



January 29, 2024

HOUSE BILL No. 1222

DIGEST OF HB 1222 (Updated January 29, 2024 11:37 am - DI 151)

Citations Affected: IC 32-28; IC 34-30.

Synopsis: Residential real estate service agreements. Defines a "residential real estate service agreement" as an agreement: (1) under which a service provider agrees to provide one or more services: (A) in connection with the maintenance, purchase, or sale of residential real estate; and (B) that are not to be performed in their entirety within one year after the agreement is entered into; and (2) that: (A) purports to run with the land or to be binding on future owners; (B) allows for the assignment of the right to provide one or more of the services under the agreement without the consent of the owner of the residential real estate; or (C) purports to create a lien or an encumbrance on, or a security interest in, the residential real estate. Provides that a residential real estate service agreement that is entered into after March 14, 2024, is void and unenforceable. Prohibits a person from recording after March 14, 2024, a residential real estate service agreement in Indiana, regardless of when the residential real estate service agreement is entered into. Provides that a county recorder, or an employee of a county recorder, who records a residential real estate service agreement that is presented to the county recorder's office for recording is not civilly liable under the bill's provisions, regardless of when the recording occurs. Provides that if a residential real estate service agreement (agreement) is recorded in Indiana after March 14, 2024, any person with an interest in the residential real estate that is the subject of the agreement may: (1) apply to a court in the county in which the agreement is recorded for a declaratory judgment declaring
(Continued next page)

Effective: Upon passage.

Haggard, Torr, Miller D

January 9, 2024, read first time and referred to Committee on Judiciary.
January 29, 2024, amended, reported — Do Pass.

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Digest Continued

the agreement unenforceable; and (2) recover the person's actual damages against any service provider that: (A) is a party to the agreement; and (B) recorded, or caused to be recorded, the agreement. Provides that a service provider that: (1) enters into a residential real estate service agreement with any person; or (2) records, or causes to be recorded, a residential real estate service agreement in Indiana; after March 14, 2024, commits a deceptive act that is subject to the remedies and penalties under the deceptive consumer sales act (act), including an action by the attorney general under the act. Provides that the bill's provisions do not apply to: (1) a residential real estate service agreement entered into before March 15, 2024 (except as otherwise provided in the bill); or (2) certain specified products, contracts, rights, agreements, services, or liens.



January 29, 2024

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1222

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-28-15 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]:
4 **Chapter 15. Prohibition Against Residential Real Estate Service**
5 **Agreements**
6 **Sec. 1. (a) Except as otherwise provided in this chapter, this**
7 **chapter does not apply to a residential real estate service**
8 **agreement entered into before March 15, 2024.**
9 **(b) This chapter does not apply to any of the following:**
10 **(1) A home warranty or similar product that covers the cost**
11 **of maintenance of a major home system, such as:**
12 **(A) a plumbing system;**
13 **(B) a heating, cooling, and ventilation system; or**
14 **(C) electrical wiring;**
15 **for a fixed period.**

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- 1 **(2) An insurance contract.**
 2 **(3) An option to purchase residential real estate or a right of**
 3 **refusal to purchase residential real estate.**
 4 **(4) A declaration that is created in the formation of:**
 5 **(A) an association of co-owners (as defined in IC 32-25-2-2)**
 6 **for a condominium (as defined in IC 32-25-2-7); or**
 7 **(B) a homeowners association (as defined in**
 8 **IC 32-25.5-2-4);**
 9 **including any amendment to the declaration.**
 10 **(5) A maintenance or repair agreement entered into by:**
 11 **(A) an association of co-owners (as defined in IC 32-25-2-2)**
 12 **for a condominium (as defined in IC 32-25-2-7); or**
 13 **(B) a homeowners association (as defined in**
 14 **IC 32-25.5-2-4).**
 15 **(6) A mortgage loan or a commitment to make or receive a**
 16 **mortgage loan.**
 17 **(7) A security agreement under IC 26-1 concerning the sale or**
 18 **rental of personal property or fixtures.**
 19 **(8) Providers of:**
 20 **(A) utility services, including water, sewer, gas, or electric**
 21 **service; or**
 22 **(B) communications service (as defined in IC 8-1-32.5-3).**
 23 **(9) A land contract (as defined in IC 24-9-2-9.5).**
 24 **(10) An attorney's lien authorized by IC 33-43-4.**
 25 **(11) A statutory lien authorized by this article, including:**
 26 **(A) the lien of a broker company (as defined in**
 27 **IC 32-28-12.5-0.5) upon commercial real estate under**
 28 **IC 32-28-12.5-5; or**
 29 **(B) a mechanic's or materialman's lien under IC 32-28-3.**
 30 **Sec. 2. As used in this chapter, "person" means:**
 31 **(1) a natural person; or**
 32 **(2) an organization, including a corporation, a partnership, a**
 33 **proprietorship, an association, a cooperative, an estate, a**
 34 **trust, or another legal entity.**
 35 **Sec. 3. As used in this chapter, "record" means to record a**
 36 **record (as defined in IC 32-17.5-3-3(a)) with a county recorder in**
 37 **accordance with Indiana law.**
 38 **Sec. 4. As used in this chapter, "residential real estate" means**
 39 **real property:**
 40 **(1) that is located in Indiana; and**
 41 **(2) upon which is constructed or intended to be constructed a**
 42 **dwelling that contains one (1) to four (4) units.**



