.247-2015, SEC.50.