HOUSE BILL No. 1495

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-12-37; IC 32-29.5.

Synopsis: Real estate land contracts. Defines "principal dwelling land contract" (contract) as a land contract for the sale of real property: (1) designed for the occupancy of one to four families; and (2) that will be occupied by the buyer as the buyer's principal dwelling. Provides that the seller under a contract must provide the buyer with an FHA appraisal of the property, a description of any liens encumbering the property, and make certain other disclosures to the buyer at least 10 days before the contract is executed. Requires a contract to provide for the payment of preexisting liens, and specifies that all preexisting liens must be satisfied by the end of the contract term. Prohibits penalties or additional charges for prepayment, and requires the buyer to record the contract within 30 days of execution. Requires the Indiana real estate commission (commission), in consultation with the department of financial institutions (DFI), to adopt a standard contract form and standard disclosure forms, and requires a seller to use these forms after December 31, 2019. Requires a contract to include a notice informing the buyer of certain protections for contract transactions under Indiana law, and requires a seller to provide a similar disclosure in the event of a default by the buyer. Specifies that the seller must provide the buyer with an annual statement of account. Establishes remedies for violations. Requires the commission, in consultation with the DFI, to adopt rules to implement the new provisions. Provides that a buyer who has completed the buyer's obligations under the contract is entitled to the homestead deduction regardless of whether the seller has conveyed title.

Effective: Upon passage.

Summers, Clere, Fleming

January 24, 2019, read first time and referred to Committee on Financial Institutions.

Introduced

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1495

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

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

SECTION 1. IC 6-1.1-12-37, AS AMENDED BY P.L.255-2017, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) The following definitions apply throughout this section:

(1) "Dwelling" means any of the following:

(A) Residential real property improvements that an individual uses as the individual's residence, including a house or garage.

(B) A mobile home that is not assessed as real property that an individual uses as the individual's residence.

(C) A manufactured home that is not assessed as real property that an individual uses as the individual's residence.

(2) "Homestead" means an individual's principal place of residence:

(A) that is located in Indiana;

(B) that:

(i) the individual owns;

(ii) the individual is buying under a contract recorded in the county recorder's office, or evidenced by a memorandum of contract recorded in the county recorder's office under IC 36-2-11-20, that provides that the individual is to pay the property taxes on the residence, and that obligates the owner to convey title to the individual upon completion of all of the individual's contract obligations;

(iii) the individual is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing corporation (as defined in 26 U.S.C. 216); or

(iv) is a residence described in section 17.9 of this chapter that is owned by a trust if the individual is an individual described in section 17.9 of this chapter; and

(C) that consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

For purposes of clause (B)(ii), the term includes the principal residence of an individual who has completed all of the individual's obligations under a principal dwelling land contract (as defined in IC 32-29.5-2-1), regardless of whether or not the seller has conveyed the title. Except as provided in subsection (k), the term does not include property owned by a corporation, partnership, limited liability company, or other entity not described in this subdivision.

(b) Each year a homestead is eligible for a standard deduction from the assessed value of the homestead for an assessment date. Except as provided in subsection (p), the deduction provided by this section applies to property taxes first due and payable for an assessment date only if an individual has an interest in the homestead described in subsection (a)(2)(B) on:

(1) the assessment date; or

(2) any date in the same year after an assessment date that a statement is filed under subsection (e) or section 44 of this chapter, if the property consists of real property.

If more than one (1) individual or entity qualifies property as a homestead under subsection (a)(2)(B) for an assessment date, only one (1) standard deduction from the assessed value of the homestead may be applied for the assessment date. Subject to subsection (c), the auditor of the county shall record and make the deduction for the individual or entity qualifying for the deduction.

(c) Except as provided in section 40.5 of this chapter, the total amount of the deduction that a person may receive under this section for a particular year is the lesser of:

(1) sixty percent (60%) of the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property; or

(2) forty-five thousand dollars ($45,000).

