

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 ENROLLED ACT No. 1222

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-28-15 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 15. Prohibition Against Residential Real Estate Service Agreements

Sec. 1. (a) Except as otherwise provided in this chapter, this chapter does not apply to a residential real estate service agreement entered into before March 15, 2024.

(b) This chapter does not apply to any of the following:

(1) A home warranty or similar product that covers the cost of maintenance of a major home system, such as:

(A) a plumbing system;

(B) a heating, cooling, and ventilation system; or

(C) electrical wiring;

for a fixed period.

(2) An insurance contract.

(3) An option to purchase residential real estate or a right of refusal to purchase residential real estate.

(4) A declaration that is created in the formation of:

(A) an association of co-owners (as defined in IC 32-25-2-2) for a condominium (as defined in IC 32-25-2-7); or

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- (B) a homeowners association (as defined in IC 32-25.5-2-4);
including any amendment to the declaration.
- (5) A maintenance or repair agreement entered into by:
- (A) an association of co-owners (as defined in IC 32-25-2-2) for a condominium (as defined in IC 32-25-2-7); or
 - (B) a homeowners association (as defined in IC 32-25.5-2-4).
- (6) A mortgage loan or a commitment to make or receive a mortgage loan.
- (7) A security agreement under IC 26-1 concerning the sale or rental of personal property or fixtures.
- (8) Providers of:
- (A) utility services, including water, sewer, gas, or electric service; or
 - (B) communications service (as defined in IC 8-1-32.5-3).
- (9) A land contract (as defined in IC 24-9-2-9.5).
- (10) An attorney's lien authorized by IC 33-43-4.
- (11) A statutory lien authorized by this article, including:
- (A) the lien of a broker company (as defined in IC 32-28-12.5-0.5) upon commercial real estate under IC 32-28-12.5-5; or
 - (B) a mechanic's or materialman's lien under IC 32-28-3.

Sec. 2. As used in this chapter, "person" means:

- (1) a natural person; or
- (2) an organization, including a corporation, a partnership, a proprietorship, an association, a cooperative, an estate, a trust, or another legal entity.

Sec. 3. As used in this chapter, "record" means to record a record (as defined in IC 32-17.5-3-3(a)) with a county recorder in accordance with Indiana law.

Sec. 4. As used in this chapter, "residential real estate" means real property:

- (1) that is located in Indiana; and
- (2) upon which is constructed or intended to be constructed a dwelling that contains one (1) to four (4) units.

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

- (1) under which a service provider agrees to provide one (1) 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 (1) year after the agreement is entered into; and
 - (2) that has one (1) or more of the following characteristics:
 - (A) The agreement purports to run with the land or to be binding on future owners of interests in the residential real estate.
 - (B) The agreement allows for the assignment of the right to provide one (1) or more of the services under the agreement without the consent of the owner of the residential real estate to the assignment.
 - (C) The agreement purports to create:
 - (i) a lien or an encumbrance on; or
 - (ii) a security interest in;the residential real estate.

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

- (1) notice; or
- (2) memorandum;

of an agreement described in subsection (a).

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

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

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

(b) 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 liable to:

- (1) any party to the residential real estate service agreement; or
- (2) any other person;

regardless of when the recording occurs.

(c) If a residential real estate service agreement is recorded in 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) 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 IC 24-5-0.5, including an action by



the attorney general under IC 24-5-0.5-4(c).

SECTION 2. IC 34-30-2.1-527.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 527.5. IC 32-28-15-8(b) (Concerning a county recorder, or an employee of a county recorder, who records a residential real estate service agreement that is presented for recording).**

SECTION 3. **An emergency is declared for this act.**



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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