

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1315

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 16-41-27-32, AS AMENDED BY P.L.53-2022, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 32. (a) As used in this section, "regulation" refers to any:

- (1) ordinance, including any:
 - (A) zoning or land use ordinance; or
 - (B) general or specific planning ordinance;
- (2) regulation, including any:
 - (A) zoning or land use regulation; or
 - (B) general or specific planning regulation;
- (3) requirement; or
- (4) restriction;

that is adopted or imposed by a unit (as defined in IC 36-1-2-23).

(b) A governmental body other than the state department of health may not license or regulate mobile home communities, except for the following:

- (1) Local boards may enforce the standards of health and sanitation prescribed for mobile homes, manufactured homes, industrialized residential structures, and mobile home communities by the state department.
- (2) Subject to IC 36-7-2-12, **IC 36-7-4-1019**, **IC 36-7-4-1106**, and subsections (d) and (f), county and municipal authorities

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within their respective jurisdictions have jurisdiction regarding zoning and building codes and ordinances pertaining to mobile home communities.

(3) Local boards may regulate the construction and operation of groups of a combined total of not more than four (4) mobile homes, manufactured homes, and industrialized residential structures in accordance with standards that are compatible with standards set by the state department for mobile home communities.

(c) A governmental body other than the state department of health may not regulate mobile homes, manufactured homes, or industrialized residential structures regarding habitability or minimum housing conditions unless the regulation is applicable in the same manner to other forms of residential housing in the jurisdiction.

(d) **Except as provided in IC 36-7-4-1106(d), IC 36-7-4-1106(e), and IC 36-7-4-1106(f) and** unless required under IC 36-7-2-9, a governmental body may not regulate or restrict, by regulation or otherwise, the installation, use, occupancy, movement, **renovation**, relocation, or replacement of a mobile home, a manufactured home, or **an** industrialized residential structure within a mobile home community based upon the age or size of the mobile home, manufactured home, or industrialized residential structure **or other private property based upon the age of the mobile home, manufactured home, or industrialized residential structure** regardless of whether:

- (1) the mobile home, manufactured home, or industrialized residential structure; ~~within a mobile home community;~~
- (2) the lot or site, or any part of the lot or site, ~~within a mobile home community;~~ on which the mobile home, manufactured home, or industrialized residential structure is located or installed, or will be located or installed; or
- (3) the mobile home community ~~or any part of the mobile home community;~~ **or other private property, in whole or in part,** in which the mobile home, manufactured home, or industrialized residential structure is located or installed, or will be located or installed;

constitutes a conforming structure or use, or a legal, nonconforming structure or use.

- (e) A governmental body may not regulate or restrict the ability of a:
- (1) mobile home community:
 - (A) owner; or
 - (B) manager; or
 - (2) manufactured home community:

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(A) owner; or

(B) manager;

to obtain a dealer's license or to sell a mobile home, manufactured home, or industrialized residential structure located within the owner's or manager's mobile home community or manufactured housing community.

(f) **Except as provided under IC 36-7-4-1106(d), IC 36-7-4-1106(e), and IC 36-7-4-1106(f) and** unless required under IC 36-7-2-9, after March 14, 2022:

(1) a unit may not:

(A) adopt or impose a regulation that violates, or that includes a provision that violates, subsection (d);

(B) amend a regulation so that the regulation, after its amendment, includes a provision that violates subsection (d), regardless of when the regulation was originally adopted or imposed; or

(C) enforce a provision in a regulation adopted or imposed by the unit if the provision violates subsection (d), regardless of when the regulation or provision was originally adopted or imposed; and

(2) any provision that:

(A) is included in a regulation adopted or imposed by a unit; and

(B) violates subsection (d);

is void and unenforceable regardless of when the regulation or provision was originally adopted or imposed.

