

IC 32-21-2 Chapter 2. Recording Process

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IC 32-21-2-1 "Grantor" defined

Sec. 1. As used in this chapter, "grantor" has the meaning set forth in IC 32-17-1-1.

[2002 Recodification Citation: New.]

As added by P.L.2-2002, SEC.6.

IC 32-21-2-1.2 "Homeowners association"

Sec. 1.2. As used in this chapter, "homeowners association" means a corporation or another entity that:

- (1) is organized and operated exclusively for the benefit of two (2) or more persons who each own a dwelling in fee simple;
- (2) acts, in accordance with bylaws governing the corporation or entity, to:
 - (A) acquire, transfer, manage, repair, maintain, or engage in construction on or in the land and improvements on the land related to the use of the dwellings owned by the members of the corporation or entity;
 - (B) purchase insurance to cover a casualty or an activity on or in the land and improvements on the land;
 - (C) engage in an activity incidental to an activity described in clause (A) or (B); or
 - (D) engage in more than one (1) of the activities described in clauses (A) through (C); and
- (3) may be governed by a board that serves the purpose of setting policy and controlling or otherwise overseeing the activities or functional responsibilities of the corporation or entity.

As added by P.L.43-2013, SEC.1.

IC 32-21-2-1.5 "Instrument"

Sec. 1.5. As used in this chapter, "instrument" means:

- (1) an electronic document as defined in IC 32-21-2.5-3; or
- (2) any paper document as defined in IC 32-21-2.5-8(a);

that is submitted to a county recorder for recording under IC 29-1-7-23(d), IC 32-21-2, IC 32-21-2.5, IC 32-21-3, IC 32-21-4, IC 32-21-8-7(b), or IC 36-2-11.

As added by P.L.2-2021, SEC.1.

IC 32-21-2-1.7 "Proof"

Sec. 1.7. As used in this chapter, "proof", with respect to a notarial act, means a proof:

- (1) under common law; or
- (2) where the witness:
 - (A) appears before a notarial officer;
 - (B) was personally known by the notarial officer or identified by the notarial officer through satisfactory evidence;
 - (C) was not a party to, or a beneficiary of, the record being signed by the principal and the witness; and
 - (D) took an oath or gave an affirmation and testified to the following:
 - (i) The witness signed the record.
 - (ii) The witness identified the principal who signed the record.
 - (iii) The witness personally observed the principal sign the same record that the witness signed.

As added by P.L.2-2021, SEC.2.

IC 32-21-2-2 "Tract" defined

Sec. 2. As used in this chapter, "tract" means an area of land that is:

- (1) under common fee simple ownership;
- (2) contained within a continuous border; and
- (3) a separately identified parcel for property tax purposes.

[Pre-2002 Recodification Citation: 32-1-2-37(a).]

As added by P.L.2-2002, SEC.6.

IC 32-21-2-3 Notarial acts; recording requirements; statement of mailing address; translations

Sec. 3. (a) Any instrument to be recorded must have one (1) of the following notarial acts:

- (1) An acknowledgment (as defined in IC 33-42-0.5-2).
- (2) A proof.

(b) A notarial act described in subsection (a)(1) must be performed:

- (1) by a notarial officer (as defined in IC 33-42-0.5-19);
- (2) by a remote notary public (as defined in IC 33-42-0.5-27); or
- (3) in compliance with:
 - (A) IC 33-42-9-8;
 - (B) IC 33-42-9-9;
 - (C) IC 33-42-9-10; or
 - (D) IC 33-42-9-11.

(c) The notarial act described in subsection (a)(2) must be performed:

- (1) by a notarial officer (as defined in IC 33-42-0.5-19); or
- (2) in compliance with:
 - (A) IC 33-42-9-8;
 - (B) IC 33-42-9-9;
 - (C) IC 33-42-9-10; or
 - (D) IC 33-42-9-11.

(d) In addition to the requirements specified under subsections (a) and (b), an instrument may not be recorded unless it meets the requirements of:

- (1) this article;
- (2) the notarial requirements for an acknowledgment or for a proof; and
- (3) IC 36-2-11.

(e) A conveyance must include a statement containing substantially the following information:

"The mailing address to which statements should be mailed under IC 6-1.1-22-8.1 is [insert proper mailing address]. The mailing address of the grantee is [insert proper

mailing address]."

The mailing address for the grantee must be a street address or a rural route address. A conveyance complies with this subsection if it contains the address or addresses required by this subsection at the end of the conveyance and immediately preceding or following the statements required by IC 36-2-11-15.

(f) If the instrument is executed in a foreign country, where the instrument, its acknowledgment, or its proof is in a language other than English, the instrument must include a translation from the other language into English.

[Pre-2002 Recodification Citation: 32-1-2-18.]