(d) A person who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

(e) Except as provided in sections 17.8 and 44 of this chapter and subject to section 45 of this chapter, an individual who desires to claim the deduction provided by this section must file a certified statement on forms prescribed by the department of local government finance, with the auditor of the county in which the homestead is located. The statement must include:

(1) the parcel number or key number of the property and the name of the city, town, or township in which the property is located;

(2) the name of any other location in which the applicant or the applicant's spouse owns, is buying, or has a beneficial interest in residential real property;

(3) the names of:

(A) the applicant and the applicant's spouse (if any):

(i) as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number; or

(ii) that they use as their legal names when they sign their names on legal documents;

if the applicant is an individual; or

(B) each individual who qualifies property as a homestead under subsection (a)(2)(B) and the individual's spouse (if any):

(i) as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number; or

(ii) that they use as their legal names when they sign their names on legal documents;

if the applicant is not an individual; and

(4) either:

(A) the last five (5) digits of the applicant's Social Security number and the last five (5) digits of the Social Security number of the applicant's spouse (if any); or

(B) if the applicant or the applicant's spouse (if any) does not have a Social Security number, any of the following for that individual:

(i) The last five (5) digits of the individual's driver's license number.

(ii) The last five (5) digits of the individual's state identification card number.

(iii) The last five (5) digits of a preparer tax identification number that is obtained by the individual through the Internal Revenue Service of the United States.

(iv) If the individual does not have a driver's license, a state identification card, or an Internal Revenue Service preparer tax identification number, the last five (5) digits of a control number that is on a document issued to the individual by the United States government.

If a form or statement provided to the county auditor under this section, IC 6-1.1-22-8.1, or IC 6-1.1-22.5-12 includes the telephone number or part or all of the Social Security number of a party or other number described in subdivision (4)(B) of a party, the telephone number and the Social Security number or other number described in subdivision (4)(B) included are confidential. The statement may be filed in person or by mail. If the statement is mailed, the mailing must be postmarked on or before the last day for filing. The statement applies for that first year and any succeeding year for which the deduction is allowed. With respect to real property, the statement must be completed and dated in the calendar year for which the person desires to obtain the deduction and filed with the county auditor on or before January 5 of the immediately succeeding calendar year. With respect to a mobile home that is not assessed as real property, the person must file the statement during the twelve (12) months before March 31 of the year for which the person desires to obtain the deduction.

(f) Except as provided in subsection (n), if a person who is receiving, or seeks to receive, the deduction provided by this section in the person's name:

(1) changes the use of the individual's property so that part or all of the property no longer qualifies for the deduction under this section; or

(2) is not eligible for a deduction under this section because the person is already receiving:

(A) a deduction under this section in the person's name as an individual or a spouse; or

(B) a deduction under the law of another state that is equivalent to the deduction provided by this section;

the person must file a certified statement with the auditor of the county, notifying the auditor of the person's ineligibility, not more than sixty (60) days after the date of the change in eligibility. A person who fails to file the statement required by this subsection may, under IC 6-1.1-36-17, be liable for any additional taxes that would have been due on the property if the person had filed the statement as required by this subsection plus a civil penalty equal to ten percent (10%) of the additional taxes due. The civil penalty imposed under this subsection is in addition to any interest and penalties for a delinquent payment that might otherwise be due. One percent (1%) of the total civil penalty collected under this subsection shall be transferred by the county to the department of local government finance for use by the department in establishing and maintaining the homestead property data base under subsection (i) and, to the extent there is money remaining, for any other purposes of the department. This amount becomes part of the property tax liability for purposes of this article.

(g) The department of local government finance may adopt rules or guidelines concerning the application for a deduction under this section.

