

HOUSE BILL No. 1038

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-21; IC 32-22-3.

Synopsis: Septic system inspection before property transfer. Provides that, beginning July 1, 2022, before a fee simple interest in a dwelling connected to a residential onsite sewage system, a nondwelling structure connected to a commercial onsite sewage system, or a lot or tract of land containing a water well in addition to a residential or commercial onsite sewage system may be transferred: (1) the residential or commercial onsite sewage system must be inspected by a qualified inspector and (if applicable) water from the water well must be tested by a qualified tester; (2) a document certifying that the inspection or testing has been conducted and setting forth the results of the inspection or testing must be provided to the local health department, the county recorder, and the person to whom the fee simple interest is being transferred; and (3) any cause of failure of the residential or commercial onsite sewage system must be eliminated before the county recorder may record a deed transferring a fee simple interest in the property. Provides exceptions. Provides that the failure of the owner of the dwelling, nondwelling structure, or lot or tract of land on which a water well is located to provide the document to the transferee or prospective transferee: (1) is a complete defense to an action brought by the owner against the prospective transferee for breach of a contract to purchase the property; and (2) is a breach of a legal duty owed to the transferee for which the transferee may bring a civil action against the owner for compensatory damages. Provides that if an inspection indicates that a dwelling's residential onsite sewage system exhibits any conditions constituting failure, or the testing of
(Continued next page)

Effective: July 1, 2021.

Aylesworth

January 4, 2021, read first time and referred to Committee on Environmental Affairs.



Digest Continued

water from the water well indicates a reportable presence of arsenic, nitrate, lead, or coliform bacteria: (1) the owner of the dwelling shall state the results of the inspection or testing in the disclosure form that the owner is required to prepare before an offer for the sale of the dwelling is accepted; and (2) the failure of the seller to state this information in the disclosure form makes the sale of the dwelling voidable at the election of the buyer, even after the closing. Requires the state department of health to adopt rules establishing: (1) requirements and standards for inspections and testing; (2) qualifications for inspectors and testers; and (3) requirements and standards for the training and certification of inspectors and testers.



Introduced

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1038

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 32-21-5-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) This chapter
3 **applies and IC 32-21-5.2 apply** only to a sale of, an exchange of, an
4 installment sales contract for, or a lease with option to buy residential
5 real estate that contains **at least one (1) but** not more than four (4)
6 residential dwelling units.
7 (b) This chapter **and IC 32-21-5.2 does do** not apply to the
8 following:
9 (1) Transfers ordered by a court, including transfers:
10 (A) in the administration of an estate;
11 (B) by foreclosure sale;
12 (C) by a trustee in bankruptcy;
13 (D) by eminent domain;
14 (E) from a decree of specific performance;
15 (F) from a decree of divorce; or



- 1 (G) from a property settlement agreement.
 2 (2) Transfers by a mortgagee who has acquired the real estate at
 3 a sale conducted under a foreclosure decree or who has acquired
 4 the real estate by a deed in lieu of foreclosure.
 5 (3) Transfers by a fiduciary in the course of the administration of
 6 the decedent's estate, guardianship, conservatorship, or trust.
 7 (4) Transfers made from at least one (1) co-owner solely to at
 8 least one (1) other co-owner.
 9 (5) Transfers made solely to any combination of a spouse or an
 10 individual in the lineal line of consanguinity of at least one (1) of
 11 the transferors.
 12 (6) Transfers made because of the record owner's failure to pay
 13 any federal, state, or local taxes.
 14 (7) Transfers to or from any governmental entity.
 15 (8) Transfers involving the first sale of a dwelling that has not
 16 been inhabited.
 17 (9) Transfers to a living trust.

18 SECTION 2. IC 32-21-5-10, AS AMENDED BY P.L.150-2013,
 19 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2021]: Sec. 10. (a) An owner must complete and sign a
 21 disclosure form and submit the form to a prospective buyer before an
 22 offer for the sale of the residential real estate is accepted.

23 (b) An appraiser retained to appraise the residential real estate for
 24 which the disclosure form has been prepared shall be given a copy of
 25 the form upon request. This subsection applies only to appraisals made
 26 for the buyer or an entity from which the buyer is seeking financing.

27 (c) Before closing, an accepted offer is not enforceable against the
 28 buyer until the owner and the prospective buyer have signed the
 29 disclosure form.

