Introduction to SEA 148/HB 1541

The Indiana legislature passed Senate Enrolled Act 148 on February 17, 2021, overriding the governor’s veto. The bill amended Indiana statutes on a number of housing-related issues, including preempting localities from adopting ordinances on foundation and size requirements for manufactured homes and preempting local ordinances regulating retaliatory acts by landlords. The bill also prevented counties, municipalities, and townships from passing ordinances that regulate not only an enumerated list of landlord-tenant issues such as leasing terms, applications, disclosures, but also “any other aspect” of the landlord-tenant relationship. This “sweeping clause” was applicable to all privately owned real property.

On April 6, 2021, the Indiana legislature passed House Bill 1541, a “trailer bill” that revises SEA 148. The bill removes SEA 148’s “sweeping clause” while prohibiting contracting around or waiving state statutes defining and prohibiting landlord retaliation. All other elements of SEA 148 remain intact.

Comparisons to Other Jurisdictions

Because HB 1541 removes the SEA 148’s “sweeping clause,” HB 1541 brings Indiana’s new housing preemption laws closer in line with the housing preemption regimes of other states. However, the express housing preemption language still present in HB 1541 is generally far more stringent than that found in many of Indiana’s neighbors, and remains a problem for localities attempting to pass ordinances to protect renters within their jurisdiction. Indiana is now more stringent in preemting landlord-tenant relations than these states:

**GEORGIA**
Georgia regulates landlord-tenant relations in its statutes found at Ga. Code Ann. § § 44-7-1 to 44-7-81, and does not explicitly preempt local ordinances affecting landlord-tenant relations.

**ILLINOIS**
Illinois regulates landlord-tenant relations in its statutes, including the Landlord and Tenant Act, which are found at 735 Ill. Comp. Stat. §§ 5/9-201 to 765 Ill. Comp. Stat. § 705 respectively. Illinois’ state statutes do not explicitly preempt local ordinances regulating landlord-tenant relations.

**IOWA**
Iowa regulates landlord-tenant relations in its statutes found at Iowa Code Ann. § § 562A.1 to 562A.37, and does not explicitly preempt local ordinances affecting landlord-tenant relations.

**MICHIGAN**

**MISSOURI**
Missouri regulates landlord-tenant relations in its statutes found at Mo. Rev. Stat. § § 441.005 to 441.880; § § 535.010 to 535.300. Missouri preempts local ordinances from regulating the price of rent, but does not explicitly preempt localities from passing ordinances affecting other landlord-tenant relations.

**PENNSYLVANIA**
Pennsylvania’s Landlord Tenant Act regulates landlord-tenant relations within the state. 68 P.S. §§ 250.101-250.602. The act does not contain a “sweeping clause,” and the state supreme court has held that outside of local ordinances that directly conflict with the act, local ordinances regulating landlord-tenant relations are not preempted. See Berwick Area Landlord Association v. Bor. of Berwick, 2007 WL 2065247 (M.D. Pa. Jul. 16, 2007).

**TENNESSEE**

**WEST VIRGINIA**
West Virginia regulates landlord-tenant relations in its statutes found at W.Va. Code § § 37-6-1 to 37-6A-6, and does not explicitly preempt local ordinances affecting landlord-tenant relations.

**WISCONSIN**
Wisconsin regulates landlord-tenant relations in its statutes found at Wis. Stat. ch. 704, and Wis. Adm. Code ch. ATCP 134. Wisconsin’s statute explicitly does not preempt local ordinances affecting landlord-tenant relations if the ordinances do not directly conflict with state law. ATCP 134.10.

1. In the region, only Kentucky and Ohio have preemption regimes similar to Indiana’s. See Ky. Rev. Stat. Ann. § 383.500 (explicitly preempting local ordinances that regulate a list specific aspects of the landlord-tenant relationship); Ohio Rev. Code Title 53, Chapter 5321 (explicitly preempting local ordinances that are in conflict with the provisions of the state statute).