As added by P.L.2-2002, SEC.6. Amended by P.L.135-2007, SEC.1; P.L.194-2007, SEC.7; P.L.143-2009, SEC.42; P.L.187-2018, SEC.4; P.L.14-2019, SEC.4; P.L.80-2020, SEC.1; P.L.2-2021, SEC.3.

IC 32-21-2-3.5 Homeowners association covenants

Sec. 3.5. (a) This section applies only to land developments that include:

- (1) at least two hundred fifty (250) single family homes; and
- (2) at least two (2) different sections of lots:
 - (A) whose titles have all been conveyed from the land developer;
 - (B) whose first plat and covenants have been recorded in the office of the county recorder for at least fifteen (15) years;
 - (C) that are all governed by one (1) homeowners association; and
 - (D) that are not all subject to the same homeowners association covenants.

(b) Except as provided in subsection (c), if the lots included as part of one (1) homeowners association are not all subject to the same homeowners association covenants, new replacement covenants may be recorded by the homeowners association using one (1) of the following methods:

- (1) The homeowners association covenants may be recorded in accordance with section 3 of this chapter.
- (2) Notwithstanding any covenant provisions or bylaws of the homeowners association concerning amendments or revisions to homeowners association covenants, the homeowners association may:
 - (A) distribute to the owner of each lot included as part of the homeowners association:
 - (i) a proposed set of homeowners association covenants that would apply to all lots included as part of the homeowners association; and
 - (ii) a petition to be signed by each lot owner on which the owner indicates whether the owner approves or disapproves of applying the proposed covenants to all lots included as part of the homeowners association; and
 - (B) submit the petitions and covenants to the county recorder if:
 - (i) the lesser of a percentage of lot owners specified in the covenants or two-thirds (2/3) of all lot owners approve of applying the covenants to all lots included as part of the homeowners association, as indicated by the petitions signed by the lot owners; and
 - (ii) notwithstanding section 3 of this chapter, the signature of each lot owner has been affirmed before a notary public or an officer of the homeowners association submits an affidavit with the covenants and the petitions that verifies and certifies the signatures on the petitions.

Homeowners association covenants submitted to a county recorder in accordance with this subdivision are considered to be in effect on the date the covenants are recorded.

(c) A new replacement covenant described in subsection (b) does not apply to and is not binding on property in one (1) section of lots to the extent that the new replacement covenant:

- (1) changes an existing covenant that pertains to minimum lot area or minimum home size; or

(2) adds a new covenant that pertains to minimum lot area or minimum home size.

(d) A new replacement covenant described in subsection (b) applies only prospectively, beginning on the date the covenant is recorded. The adoption of a new replacement covenant does not require a person to alter the person's home or lot to comply with the new replacement covenant if the condition of the person's home or lot was permissible or authorized under the previous covenant.

As added by P.L.43-2013, SEC.2. Amended by P.L.122-2014, SEC.1.

IC 32-21-2-4 Repealed

[Pre-2002 Recodification Citation: 32-1-2-19.]

As added by P.L.2-2002, SEC.6. Repealed by P.L.185-2021, SEC.36.

IC 32-21-2-5 Repealed

[Pre-2002 Recodification Citation: 32-1-2-20.]

As added by P.L.2-2002, SEC.6. Repealed by P.L.185-2021, SEC.37.

IC 32-21-2-6 Instruments entitled to be recorded

Sec. 6. An instrument that complies with this article, IC 33-42, and IC 36-2-11 is entitled to be recorded.

[Pre-2002 Recodification Citation: 32-1-2-21.]

As added by P.L.2-2002, SEC.6. Amended by P.L.185-2021, SEC.38.

IC 32-21-2-7 Acknowledgment of an instrument; form

Sec. 7. (a) The form set forth in this subsection and any other form substantially the same are good or sufficient forms for an acknowledgment of an instrument that is described in section 3 of this chapter and to be recorded:

- (1) An acknowledgment that complies with IC 33-42-0.5-2 and IC 33-42-9-12.
- (2) An acknowledgment for a remote notarial act that complies with:
 - (A) IC 33-42-0.5-2;
 - (B) IC 33-42-0.5-26;
 - (C) IC 33-42-9-12; and
 - (D) IC 33-42-17-7.

- (3) An acknowledgment that complies with IC 33-42-0.5-2 and IC 33-42-9-12(a) and contains the following or substantially the same information:

"Before me, E.F., a _____ (describe the notarial officer type) this _____ day of _____, A.B. acknowledged the execution of the foregoing or annexed _____ (describe the type of instrument)."