30 (d) **Except as provided in IC 32-21-5.2-9**, after closing, the failure
 31 of the owner to deliver a disclosure statement form to the buyer does
 32 not by itself invalidate a real estate transaction.

33 (e) A buyer may not invalidate a real estate transaction or a contract
 34 to purchase real estate due to the buyer's failure to sign a seller's
 35 disclosure form that has been received or acknowledged by the buyer.

36 SECTION 3. IC 32-21-5.2 IS ADDED TO THE INDIANA CODE
 37 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2021]:

39 **Chapter 5.2. Septic System Inspection and Well Water Testing**
 40 **Before Residential Property Transaction**

41 **Sec. 1. This chapter applies after June 30, 2022.**

42 **Sec. 2. As used in this chapter, "buyer" has the meaning set**



1 forth in IC 32-21-5-2.

2 Sec. 3. As used in this chapter, "closing" has the meaning set
3 forth in IC 32-21-5-3.

4 Sec. 4. As used in this chapter, "owner" has the meaning set
5 forth in IC 32-21-5-6.

6 Sec. 5. As used in this chapter, "residential onsite sewage
7 system" has the meaning set forth in IC 32-22-3-7.

8 Sec. 6. If IC 32-22-3-8(b) applies to a dwelling, the owner of the
9 dwelling shall ensure that:

10 (1) the inspection of the residential onsite sewage system to
11 which the dwelling is connected that is required by
12 IC 32-22-3-8(b) is conducted; and

13 (2) the document required by IC 32-22-3-8(b)(2) certifying
14 that the inspection has been conducted and setting forth the
15 results of the inspection is provided to the buyer;

16 before the residential real property is involved in a transaction
17 described in IC 32-21-5-1.

18 Sec. 7. If IC 32-22-3-10(b) requires testing of water from a
19 water well located on the lot or tract of land on which a dwelling
20 connected to a residential onsite sewage system is located, the
21 owner of the lot or tract of land shall ensure that:

22 (1) the testing required by IC 32-22-3-10(b) is conducted; and

23 (2) the document required by IC 32-22-3-10(b)(2) certifying
24 that the water testing has been conducted and setting forth the
25 results of the testing is provided to the buyer;

26 before the residential real property is involved in a transaction
27 described in IC 32-21-5-1.

28 Sec. 8. (a) If an inspection required by IC 32-22-3-8(b) indicates
29 that the residential onsite sewage system to which a dwelling is
30 connected exhibits one (1) or more of the conditions constituting
31 residential onsite sewage system failure under 410 IAC 6-8.3-33, as
32 in effect on January 1, 2021, the owner of the dwelling shall state
33 the results of the inspection in the disclosure form prepared by the
34 owner under IC 32-21-5.

35 (b) If testing required by IC 32-22-3-10(b) of water from a
36 water well located on the lot or tract of land on which a dwelling
37 connected to a residential onsite sewage system is located indicates
38 the presence in the water of:

39 (1) arsenic, nitrate, or lead in a concentration that exceeds the
40 maximum permissible level for drinking water class ground
41 water established by 327 IAC 2-11-6 in compliance with
42 IC 13-18-17-5; or



1 (2) any detectable presence of coliform bacteria or E. coli;
 2 the owner of the lot or tract of land shall state the results of the
 3 testing in the disclosure form prepared by the owner under
 4 IC 32-21-5.

5 **Sec. 9. If an owner fails to state in the disclosure form prepared
 6 by the owner under IC 32-21-5:**

7 (1) inspection results that section 8(a) of this chapter requires
 8 to be stated in the disclosure form; or

9 (2) water testing results that section 8(b) of this chapter
 10 requires to be stated in the disclosure form;

11 the transaction involving the residential real property is voidable
 12 at the election of the buyer, even after the closing.