SECTION 2. IC 32-27-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. The warranties defined by this chapter (or IC 34-4-20.5 or IC 32-15-7 before their repeal) become effective on the warranty date attributed to a new home **or model home.**

SECTION 3. IC 32-27-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. As used in this chapter, "initial home buyer" means a person who:

(1) executes a contract with a builder to buy a new home; and ~~who:~~

(2) **either:**

(+) (A) occupies the new home as:

(i) **its the home's** first occupant; and (2) ~~occupies the new home as~~

(ii) a residence; or

(B) **rents the new home to an individual who occupies the**



new home as:

- (i) the home's first occupant; and**
- (ii) a residence.**

SECTION 4. IC 32-27-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. As used in this chapter, "major structural defect" means actual damage to the load bearing part of a new home **or model home**, including actual damage due to:

- (1) subsidence;
- (2) expansion; or
- (3) lateral movement;

of the soil affecting the load bearing function, unless the subsidence, expansion, or lateral movement of the soil is caused by flood, earthquake, or some other natural disaster.

SECTION 5. IC 32-27-2-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 3.5. (a) As used in this chapter, "model home" means a new dwelling that is used for the first time after construction as:**

- (1) a model;**
- (2) a sales office;**
- (3) a design center; or**
- (4) any combination of subdivisions (1) through (3).**

(b) After June 30, 2023, the term does not include a mobile home, a manufactured home, or an industrialized residential structure.

SECTION 6. IC 32-27-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. (a) As used in this chapter, "new home" means a new dwelling occupied for the first time **as a residence** after construction.

(b) The term does not include:

- (1) a detached garage;
- (2) a driveway;
- (3) a walkway;
- (4) a patio;
- (5) a boundary wall;
- (6) a retaining wall not necessary for the structural stability of the new home;
- (7) landscaping;
- (8) a fence;
- (9) nonpermanent construction material;
- (10) an off-site improvement;
- (11) an appurtenant recreational facility; **or**



(12) other similar item; or

(13) a model home.

(c) After June 30, 2023, the term does not include a mobile home, manufactured home, or an industrialized residential structure.

SECTION 7. IC 32-27-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) As used in this chapter, "home buyer" means a purchaser of a new home **or a model home.**

(b) The term includes any owner of the new home **or model home** before the expiration of the warranties defined by this chapter.

SECTION 8. IC 32-27-2-7, AS AMENDED BY P.L.165-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. As used in this chapter, "warranty date" means **the following:**

(1) In the case of a new home, the date of the first occupancy of the new home as a residence by one (1) of the following:

~~(1)~~ **(A)** The builder.

~~(2)~~ **(B)** An individual ~~or individuals~~ renting the home from the builder.

~~(3)~~ **(C)** An individual ~~or individuals~~ living in the home at the request of the builder.

~~(4)~~ **(D)** The initial home buyer.

(E) An individual renting the home from the initial home buyer.

(2) In the case of a model home, the date that the home was first used as a model home.

SECTION 9. IC 32-27-2-8, AS AMENDED BY P.L.165-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 8. (a) In selling a completed new home, and in contracting to sell a new home to be completed, the builder may warrant to the initial home buyer the following:

(1) During the two (2) year period beginning on the warranty date, the new home will be free from defects caused by faulty workmanship or defective materials.

(2) During the two (2) year period beginning on the warranty date, the new home will be free from defects caused by faulty installation of:

(A) plumbing;

(B) electrical;

(C) heating;

(D) cooling; or



- (E) ventilating;
systems, exclusive of fixtures, appliances, or items of equipment.
- (3) During the four (4) year period beginning on the warranty date, the new home will be free from defects caused by faulty workmanship or defective materials in the roof or roof systems of the new home.
- (4) During the ten (10) year period beginning on the warranty date, the new home will be free from major structural defects.
- (b) The warranties provided in this section (or IC 34-4-20.5-8 or IC 32-15-7 before their repeal) survive the passing of legal or equitable title in the new home to a home buyer.
- (c) An individual identified in section ~~7(1), 7(2), or 7(3)~~ **7(1)(A), 7(1)(B), or 7(1)(C)** of this chapter who is selling a new home shall notify the purchaser of the home in writing on or before the date of closing or transfer of the new home of:
- (1) the warranty date (as defined in section 7 of this chapter); and
 - (2) the amount of time remaining under the warranty.

