

IC 20-26-7.1

Chapter 7.1. Transfers of Vacant School Buildings to Charter Schools

Sec. 1. This chapter 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.

Sec. 2. As used in this chapter, "charter school" has the meaning set forth in IC 20-24-1-4 and includes an entity that has filed an application with an authorizer and is seeking approval from the authorizer to operate a charter school under IC 20-24-3.

Sec. 3. (a) Before a governing body may sell or exchange a building described in this section in accordance with IC 20-25-4-14, IC 20-26-5-4(7), or IC 20-26-7-1, and except as provided in this chapter, 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) is vacant or unused; and

(2) was previously used for classroom instruction; in order for the charter school to conduct kindergarten through grade 12 classroom instruction.

(b) The following are not required to comply with the requirements provided in section 4 of this chapter:

(1) A governing body that vacates a school building in order to:

(A) renovate the school building for future use by the school corporation; or

(B) demolish the school building and build a new school building on the same site as the demolished building.

(2) An emergency manager of a distressed school corporation under IC 6-1.1-20.3.

(3) The governing body of the School City of East Chicago school corporation for the Carrie Gosch Elementary School building.

(c) Notwithstanding subsection (a), a lease entered into by a governing body under IC 20-26-5-4(7) prior to July 1, 2019, with an accredited nonpublic school shall remain in full force and effect. In addition, the governing body may, during or at the expiration of the term of such lease, sell the school building leased under IC 20-26-5-4(7) to the nonpublic school at a purchase price mutually agreed to by the governing body and the nonpublic school.

Sec. 4. (a) Not later than ten (10) days after passing a resolution or taking other official action to close, no longer use, or no longer occupy a school building that was previously used for classroom instruction, the governing body shall:

(1) notify the department of the official action and the effective date that the school building will be closed, no longer used, or no longer occupied;

(2) make the school building available for inspection by a charter school that notifies the department that it is interested in leasing or purchasing the school building described under section 3 of this chapter; and

(3) make the following information available to a charter school described in subdivision (2):

(A) Estimates of the operating expenses for the school building for the past three (3) years.

(B) Written information regarding the condition of the building, including the age of the roof and the HVAC system, and any known conditions which, in the governing body's opinion, require prompt repair or replacement.

(C) A description of the property as shown on the current tax statement.

(b) Within five (5) days of receiving notice under subsection (a)(1), the department shall provide written notification to each charter school authorizer (excluding school corporation authorizers as defined in IC 20-24-1-2.5(1)) and statewide organizations representing charter schools in Indiana of the school corporation's resolution or official action described in subsection

(a), including the date when the school building will close, no longer be used, or become vacant.

(c) The school corporation shall lease the school building to a charter school for one dollar (\$1) per year for as long as the charter school uses the school building for classroom instruction for a term at the charter school's discretion, or sell the school building for one dollar (\$1), if the charter school does the following:

(1) Within thirty (30) days of receiving the department's notice under subsection (b), a charter school must submit a preliminary request to purchase or lease the school building.

(2) Subject to subsection (d), within ninety (90) days of receiving the department's notice under subsection (b), a charter school must submit to the school corporation the following information:

(A) The name of the charter school that is interested in leasing or purchasing the vacant or unused school building.

(B) A time frame, which may not exceed two (2) years from the date that the school building is to be closed, no longer used, or no longer occupied, in which the charter school intends to begin providing classroom instruction in the vacant or unused school building.

(C) A resolution, adopted by the board of the charter school stating that the board has determined that, after the charter school has made any necessary repairs or modifications, the school building will be sufficient to meet the charter school's needs and can be operated within the charter school's budget.

(D) This clause applies to a vacant or unused school building with more than two hundred thousand (200,000) gross square feet. In addition to the information provided in clauses (A) through (C), a charter school shall submit the following:

(i) The charter school's projected enrollment when all of the grade levels are added.

(ii) A letter from the charter school's authorizer or prospective authorizer that indicates that the charter school's authorizer or prospective authorizer has reviewed the items described in clauses (B) through (C) and that the projected enrollment of the charter school when all of the grade levels are added or fully implemented will be at least sixty percent (60%) of the maximum annual student enrollment of the school building during the past twenty-five (25) years as validated by records maintained or created by the department.

(d) If the department does not receive any preliminary requests to purchase or lease a school building within the time frame described in subsection (c)(1) and except as provided in section 7 of this chapter, the department shall send notification to the school corporation that the department has not received any preliminary requests to purchase or lease the school building. Upon receipt of the notification under this subsection, the school corporation may sell or otherwise dispose of the school building in accordance with IC 36-1-11, IC 20-25-4-14, IC 20-26-5-4(7), and section 8 of this chapter.