13 SECTION 4. IC 32-22-3 IS ADDED TO THE INDIANA CODE AS
 14 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 15 1, 2021]:

16 **Chapter 3. Septic System Inspection and Water Well Testing**

17 **Sec. 1. As used in this chapter, "closing" means the event in
 18 which a fee simple interest in a dwelling or a nondwelling structure
 19 is transferred from one person to another person.**

20 **Sec. 2. As used in this chapter, "commercial onsite sewage
 21 system" has the meaning set forth in 410 IAC 6-10.1-8 as in effect
 22 on January 1, 2021.**

23 **Sec. 3. (a) As used in this chapter, "dwelling" means any house
 24 or structure used or intended to be used as a place of seasonal or
 25 permanent human habitation or for sleeping for one (1) or two (2)
 26 families.**

27 **(b) The term includes any associated outbuildings that are for
 28 the private use of the owner of the house or structure.**

29 **Sec. 4. As used in this chapter, "local health department" has
 30 the meaning set forth in IC 16-18-2-211(a).**

31 **Sec. 5. (a) As used in this chapter, "nondwelling structure"
 32 means any structure that is not a one (1) or two (2) family dwelling.**

33 **(b) The term includes the following:**

34 (1) Apartment buildings.

35 (2) Campgrounds.

36 (3) Churches.

37 (4) Commercial establishments.

38 (5) Condominiums.

39 (6) Medical facilities.

40 (7) Mobile home parks.

41 (8) Motels.

42 (9) Office buildings.



1 **(10) Restaurants.**

2 **(11) Schools.**

3 **Sec. 6. As used in this chapter, "person" means an individual,**
 4 **partnership, limited liability company, corporation, trust,**
 5 **guardianship, unincorporated association, cooperative, fiduciary,**
 6 **estate, executor or administrator, trustee, receiver, representative**
 7 **appointed by a court, governmental entity, or other legal entity.**

8 **Sec. 7. As used in this chapter, "residential onsite sewage**
 9 **system" has the meaning set forth in 410 IAC 6-8.3-32 as in effect**
 10 **on January 1, 2021.**

11 **Sec. 8. (a) This section applies after June 30, 2022.**

12 **(b) Except as provided in sections 11(a) and 12 of this chapter,**
 13 **if a dwelling is connected to a residential onsite sewage system and**
 14 **is not served by a public water system, as defined in 42 U.S.C. 300f**
 15 **as in effect on January 1, 2021, the following conditions apply to**
 16 **the transfer of a fee simple interest in the dwelling:**

17 **(1) The residential onsite sewage system must be inspected by**
 18 **a qualified inspector to determine whether the system exhibits**
 19 **one (1) or more of the conditions constituting residential**
 20 **onsite sewage system failure under 410 IAC 6-8.3-33 as in**
 21 **effect on January 1, 2021.**

22 **(2) A document that:**

23 **(A) certifies that an inspection required by subdivision (1)**
 24 **has been conducted;**

25 **(B) sets forth the results of the inspection; and**

26 **(C) is signed by the inspector;**

27 **must be provided to the local health department, the county**
 28 **recorder, and the person to whom the fee simple interest in**
 29 **the dwelling is being transferred.**

30 **(3) If the document indicates under subdivision (2)(B) that the**
 31 **residential onsite sewage system, upon inspection, exhibited**
 32 **one (1) or more of the conditions constituting residential**
 33 **onsite sewage system failure under 410 IAC 6-8.3-33 as in**
 34 **effect on January 1, 2021, the person to whom the fee simple**
 35 **interest in the dwelling is being transferred must present to**
 36 **the local health department and the county recorder an**
 37 **affidavit in which the person states one (1) of the following:**

38 **(A) The cause of the residential onsite sewage system**
 39 **failure has been eliminated.**

40 **(B) The cause of the residential onsite sewage system**
 41 **failure will be eliminated before the person occupies the**
 42 **dwelling.**