(h) This subsection does not apply to property in the first year for which a deduction is claimed under this section if the sole reason that a deduction is claimed on other property is that the individual or married couple maintained a principal residence at the other property on the assessment date in the same year in which an application for a deduction is filed under this section or, if the application is for a homestead that is assessed as personal property, on the assessment date in the immediately preceding year and the individual or married couple is moving the individual's or married couple's principal residence to the property that is the subject of the application. Except as provided in subsection (n), the county auditor may not grant an individual or a married couple a deduction under this section if:

(1) the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the deduction; and

(2) the applications claim the deduction for different property.

(i) The department of local government finance shall provide secure access to county auditors to a homestead property data base that includes access to the homestead owner's name and the numbers required from the homestead owner under subsection (e)(4) for the sole purpose of verifying whether an owner is wrongly claiming a deduction under this chapter or a credit under IC 6-1.1-20.4, IC 6-1.1-20.6, or IC 6-3.6-5 (after December 31, 2016).

(j) A county auditor may require an individual to provide evidence proving that the individual's residence is the individual's principal place of residence as claimed in the certified statement filed under subsection (e). The county auditor may limit the evidence that an individual is required to submit to a state income tax return, a valid driver's license, or a valid voter registration card showing that the residence for which the deduction is claimed is the individual's principal place of residence. The department of local government finance shall work with county auditors to develop procedures to determine whether a property owner that is claiming a standard deduction or homestead credit is not eligible for the standard deduction or homestead credit because the property owner's principal place of residence is outside Indiana.

(k) As used in this section, "homestead" includes property that satisfies each of the following requirements:

(1) The property is located in Indiana and consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

(2) The property is the principal place of residence of an individual.

(3) The property is owned by an entity that is not described in subsection (a)(2)(B).

(4) The individual residing on the property is a shareholder, partner, or member of the entity that owns the property.

(5) The property was eligible for the standard deduction under this section on March 1, 2009.

(l) If a county auditor terminates a deduction for property described in subsection (k) with respect to property taxes that are:

(1) imposed for an assessment date in 2009; and

(2) first due and payable in 2010;

on the grounds that the property is not owned by an entity described in subsection (a)(2)(B), the county auditor shall reinstate the deduction if the taxpayer provides proof that the property is eligible for the deduction in accordance with subsection (k) and that the individual residing on the property is not claiming the deduction for any other property.

(m) For assessment dates after 2009, the term "homestead" includes:

(1) a deck or patio;

(2) a gazebo; or

(3) another residential yard structure, as defined in rules adopted by the department of local government finance (other than a swimming pool);

that is assessed as real property and attached to the dwelling.

(n) A county auditor shall grant an individual a deduction under this section regardless of whether the individual and the individual's spouse claim a deduction on two (2) different applications and each application claims a deduction for different property if the property owned by the individual's spouse is located outside Indiana and the individual files an affidavit with the county auditor containing the following information:

(1) The names of the county and state in which the individual's spouse claims a deduction substantially similar to the deduction allowed by this section.

(2) A statement made under penalty of perjury that the following are true:

(A) That the individual and the individual's spouse maintain separate principal places of residence.

(B) That neither the individual nor the individual's spouse has an ownership interest in the other's principal place of residence.

(C) That neither the individual nor the individual's spouse has, for that same year, claimed a standard or substantially similar deduction for any property other than the property maintained as a principal place of residence by the respective individuals.

A county auditor may require an individual or an individual's spouse to provide evidence of the accuracy of the information contained in an affidavit submitted under this subsection. The evidence required of the individual or the individual's spouse may include state income tax returns, excise tax payment information, property tax payment information, driver license information, and voter registration information.

(o) If:

(1) a property owner files a statement under subsection (e) to claim the deduction provided by this section for a particular property; and

(2) the county auditor receiving the filed statement determines that the property owner's property is not eligible for the deduction;

the county auditor shall inform the property owner of the county auditor's determination in writing. If a property owner's property is not eligible for the deduction because the county auditor has determined that the property is not the property owner's principal place of residence, the property owner may appeal the county auditor's determination to the county property tax assessment board of appeals as provided in IC 6-1.1-15. The county auditor shall inform the property owner of the owner's right to appeal to the county property tax assessment board of appeals when the county auditor informs the property owner of the county auditor's determination under this subsection.