SECTION 10. IC 32-27-2-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 8.5. (a) In selling a model home, the builder may warrant to the home buyer that during the ten (10) year period beginning on the warranty date the model home will be free from major structural defects.**

(b) The warranty provided in this section survives the passing of legal or equitable title in the model home to a subsequent home buyer.

(c) The home buyer who purchases the model home from the builder shall, in writing on or before the date of closing or transfer of the model home to a subsequent home buyer, notify the subsequent home buyer of:

- (1) the warranty date (as defined in section 7 of this chapter); and**
- (2) the amount of time remaining under the warranty.**

SECTION 11. IC 32-27-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 9. (a) A builder may disclaim all implied warranties **on a new home or model home** only if ~~all~~ **at least one** of the following conditions are met:

- (1) The warranties defined in this chapter are expressly provided for in the written contract between a builder and:
 - (A) an initial home buyer of a new home; or**
 - (B) the home buyer of a model home.**
- (2) The performance of the warranty obligations is backed by an



insurance policy in an amount at least equal to the purchase price of the new home **or model home.**

(3) The builder carries completed operations products liability insurance covering the builder's liability for reasonably foreseeable consequential damages arising from a defect covered by the warranties provided by the builder **on a new home.**

(b) The disclaimer must be printed in a minimum size of 10 point boldface type setting forth that the statutory warranties of **section 8 of this chapter for a new home or section 8.5 of this chapter for a model home** are in lieu of the implied warranties that have been disclaimed by the builder, and the initial home buyer **of a new home or the home buyer of a model home** must affirmatively acknowledge by complete signature that the **initial home buyer of a new home or the home buyer of a model home** has read, understands, and voluntarily agrees to the disclaimer. Additionally, the initial home buyer **or home buyer** must acknowledge the disclaimer of implied warranties by signing, at the time of execution of the contract, a separate one (1) page notice, attached to the contract, that includes and begins with the following language:

"NOTICE OF WAIVER OF IMPLIED WARRANTIES

I recognize that by accepting the express warranties and the insurance covering those warranties for the periods of time provided in this contract, I am giving up the right to any claims for implied warranties, which may be greater than the express warranties. Implied warranties are unwritten warranties relating to the reasonable expectations of a homeowner with regard to the construction of the homeowner's home, as those reasonable expectations are defined by the courts on a case by case basis."

(c) If there is a default of either:

(1) the insurance for the performance of the warranty obligations;
or

(2) the completed operations products liability insurance;

the disclaimer by the builder is void from and after the default.

SECTION 12. IC 32-27-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) If a builder provides and breaches a warranty set forth in section 8 **or 8.5** of this chapter (or IC 34-4-20.5-8 or IC 32-15-7-8 before their repeal), the home buyer may bring an action against the builder for:

(1) damages arising from the breach; or

(2) specific performance.

(b) If damages are awarded for a breach of a warranty set forth in section 8 **or 8.5** of this chapter (or IC 34-4-20.5-8 or IC 32-15-7-8



before their repeal), the award may be for not more than:

- (1) the actual damages, which are either:
 - (A) the amount necessary to effect repair of the defect that is the cause of the breach; or
 - (B) the amount of the difference between the value of the new home without the defect and the value of the new home with the defect;
- (2) the reasonably foreseeable consequential damages arising from the defect covered by the warranty; and
- (3) attorney's fees, if those fees are provided for in the written contract between the parties.

SECTION 13. IC 36-7-2-12, AS AMENDED BY P.L.53-2022, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 12. (a) The definitions in IC 16-41-27 apply throughout this section.