- 1 **(C) It is not currently possible for the person to eliminate**
 2 **the cause of the residential onsite sewage system failure,**
 3 **but the cause will be eliminated when it becomes possible**
 4 **for the person to eliminate it. An affidavit containing this**
 5 **statement must also state:**
 6 **(i) why it is not then possible for the person to eliminate**
 7 **the cause of the residential onsite sewage system failure;**
 8 **(ii) how the person intends to eliminate the cause; and**
 9 **(iii) when the person anticipates eliminating the cause.**
 10 **(c) Except as provided in subsection (d), the recorder may not**
 11 **record or accept for recording a deed or other instrument that**
 12 **would transfer a fee simple interest in the dwelling unless:**
 13 **(1) the recorder is presented the document described in**
 14 **subsection (b)(2); and**
 15 **(2) if subsection (b)(3) applies, the recorder is also presented**
 16 **an affidavit satisfying the requirements of subsection (b)(3).**
 17 **(d) The recorder may accept and record a deed or other**
 18 **instrument transferring a fee simple interest in the dwelling if:**
 19 **(1) either:**
 20 **(A) the person transferring the fee simple interest in the**
 21 **property; or**
 22 **(B) the person to whom the fee simple interest in the**
 23 **property is being transferred;**
 24 **makes a good faith effort, after the persons agree to the**
 25 **transfer of the fee simple interest, to arrange for an inspection**
 26 **of the residential onsite sewage system by a qualified**
 27 **inspector as required by subsection (b)(1);**
 28 **(2) despite the good faith effort referred to in subdivision (1),**
 29 **it is not possible to have the residential onsite sewage system**
 30 **inspected by a qualified inspector before the closing that will**
 31 **transfer the fee simple interest between the persons;**
 32 **(3) the person to whom the fee simple interest is being**
 33 **transferred executes an affidavit:**
 34 **(A) acknowledging that the residential onsite sewage**
 35 **system has not been inspected by a qualified inspector; and**
 36 **(B) making a binding commitment:**
 37 **(i) to have the residential onsite sewage system inspected**
 38 **by a qualified inspector as required by subsection (b)(1)**
 39 **as soon as reasonably possible after the transfer of the**
 40 **fee simple interest; and**
 41 **(ii) to then satisfy the conditions set forth in subsection**
 42 **(b)(2) and, if applicable, subsection (b)(3); and**



1 **(4) the affidavit executed under subdivision (3) is recorded in**
 2 **the office of the recorder of the county in which the dwelling**
 3 **is located along with the deed or other instrument**
 4 **transferring the fee simple interest.**

5 **Sec. 9. (a) This section applies after June 30, 2022.**

6 **(b) Except as provided in sections 11(b) and 12 of this chapter,**
 7 **if a nondwelling structure is connected to a commercial onsite**
 8 **sewage system and is not served by a public water system, as**
 9 **defined in 42 U.S.C. 300f as in effect on January 1, 2021, the**
 10 **following conditions apply to the transfer of a fee simple interest in**
 11 **the nondwelling structure:**

12 **(1) The commercial onsite sewage system must be inspected**
 13 **by a qualified inspector to determine whether it exhibits one**
 14 **(1) or more of the conditions constituting commercial onsite**
 15 **sewage system failure under 410 IAC 6-10.1-9 as in effect on**
 16 **January 1, 2021.**

17 **(2) A document that:**

18 **(A) certifies that an inspection required by subdivision (1)**
 19 **has been conducted;**

20 **(B) sets forth the results of the inspection; and**

21 **(C) is signed by the inspector;**

22 **must be provided to the local health department, the county**
 23 **recorder, and the person to whom the fee simple interest in**
 24 **the nondwelling structure is being transferred.**

25 **(3) If the document indicates under subdivision (2)(B) that the**
 26 **commercial onsite sewage system, upon inspection, exhibited**
 27 **one (1) or more of the conditions constituting commercial**
 28 **onsite sewage system failure under 410 IAC 6-10.1-9 as in**
 29 **effect on January 1, 2021, the person to whom the fee simple**
 30 **interest in the nondwelling structure is being transferred must**
 31 **present to the county recorder an affidavit in which the**
 32 **person states one (1) of the following:**

33 **(A) The cause of the commercial onsite sewage system**
 34 **failure has been eliminated.**

35 **(B) The cause of the commercial onsite sewage system**
 36 **failure will be eliminated before the person uses the**
 37 **nondwelling structure for the purpose for which the person**
 38 **is acquiring the nondwelling structure.**

39 **(c) Except as provided in subsection (d), the recorder may not**
 40 **record or accept for recording a deed or other instrument that**
 41 **would transfer a fee simple interest in the nondwelling structure**
 42 **unless:**



1 (1) the recorder is presented the document described in
2 subsection (b)(2); and

3 (2) if subsection (b)(3) applies, the recorder is also presented
4 an affidavit satisfying the requirements of subsection (b)(3).