(e) In the event that two (2) or more charter schools submit a preliminary request to purchase or lease a school building within the time frame described in subsection (c)(1), the department shall send notification to an authorizer described in IC 20-24-1-2.5(3) and each statewide charter school authorizer and statewide organization representing charter schools in Indiana (excluding school corporation authorizers as defined in IC 20-24-1-2.5(1)) and the school corporation that the department has received two (2) or more preliminary requests under this section. An authorizer committee shall be established, with each statewide authorizer that has authorized one (1) or more charter schools appointing a representative, and the committee shall establish the chairperson and procedures for the committee. Within sixty (60) days of receiving notice under this subsection, the committee shall select which charter school may proceed under subsection (c)(2) to purchase or lease the school building or determine if two (2) or more charter schools should co-locate within the school building. The committee shall give priority to a charter school located within one (1) mile of the vacant or unused school building. In the event that the committee determines that two (2) or more charter schools should co-locate in the school building and, if applicable, that the combined enrollment of the charter schools will meet or exceed the requirements in subsection (c)(2)(D), the charter schools have sixty (60) days to submit a memorandum of understanding stating that the charter schools shall be jointly and severally liable for the obligations related to the sale or lease of the school building, and specifying how the charter schools will utilize the school building and share responsibility for operational, maintenance, and renovation expenses. If the charter schools are unable to agree, the charter schools shall be deemed to have revoked their prior request regarding the lease or sale of the school building.

(f) A school corporation shall lease the school building for one dollar (\$1) per year for as long as the charter school uses the school building for classroom instruction for any combination of kindergarten through grade 12 for a term at the charter school's discretion, or sell the school building to the charter school for one dollar (\$1), if the charter school has met the requirements set forth in subsection (c) and uses the vacant or unused school building to provide classroom instruction to students in any combination of kindergarten through grade 12. If a charter school has not met the requirements under subsection (c), the school corporation may, subject to section 7 of this chapter, sell or otherwise dispose of the school building in accordance with IC 36-1-11, IC 20-25-4-14, IC 20-26-5-4(7), and section 8 of this chapter.

Sec. 5. (a) If a school building is sold to a charter school under section 3 or 4 of this chapter and the charter school, or any subsequent owner, subsequently sells or transfers the school building to a third party, the charter school or subsequent owner 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.

(b) A charter school that purchases a school building assumes total control of the school building and must maintain the school building, including utilities, insurance, maintenance, and repairs. In the event a charter school does not use the school building for classroom instruction within two (2) years after acquiring the school building, the school building shall revert to the school corporation, which may sell or otherwise dispose of the school building under IC 36-1-11.

Sec. 6. During the term of a lease under section 4 of this chapter the charter school is responsible for the direct expenses related to the school building leased, including utilities, insurance, maintenance, repairs, and remodeling. If the lease involves co-locating charter schools, the obligations under the lease of the school building shall be joint and several. 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.

Sec. 7. (a) This section applies to a school building with a gross square footage of two hundred thousand (200,000) square feet or less.

(b) If the school corporation receives notification from the department that the department has not received any preliminary requests to purchase or lease a vacant or unused school building under section 4(c)(1) of this chapter or a charter school has not met the requirements under section 4(c)(2) or 4(e) of this chapter, the school corporation must sell the school building to an accredited nonpublic school or postsecondary educational institution that sends a letter of intent to the school corporation to purchase the vacant or unused school building for an amount not more than the minimum bid for the vacant or unused school building determined in accordance with IC 36-1-11, or an amount agreed to by both parties.

(c) The accredited nonpublic school or postsecondary educational institution must submit its letter of intent to purchase the school building within thirty (30) days of the date the school corporation passes a resolution or takes other official action to close, no longer use, or no longer occupy a school building that was previously used for classroom instruction. However, in the event that a charter school has submitted a preliminary request to purchase or lease a school building, the accredited nonpublic school or postsecondary educational institution may send a letter of intent to purchase or lease the school building within ninety (90) days of the date that the school corporation passed a resolution or took official action to close, no longer use, or no longer occupy a school building.

(d) Within forty-five (45) days of notice of the minimum bid, the accredited nonpublic school or postsecondary educational institution must provide a binding offer to the school corporation to purchase the property in its current condition and provide a nonrefundable down payment equal to five percent (5%) of the minimum bid or an amount agreed to by both parties. In the event that two (2) or more binding offers are submitted to the school corporation under this subsection, the school corporation may select which offer to accept.

(e) If the sale of the property does not close within one hundred eighty (180) days of the school corporation's receipt of the binding offer, and the delay in closing is not caused by the school corporation or its representatives, the school corporation may refund the down payment and sell or otherwise dispose of the school building under IC 20-25-4-14, IC 20-26-5-4(7), or IC 36-1-11.

Sec. 8. (a) This section applies to the sale of a vacant or unused school building with more than two hundred thousand (200,000) gross square feet under IC 36-1-11, as permitted by this chapter.

(b) In determining whether to accept a proposal to purchase and redevelop the school building and any adjacent property, the governing body must ensure that a charter school that is located within one (1) mile of the site to be redeveloped and has notified the governing body in writing of its interest in locating the charter school on the redeveloped site is provided with the

opportunity to lease adequate facilities on the redeveloped site at fifty percent (50%) or less than the current market rate for the redeveloped property or a rate agreed upon by the parties.

(c) In the event that a charter school does not enter into a lease for the appropriate facilities as part of the initial development of the school building parcel, this section shall no longer be binding on the school corporation or the purchaser of the property, which shall not be required to make the space available for use by another charter school.

Sec. 9. If a school corporation does not comply with the requirements provided in this chapter, the school corporation shall submit any proceeds from the sale of the vacant school building to the state board to provide grants under the charter school and innovation grant program under IC 20-24-13.

As added by to Indiana Code as a new chapter by House Enrolled Act No. 1641.