(b) Unless required under IC 36-7-2-9 and ~~notwithstanding and except as provided in IC 36-7-4-1106(d), IC 36-7-4-1106(e), and IC 36-7-4-1106(f)~~ a unit may not adopt, impose, or enforce a regulation that:

- (1) mandates size requirements for or that is based on the age of, a mobile home, a manufactured home or an industrialized residential structure that will be installed in a mobile home community licensed under IC 16-41-27; or
- (2) is based on the age of a mobile home, a manufactured home, or an industrialized residential structure that will be installed on other private property;**

regardless of whether the mobile home community **or other private property, in whole or in part or any part of the mobile home community**, constitutes ~~(1)~~ a conforming structure or use or ~~(2)~~ a legal, nonconforming structure or use.

(c) Nothing in this section shall be construed to prohibit a unit from adopting or enforcing a requirement of a regulation related to:

- (1) transportation;
- (2) water and sewer service; or
- (3) another requirement concerning the use or development of land.

(d) Unless required under IC 36-7-2-9, after March 14, 2022:

- (1) a unit may not:
 - (A) adopt or impose a regulation that violates, or that includes a provision that violates, subsection (b);
 - (B) amend a regulation so that the regulation, after its amendment, includes a provision that violates subsection (b),

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regardless of when the regulation was originally adopted or imposed; or

(C) enforce a provision in a regulation adopted or imposed by the unit if the provision violates subsection (b), regardless of when the regulation or provision was originally adopted or imposed; and

(2) any provision that:

(A) is included in a regulation adopted or imposed by a unit; and

(B) violates subsection (b);

is void and unenforceable regardless of when the regulation or provision was originally adopted or imposed.

SECTION 14. IC 36-7-2-13 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2023]: **Sec. 13. (a) As used in this section, "chapter house" means a building or portion of a building used as a residence for students who are:**

(1) active members of the same fraternity or sorority; and

(2) enrolled at the same college or university.

(b) As used in this section, "college or university" has the meaning set forth in IC 21-7-13-10.

(c) As used in this section, "ordinance or regulation" means a planning or zoning ordinance or regulation adopted under IC 36-7-4.

(d) A county, city, or town may not:

(1) adopt an ordinance or regulation that; or

(2) enforce an ordinance or regulation in a manner that;

differentiates between chapter houses on the sole basis of whether a chapter house is approved or recognized by a college or university or a chapter house is not approved or recognized by a college or university.

SECTION 15. IC 36-7-4-1019, AS AMENDED BY P.L.53-2022, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 1019. (a) The definitions in IC 16-41-27 apply throughout this section.**

(b) For purposes of this section:

(1) a legal, nonconforming structure includes:

(A) a mobile home;

(B) a manufactured home; or

(C) an industrialized residential structure;

that is considered a legal, nonconforming structure by a unit; and

(2) a legal, nonconforming use includes the use of a parcel of real



property, or any part of a parcel of real property, for residential purposes by one (1) or more:

- (A) mobile homes;
- (B) manufactured homes; or
- (C) industrialized residential structures;

if the use is considered a legal, nonconforming use by a unit.

(c) In an enforcement action brought under this chapter, the party alleging the existence of a legal, nonconforming use or variance granted by a board of zoning appeals has the burden of proof on that issue. The nonexistence of a nonconforming use or variance need not be proved.

(d) Except as provided in subsection (e) and subject to subsection (f), whenever a legal, nonconforming structure on a parcel of real property used for residential purposes within a mobile home community **or on other private property** is damaged, destroyed, or removed, the owner of the parcel shall be permitted to reconstruct, repair, renovate, or replace the structure without losing the status of the structure or parcel, or any part of the parcel, as a legal, nonconforming structure or use if the reconstruction, repair, renovation, or replacement meets the following requirements:

- (1) The structure will continue to be used for residential purposes.
- (2) Subject to IC 25-23.7-8, the new foundation of the reconstructed, repaired, renovated, or replaced structure may not exceed the square footage of the foundation of the damaged, destroyed, or removed structure.

(e) The provisions of subsection (d) concerning the reconstruction, repair, renovation, or replacement of a damaged, destroyed, or removed nonconforming structure do not authorize the reconstruction, repair, or renovation of a damaged or destroyed nonconforming structure that is:

- (1) subject to the jurisdiction of a preservation commission organized under:
 - (A) IC 36-7-11;
 - (B) IC 36-7-11.1;
 - (C) IC 36-7-11.2; or
 - (D) IC 36-7-11.3; or
- (2) located within a flood plain (as defined in IC 14-8-2-99).