5 (d) The recorder may accept and record a deed or other
6 instrument transferring a fee simple interest in the nondwelling
7 structure if:

8 (1) either:

9 (A) the person transferring the fee simple interest in the
10 property; or

11 (B) the person to whom the fee simple interest in the
12 property is being transferred;

13 makes a good faith effort, after the persons agree to the
14 transfer of the fee simple interest, to arrange for an inspection
15 of the commercial onsite sewage system by a qualified
16 inspector as required by subsection (b)(1);

17 (2) despite the good faith effort referred to in subdivision (1),
18 it is not possible to have the commercial onsite sewage system
19 inspected by a qualified inspector before the closing that will
20 transfer the fee simple interest between the persons;

21 (3) the person to whom the fee simple interest is being
22 transferred executes an affidavit:

23 (A) acknowledging that the commercial onsite sewage
24 system has not been inspected by a qualified inspector; and

25 (B) making a binding commitment:

26 (i) to have the commercial onsite sewage system
27 inspected by a qualified inspector as required by
28 subsection (b)(1) as soon as reasonably possible after the
29 transfer of the fee simple interest; and

30 (ii) to then satisfy the conditions set forth in subsection
31 (b)(2) and, if applicable, subsection (b)(3); and

32 (4) the affidavit executed under subdivision (3) is recorded in
33 the office of the recorder of the county in which the
34 nondwelling structure is located along with the deed or other
35 instrument transferring the fee simple interest.

36 **Sec. 10. (a) This section applies after June 30, 2022.**

37 (b) Except as provided in sections 11(c) and 12 of this chapter,
38 if a water well is located on the same lot or tract of land as a
39 dwelling connected to a residential onsite sewage system or a
40 nondwelling structure connected to a commercial onsite sewage
41 system, the following conditions apply to the transfer of a fee
42 simple interest in the lot or tract of land:



- 1 **(1) Water from the water well must be tested by a qualified**
 2 **tester to determine whether it contains any of the following:**
 3 **(A) Arsenic, nitrate, or lead in a concentration that exceeds**
 4 **the maximum permissible level for drinking water class**
 5 **ground water established by 327 IAC 2-11-6 in compliance**
 6 **with IC 13-18-17-5.**
 7 **(B) Any detectable presence of coliform bacteria or E. coli.**
 8 **(2) A document that:**
 9 **(A) certifies that the testing required by subdivision (1) has**
 10 **been conducted;**
 11 **(B) sets forth the results of the testing; and**
 12 **(C) is signed by the tester;**
 13 **must be provided to the local health department, the county**
 14 **recorder, and the person to whom the fee simple interest in**
 15 **the lot or tract of land is being transferred.**
 16 **(c) Except as provided in subsection (d), the recorder may not**
 17 **record or accept for recording a deed or other instrument that**
 18 **would transfer a fee simple interest in the lot or tract of land unless**
 19 **the recorder is presented the document described in subsection**
 20 **(b)(2).**
 21 **(d) The recorder may accept and record a deed or other**
 22 **instrument transferring a fee simple interest in the lot or tract of**
 23 **land if:**
 24 **(1) either:**
 25 **(A) the person transferring the fee simple interest in the**
 26 **property; or**
 27 **(B) the person to whom the fee simple interest in the**
 28 **property is being transferred;**
 29 **makes a good faith effort, after the persons agree to the**
 30 **transfer of the fee simple interest, to arrange for the testing of**
 31 **the well water by a qualified tester as required by subsection**
 32 **(b)(1);**
 33 **(2) despite the good faith effort referred to in subdivision (1),**
 34 **it is not possible to have the well water tested by a qualified**
 35 **tester before the closing that will transfer the fee simple**
 36 **interest between the persons;**
 37 **(3) the person to whom the fee simple interest is being**
 38 **transferred executes an affidavit:**
 39 **(A) acknowledging that the well water has not been tested**
 40 **by a qualified tester; and**
 41 **(B) making a binding commitment:**
 42 **(i) to have the well water tested by a qualified tester as**



1 required by subsection (b)(1) as soon as reasonably
 2 possible after the transfer of the fee simple interest; and
 3 (ii) to provide a document described in subsection (b)(2)
 4 to the local health department and the county recorder;
 5 and

6 (4) the affidavit executed under subdivision (3) is recorded in
 7 the office of the recorder of the county in which the lot or
 8 tract of land is located along with the deed or other
 9 instrument transferring the fee simple interest.