1 **Sec. 5. (a) As used in this chapter, "residential real estate service**
 2 **agreement" means an agreement:**

3 **(1) under which a service provider agrees to provide one (1)**
 4 **or more services:**

5 **(A) in connection with the maintenance, purchase, or sale**
 6 **of residential real estate; and**

7 **(B) that are not to be performed in their entirety within**
 8 **one (1) year after the agreement is entered into; and**

9 **(2) that has one (1) or more of the following characteristics:**

10 **(A) The agreement purports to run with the land or to be**
 11 **binding on future owners of interests in the residential real**
 12 **estate.**

13 **(B) The agreement allows for the assignment of the right**
 14 **to provide one (1) or more of the services under the**
 15 **agreement without the consent of the owner of the**
 16 **residential real estate to the assignment.**

17 **(C) The agreement purports to create:**

18 **(i) a lien or an encumbrance on; or**

19 **(ii) a security interest in;**

20 **the residential real estate.**

21 **(b) For purposes of sections 8 and 9 of this chapter, the term**
 22 **includes a:**

23 **(1) notice; or**

24 **(2) memorandum;**

25 **of an agreement described in subsection (a).**

26 **Sec. 6. As used in this chapter, "service provider" means a**
 27 **person that provides services or products to a consumer.**

28 **Sec. 7. A residential real estate service agreement that is entered**
 29 **into after March 14, 2024, is void and unenforceable.**

30 **Sec. 8. (a) After March 14, 2024, a person shall not record, or**
 31 **cause to be recorded, a residential real estate service agreement in**
 32 **Indiana, regardless of when the residential real estate service**
 33 **agreement was entered into.**

34 **(b) A county recorder, or an employee of a county recorder,**
 35 **who records a residential real estate service agreement that is**
 36 **presented to the county recorder's office for recording is not liable**
 37 **to:**

38 **(1) any party to the residential real estate service agreement;**

39 **or**

40 **(2) any other person;**

41 **regardless of when the recording occurs.**

42 **(c) If a residential real estate service agreement is recorded in**



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Indiana after March 14, 2024, the recording does not:

(1) create or serve as:

(A) a lien or an encumbrance on; or

(B) a security interest in;

the residential real estate that is the subject of the residential real estate service agreement; or

(2) constitute actual or constructive notice to:

(A) an otherwise bona fide purchaser of the residential real estate that is the subject of the residential real estate service agreement; or

(B) any lender that makes a loan to any person in connection with the residential real estate that is the subject of the residential real estate service agreement;

of a lien or an encumbrance on, or a security interest in, the residential real estate that is the subject of the residential real estate service agreement.

Sec. 9. (a) If a residential real estate service agreement is recorded in Indiana after March 14, 2024, any person with an interest in the residential real estate that is the subject of the residential real estate service agreement may:

(1) in accordance with IC 34-14-1, apply to a court of competent jurisdiction in the county in which the residential real estate service agreement is recorded for a judgment declaring the residential real estate service agreement unenforceable; and

(2) recover the person's actual damages, as the court determines to have been proven, against any service provider that:

(A) is a party to the residential real estate service agreement; and

(B) recorded, or caused to be recorded, the residential real estate service agreement;

regardless of when the residential real estate service agreement was entered into.

(b) If a person with an interest in the residential real estate that is the subject of a residential real estate service agreement obtains under subsection (a) a court order declaring the residential real estate service agreement to be unenforceable, the person shall record the court's order with the county recorder, who shall cross-reference the order to the residential real estate service agreement originally recorded.

Sec. 10. A service provider that:



1 **(1) enters into a residential real estate service agreement with**
2 **any person; or**
3 **(2) records, or causes to be recorded, a residential real estate**
4 **service agreement in Indiana;**
5 **after March 14, 2024, commits a deceptive act that is subject to the**
6 **remedies and penalties under IC 24-5-0.5, including an action by**
7 **the attorney general under IC 24-5-0.5-4(c).**
8 SECTION 2. IC 34-30-2.1-527.5 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE UPON PASSAGE]: **Sec. 527.5. IC 32-28-15-8(b)**
11 **(Concerning a county recorder, or an employee of a county**
12 **recorder, who records a residential real estate service agreement**
13 **that is presented for recording).**
14 SECTION 3. **An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1222, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, delete lines 34 through 37.

Page 3, line 38, delete "(c)" and insert "**(b)**".

Page 4, delete lines 3 through 7.

Page 4, line 8, delete "(e)" and insert "**(c)**".

Page 5, line 18, delete "IC 32-28-15-8(c)" and insert "**IC 32-28-15-8(b)**".

Page 5, delete lines 22 through 26.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1222 as introduced.)

JETER

Committee Vote: yeas 10, nays 0.