(b) The form set forth in this subsection and any other forms substantially the same are good or sufficient forms for a proof of an instrument that is described in section 3 of this chapter and to be recorded:

- (1) A proof that complies with section 1.7 of this chapter and IC 33-42-9-12.
- (2) A proof that complies with section 1.7 of this chapter and IC 33-42-9-12(a) and contains the following or substantially the same information:

"Before me, E.F., a _____ (describe the notarial officer type) this _____ day of _____, appeared A.B. being personally known to me or identified to me by a sufficient credential, whose name is subscribed as a witness to the foregoing instrument, who, being duly sworn by me, deposes and says that the foregoing instrument was executed and delivered by C.D. (describe the signer or principal to the instrument) while being personally observed by A.B."

[Pre-2002 Recodification Citation: 32-1-2-23.]

As added by P.L.2-2002, SEC.6. Amended by P.L.185-2021, SEC.39.

IC 32-21-2-8 Repealed

[Pre-2002 Recodification Citation: 32-1-2-24.]

As added by P.L.2-2002, SEC.6. Repealed by P.L.185-2021, SEC.40.

IC 32-21-2-9 Acknowledgment incomplete without certificate

Sec. 9. An instrument's acknowledgment or proof as required under section 3 of this chapter is incomplete when the instrument does not include the certificate described in IC 33-42-9-12.

[Pre-2002 Recodification Citation: 32-1-2-26.]

As added by P.L.2-2002, SEC.6. Amended by P.L.185-2021, SEC.41.

IC 32-21-2-10 Index of recorded instruments, required information; time instrument considered recorded

Sec. 10. (a) A recorder of deeds and other instruments shall keep a book or electronic index that includes:

- (1) the names of grantor and grantee;
- (2) the date and time of the recording;
- (3) the location of the recording; and
- (4) a legal description, if required.

(b) A deed or instrument shall be considered recorded at the time the date of reception is stamped on the document by the recorder.

[Pre-2002 Recodification Citation: 32-1-2-27.]

As added by P.L.2-2002, SEC.6. Amended by P.L.127-2017, SEC.6.

IC 32-21-2-11 Instrument recorded without acknowledgment not admissible as evidence

Sec. 11. If an instrument is recorded without an acknowledgment's or proof's certificate as required under this article and IC 33-42-9-12, the instrument or a transcript of the instrument may not be read or received in evidence.

[Pre-2002 Recodification Citation: 32-1-2-28.]

As added by P.L.2-2002, SEC.6. Amended by P.L.185-2021, SEC.42.

IC 32-21-2-12 Certificate of acknowledgment or record; conclusiveness

Sec. 12. The:

- (1) acknowledgment's or proof's certificate of an instrument as required under this article and IC 33-42-9-12;
- (2) instrument; or
- (3) transcript of the instrument;

is not conclusive and may be rebutted and the force and effect of it contested by a party affected by the instrument.

[Pre-2002 Recodification Citation: 32-1-2-29.]

As added by P.L.2-2002, SEC.6. Amended by P.L.185-2021, SEC.43.

IC 32-21-2-13 Conveyances dividing single property tax tracts into multiple parcels; requirements for recording

Sec. 13. (a) Except as provided in subsection (c), if the auditor of the county or the township assessor (if any) under IC 6-1.1-5-9 and IC 6-1.1-5-9.1 determines it necessary, an instrument transferring fee simple title to less than the whole of a tract that will result in the division of the tract into at least two (2) parcels for property tax purposes may not be recorded unless the auditor or township assessor is furnished a drawing or other reliable evidence of the following:

- (1) The number of acres in each new tax parcel being created.
- (2) The existence or absence of improvements on each new tax parcel being created.
- (3) The location within the original tract of each new tax parcel being created.

(b) Any instrument that is accepted for recording and placed of record that bears the endorsement required by IC 36-2-11-14 is presumed to comply with this section.

(c) If the duties of the township assessor have been transferred to the county assessor as described in IC 6-1.1-1-24, a reference to the township assessor in this section is considered to be a reference to the county assessor.

[Pre-2002 Recodification Citation: 32-1-2-37(b).]

As added by P.L.2-2002, SEC.6. Amended by P.L.219-2007, SEC.100; P.L.146-2008, SEC.673.

IC 32-21-2-14 Conveyance of tax sale property during redemption period

Sec. 14. A county recorder may not record a document of conveyance to which IC 32-21-8-7 applies unless the document of conveyance has been endorsed by the auditor of the proper county under IC 36-2-11-14.

As added by P.L.187-2016, SEC.13.

IC 32-21-2-15 Recording of instrument concerning real property, electronic recording

Sec. 15. An instrument concerning real property that may be recorded with a county recorder under this title may be recorded electronically as an electronic document as provided under IC 32-21-2.5.

As added by P.L.127-2017, SEC.7. Amended by P.L.185-2021, SEC.44.