10 **Sec. 11. (a) If:**

11 (1) a dwelling is connected to a residential onsite sewage
 12 system;

13 (2) an inspection of the residential onsite sewage system has
 14 been conducted under section 8(b)(1) of this chapter; and

15 (3) the inspector did not find any of the conditions constituting
 16 residential onsite sewage system failure under 410
 17 IAC 6-8.3-33 as in effect on January 1, 2021;

18 a fee simple interest in the dwelling may be transferred without
 19 another inspection under section 8(b)(1) of this chapter if the
 20 transfer occurs not more than two (2) years after the date of the
 21 inspection referred to in subdivision (2).

22 **(b) If:**

23 (1) a nondwelling structure is connected to a commercial
 24 onsite sewage system;

25 (2) an inspection of the commercial onsite sewage system has
 26 been conducted under section 9(b)(1) of this chapter; and

27 (3) the inspector did not find any of the conditions constituting
 28 commercial onsite sewage system failure under 410
 29 IAC 6-10.1-9 as in effect on January 1, 2021;

30 a fee simple interest in the nondwelling structure may be
 31 transferred without another inspection under section 9(b)(1) of this
 32 chapter if the transfer occurs not more than two (2) years after the
 33 date of the inspection referred to in subdivision (2).

34 **(c) If:**

35 (1) a water well is located on the same lot or tract of land as
 36 a dwelling connected to a residential onsite sewage system or
 37 a nondwelling structure connected to a commercial onsite
 38 sewage system;

39 (2) water drawn from the water well has been tested for
 40 contamination under section 10(b)(1) of this chapter; and

41 (3) the water was found to be within the parameters set forth
 42 in section 10(b)(1) of this chapter;



1 a fee simple interest in the dwelling or nondwelling structure may
2 be transferred without another testing of water from the water
3 well under section 10(b)(1) of this chapter if the transfer occurs not
4 more than one (1) year after the date of the testing referred to in
5 subdivision (2).

6 Sec. 12. Sections 8, 9, and 10 of this chapter do not apply to the
7 following property interest transfers:

- 8 (1) A transfer by probate under IC 29.
- 9 (2) A transfer to a trust or by a trustee under IC 30.
- 10 (3) A transfer resulting from the execution of a judgment.
- 11 (4) A foreclosure of a real estate mortgage under IC 32-29-7.
- 12 (5) A forfeiture under a real estate installment contract.
- 13 (6) A transfer by a trustee in bankruptcy.
- 14 (7) A transfer by eminent domain.
- 15 (8) A transfer resulting from a decree for specific
- 16 performance.
- 17 (9) A transfer:
 - 18 (A) to a mortgagee by a mortgagor or successor in interest
 - 19 who is in default;
 - 20 (B) by a mortgagee who has acquired real property as a
 - 21 result of a deed in lieu of foreclosure; or
 - 22 (C) to a mortgagor exercising a right of first refusal.
- 23 (10) A transfer by a fiduciary in the course of the
- 24 administration of a decedent's estate, guardianship,
- 25 conservatorship, or trust.
- 26 (11) A transfer between joint tenants or tenants in common.
- 27 (12) A transfer made to a spouse or to a person in the lineal
- 28 line of consanguinity of a person making the transfer.
- 29 (13) A transfer between spouses resulting from a decree of
- 30 dissolution of marriage, a legal separation, an annulment of
- 31 marriage, or a property settlement agreement incidental to
- 32 the decree.
- 33 (14) A transfer to a transferee who intends to demolish or
- 34 raze the dwelling or nondwelling structure.
- 35 (15) A transfer of:
 - 36 (A) a dwelling connected to a residential onsite sewage
 - 37 system that was installed not more than two (2) years
 - 38 before the transfer; or
 - 39 (B) a nondwelling structure connected to a commercial
 - 40 onsite sewage system that was installed not more than two
 - 41 (2) years before the transfer.
- 42 (16) The issuance of a deed arising from an action under



1 **IC 32-30-3-14 to partition real estate.**

2 **(17) The issuance of a tax deed under IC 6-1.1-25.**

3 **(18) A transfer for which the consideration is not more than**
4 **five hundred dollars (\$500).**

5 **(19) A transfer from a corporation, partnership, limited**
6 **partnership, limited liability partnership, or limited liability**
7 **company to any of its stockholders, partners, or members for**
8 **the purpose of transferring real property:**

9 **(A) in an incorporation or a corporate dissolution; or**

10 **(B) in the organization or dissolution of a partnership,**
11 **limited partnership, limited liability partnership, or**
12 **limited liability company;**