(f) The provisions of subsection (d) concerning the continuing status of a structure or parcel, or any part of the parcel, as a legal, nonconforming structure or use apply regardless of whether:

- (1) the structure or parcel, or any part of the parcel, is conferred status as a legal, nonconforming structure or use within a mobile home community **or on other private property**; or



- (2) the legal nonconforming structure is:
- (A) damaged, destroyed, or removed; or
 - (B) reconstructed, renovated, repaired, or replaced;
- before, on, or after March 15, 2022.

SECTION 16. IC 36-7-4-1106, AS AMENDED BY P.L.168-2020, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1106. (a) This section does not affect a requirement applicable to property that is subject to the jurisdiction of a preservation commission organized under any of the following:

- (1) IC 36-7-11.
- (2) IC 36-7-11.1.
- (3) IC 36-7-11.2.
- (4) IC 36-7-11.3.

(b) As used in this section:

- (1) "Manufactured home" means a dwelling unit, designed and built in a factory, which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law of 1974 (42 U.S.C. 5401 et seq.).
- (2) "Underfloor space" means that space between the bottom of the floor joists and the earth.
- (3) "Occupied space" means the total area of earth horizontally covered by the structure, excluding accessory structures such as, but not limited to, garages, patios and porches.
- (4) "Permanent foundation system" includes a pier footing foundation system that is specified as suitable in the manufacturer's installation specifications for a manufactured home.

(c) Comprehensive plans and ordinances adopted under the provisions of this chapter may subject dwelling units and lots to identical standards and requirements, whether or not the dwelling unit to be placed on a lot is a manufactured home or some other type of dwelling unit. These standards and requirements may include but are not limited to the following:

- (1) Setback distance.
- (2) Side and rear yard area.
- (3) Vehicle parking space.
- (4) Minimum square footage of the dwelling unit.
- (5) Underfloor space enclosure requirements.
- (6) Aesthetics. However, aesthetic standards and requirements pertaining to the home structure itself which are adopted under this section may only pertain to the following:
 - (A) Roofing materials and siding materials.



(B) Permanent foundation systems of manufactured homes that are located outside of a mobile home community licensed under IC 16-41-27. A unit may require compatibility of a permanent foundation system with surrounding residential structures. However, the unit may not require:

- (i) a permanent foundation system that is incompatible with the structural design of the manufactured home; or
- (ii) more than one (1) permanent foundation system for a manufactured home.

(d) METRO. Standards and requirements, specified in comprehensive plans and ordinances, adopted under this section for lots and dwelling units may not ~~totally~~ preclude all manufactured homes ~~constructed after January 1, 1981, and~~ that exceed:

(1) twenty-three (23) feet in width; and

(2) nine hundred fifty (950) square feet of occupied space;

from being installed as permanent residences on any lot on which any other type of dwelling unit may be placed.

(e) ~~ADVISORY~~—AREA. **This subsection applies only to lots and dwelling units that are within a city or town's planning and zoning jurisdiction.** Standards and requirements, specified in comprehensive plans and ordinances, adopted under this section for lots and dwelling units may not ~~totally~~ preclude ~~all~~ manufactured homes ~~constructed after January 1, 1981, and~~ that exceed nine hundred fifty (950) square feet of occupied space from being installed as permanent residences on any lot on which any other type of dwelling unit may be placed.

(f) ~~ADVISORY~~—AREA. **This subsection applies only to lots and dwelling units that are within a county's planning and zoning jurisdiction.** Standards and requirements, specified in comprehensive plans and ordinances, adopted under this section for lots and dwelling units may not preclude manufactured homes that exceed:

(1) twenty-three (23) feet in width; and

(2) nine hundred fifty (950) square feet of occupied space;

from being installed as permanent residences on any lot on which any other type of dwelling unit may be placed.



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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