

## **IC 32-21-2**

### **Chapter 2. Recording Process**

#### **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.

*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 32-21-2-2**

##### **"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.

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

#### **IC 32-21-2-3**

##### **Recording requirements; acknowledgment and proof; address of grantee**

Sec. 3. (a) For a conveyance, a mortgage, or an instrument of writing to be recorded, it must be:

- (1) acknowledged by the grantor; or
- (2) proved before a:

- (A) judge;
- (B) clerk of a court of record;
- (C) county auditor;
- (D) county recorder;
- (E) notary public;
- (F) mayor of a city in Indiana or any other state;
- (G) commissioner appointed in a state other than Indiana by the governor of Indiana;
- (H) minister, charge d'affaires, or consul of the United States in any foreign country;
- (I) clerk of the city county council for a consolidated city, city clerk for a second class city, or clerk-treasurer for a third class city;
- (J) clerk-treasurer for a town; or
- (K) person authorized under IC 2-3-4-1.

(b) In addition to the requirements under subsection (a), a conveyance may not be recorded after June 30, 2007, unless it meets the requirements of this subsection. The conveyance must include the mailing address to which statements should be mailed under IC 6-1.1-22-8.1. If the mailing address for statements under IC 6-1.1-22-8.1 is not a street address or a rural route address of the grantee, the conveyance must also include a street address or rural route address of the grantee after the mailing address for statements mailed under IC 6-1.1-22-8.1. 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.

*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.*

### **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**

##### **Acknowledgment in another county**

Sec. 4. (a) This section applies when a conveyance, mortgage, or other instrument that is required to be recorded is acknowledged in

any county in Indiana other than the county in which the instrument is required to be recorded.

(b) The acknowledgment must be:

- (1) certified by the clerk of the circuit court of the county in which the officer resides; and
- (2) attested by the seal of that court.

However, an acknowledgment before an officer having an official seal, if the acknowledgment is attested by that official seal, is sufficient without a certificate.

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

### **IC 32-21-2-5**

#### **Acknowledgment in another state**

Sec. 5. To record in Indiana a conveyance that is acknowledged outside Indiana but within the United States, the conveyance must be:

- (1) certified by the clerk of any court of record of the county in which the officer receiving the acknowledgment resides; and
- (2) attested by the seal of that court.

However, an acknowledgment before an officer having an official seal that is attested by the officer's official seal is sufficient without a certificate.

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

### **IC 32-21-2-6**

#### **Proving deeds**

Sec. 6. A deed may be proved according to the rules of common law before any officer who is authorized to take acknowledgments. A deed that is proved in the manner provided in this section is entitled to be recorded.

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

### **IC 32-21-2-7**

#### **Acknowledgment of deed or mortgage; form**

Sec. 7. The following or any other form substantially the same is a good or sufficient form of acknowledgment of a deed or mortgage:

"Before me, E.F. (judge or justice, as the case may be) this \_\_\_\_\_ day of \_\_\_\_\_, A.B. acknowledged the execution of the annexed deed, (or mortgage, as the case may be.)"

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

### **IC 32-21-2-8**

#### **Duty of officer to explain deed to grantor**

Sec. 8. (a) If before a public officer authorized to receive acknowledgment of deeds:

- (1) the grantor of a deed intends to sign the deed with the grantor's mark; and
- (2) in all other cases when the public officer has good cause to believe that the contents and purport of the deed are not fully known to the grantor;

it is the duty of the public officer before signature to fully explain to the grantor the contents and purport of the deed.

(b) The failure of the public officer to comply with subsection (a) does not affect the validity of a deed.

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

#### **IC 32-21-2-9**

##### **Certificate of acknowledgment; attaching to instrument; contents**

Sec. 9. A certificate of the acknowledgment of a conveyance or other instrument in writing that is required to be recorded, signed, and sealed by the officer taking the acknowledgment shall be written on or attached to the deed. When by law the certificate of the clerk of the proper county is required to accompany the acknowledgment, the certificate shall state that:

(1) the officer before whom the acknowledgment was taken was, at the time of the acknowledgment, acting lawfully; and

(2) the clerk's signature to the certificate of acknowledgment is genuine.

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

#### **IC 32-21-2-10**

##### **Recorder of deeds; keeping book; recording time**

Sec. 10. A recorder of deeds shall keep a book having each page divided into five (5) columns that are headed as follows:

Date of Reception.	Names of Grantors.	Names of Grantees.	Description of Land.	Vol. and Page Where Recorded.
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The recorder shall enter in this book all deeds and other instruments left with the recorder to be recorded. The recorder shall note in the first column the day and hour of receiving the deed or instrument and shall note the other particulars in the appropriate columns. A deed or instrument is considered recorded at the time the date of reception is noted by the recorder.

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

#### **IC 32-21-2-11**

##### **Certificate of acknowledgment; recording with deed or instrument**

Sec. 11. (a) This section applies to a conveyance or other instrument entitled by law to be recorded.

(b) The recorder of the county in which the land included in a conveyance or other instrument is situated shall record the deed or other instrument together with the requisite certificate of acknowledgment or proof endorsed on the deed or other instrument or annexed to the deed or other instrument.

(c) Unless a certificate of acknowledgment is recorded with a deed, the record of the conveyance or other instrument or a transcript may not be read or received in evidence.

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

#### **IC 32-21-2-12**

**Certificate of acknowledgment or record; conclusiveness**

Sec. 12. The:

- (1) certificate of the acknowledgment of a conveyance or instrument of writing;
- (2) the record; or
- (3) the transcript of the record;

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

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

**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.

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