13 **if the deed is given for no actual consideration other than for**
14 **shares or for debt securities of the corporation, partnership,**
15 **limited partnership, limited liability partnership, or limited**
16 **liability company.**

17 **(20) Any transfer made under a court order.**

18 **Sec. 13. (a) The state department of health shall adopt rules**
19 **under IC 4-22-2 for the administration of this chapter. The rules**
20 **must establish:**

21 **(1) requirements and standards for:**

22 **(A) the inspection of residential onsite sewage systems**
23 **under section 8 of this chapter;**

24 **(B) the inspection of commercial onsite sewage systems**
25 **under section 9 of this chapter; and**

26 **(C) the testing of water drawn from water wells under**
27 **section 10 of this chapter;**

28 **(2) the qualifications that a person must meet to act as:**

29 **(A) an inspector of residential onsite sewage systems;**

30 **(B) an inspector of commercial onsite sewage systems; or**

31 **(C) a tester of water drawn from water wells;**

32 **under this chapter; and**

33 **(3) requirements and standards for the training and**
34 **certification of persons to be:**

35 **(A) inspectors of residential onsite sewage systems;**

36 **(B) inspectors of commercial onsite sewage systems; or**

37 **(C) testers of water drawn from water wells;**

38 **under this chapter.**

39 **(b) The rules adopted by the state department of health under**
40 **subsection (a) must provide that an individual who inspects a**
41 **residential onsite sewage system under section 8 of this chapter,**
42 **inspects a commercial onsite sewage system under section 9 of this**



1 chapter, or tests well water under section 10 of this chapter may
2 not be:

3 (1) the same individual; or

4 (2) an employee or owner of the same firm;

5 that performs the work necessary to remedy the failure of the
6 residential onsite sewage system or commercial onsite sewage
7 system or to bring water from the water well within the
8 parameters set forth in section 10(b)(1) of this chapter.

9 Sec. 14. (a) If section 8(b) of this chapter applies to a dwelling
10 and a document described in section 8(b)(2) of this chapter setting
11 forth the results of an inspection of the residential onsite sewage
12 system to which the dwelling is connected is not provided to the
13 transferee or prospective transferee of the fee simple interest in the
14 dwelling as required by section 8(b) of this chapter, the failure of
15 the owner of the dwelling to provide the document to the transferee
16 or prospective transferee:

17 (1) is a complete defense to an action brought by the owner
18 against the prospective transferee for breach of a contract to
19 purchase the dwelling; and

20 (2) is a breach of a legal duty owed to the transferee for which
21 the transferee may bring a civil action against the owner for
22 compensatory damages, including damages compensating the
23 transferee for the cost of repairing or replacing the residential
24 onsite sewage system to which the dwelling is connected.

25 (b) If section 9(b) of this chapter applies to a nondwelling
26 structure and a document described in section 9(b)(2) of this
27 chapter setting forth the results of an inspection of the commercial
28 onsite sewage system to which the nondwelling structure is
29 connected is not provided to the transferee or prospective
30 transferee of the fee simple interest in the nondwelling structure as
31 required by section 9(b) of this chapter, the failure of the owner of
32 the nondwelling structure to provide the document to the
33 transferee or prospective transferee:

34 (1) is a complete defense to an action brought by the owner
35 against the prospective transferee for breach of a contract to
36 purchase the nondwelling structure; and

37 (2) is a breach of a legal duty owed to the transferee for which
38 the transferee may bring a civil action against the owner for
39 compensatory damages, including damages compensating the
40 transferee for the cost of repairing or replacing the
41 commercial onsite sewage system to which the nondwelling
42 structure is connected.



1 (c) If section 10(b) of this chapter applies to a water well and a
2 document described in section 10(b)(2) of this chapter setting forth
3 the results of the testing of water from the well is not provided to
4 the transferee or prospective transferee of the fee simple interest
5 in the lot or tract of land on which the well is located, the failure of
6 the owner of the lot or tract of land to provide the document to the
7 transferee or prospective transferee:

8 (1) is a complete defense to an action brought by the owner
9 against the prospective transferee for breach of a contract to
10 purchase the lot or tract of land; and

11 (2) is a breach of a legal duty owed to the transferee for which
12 the transferee may bring a civil action against the owner for
13 compensatory damages, including damages compensating the
14 transferee for the cost of replacing the water well with
15 another source of water.