(p) An individual is entitled to the deduction under this section for a homestead for a particular assessment date if:

(1) either:

(A) the individual's interest in the homestead as described in subsection (a)(2)(B) is conveyed to the individual after the assessment date, but within the calendar year in which the assessment date occurs; or

(B) the individual contracts to purchase the homestead after the assessment date, but within the calendar year in which the assessment date occurs;

(2) on the assessment date:

(A) the property on which the homestead is currently located was vacant land; or

(B) the construction of the dwelling that constitutes the homestead was not completed; and

(3) either:

(A) the individual files the certified statement required by subsection (e); or

(B) a sales disclosure form that meets the requirements of section 44 of this chapter is submitted to the county assessor on or before December 31 of the calendar year for the individual's purchase of the homestead.

An individual who satisfies the requirements of subdivisions (1) through (3) is entitled to the deduction under this section for the homestead for the assessment date, even if on the assessment date the property on which the homestead is currently located was vacant land or the construction of the dwelling that constitutes the homestead was not completed. The county auditor shall apply the deduction for the assessment date and for the assessment date in any later year in which the homestead remains eligible for the deduction. A homestead that qualifies for the deduction under this section as provided in this subsection is considered a homestead for purposes of section 37.5 of this chapter and IC 6-1.1-20.6.

(q) This subsection applies to an application for the deduction provided by this section that is filed for an assessment date occurring after December 31, 2013. Notwithstanding any other provision of this section, an individual buying a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property under a contract providing that the individual is to pay the property taxes on the mobile home or manufactured home is not entitled to the deduction provided by this section unless the parties to the contract comply with IC 9-17-6-17.

(r) This subsection:

(1) applies to an application for the deduction provided by this section that is filed for an assessment date occurring after December 31, 2013; and

(2) does not apply to an individual described in subsection (q).

The owner of a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property must attach a copy of the owner's title to the mobile home or manufactured home to the application for the deduction provided by this section.

(s) For assessment dates after 2013, the term "homestead" includes property that is owned by an individual who:

(1) is serving on active duty in any branch of the armed forces of the United States;

(2) was ordered to transfer to a location outside Indiana; and

(3) was otherwise eligible, without regard to this subsection, for the deduction under this section for the property for the assessment date immediately preceding the transfer date specified in the order described in subdivision (2).

For property to qualify under this subsection for the deduction provided by this section, the individual described in subdivisions (1) through (3) must submit to the county auditor a copy of the individual's transfer orders or other information sufficient to show that the individual was ordered to transfer to a location outside Indiana. The property continues to qualify for the deduction provided by this section until the individual ceases to be on active duty, the property is sold, or the individual's ownership interest is otherwise terminated, whichever occurs first. Notwithstanding subsection (a)(2), the property remains a homestead regardless of whether the property continues to be the individual's principal place of residence after the individual transfers to a location outside Indiana. The property continues to qualify as a homestead under this subsection if the property is leased while the individual is away from Indiana and is serving on active duty, if the individual has lived at the property at any time during the past ten (10) years. Otherwise, the property ceases to qualify as a homestead under this subsection if the property is leased while the individual is away from

Indiana. Property that qualifies as a homestead under this subsection shall also be construed as a homestead for purposes of section 37.5 of this chapter.

SECTION 2. IC 32-29.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 29.5. PRINCIPAL DWELLING LAND CONTRACTS

Chapter 1. Application

Sec. 1. This article does not apply to a mortgage transaction that:

(1) is subject to or exempt from:

(A) IC 24-4.4; or

(B) IC 24-4.5; and

(2) is not secured by a principal dwelling land contract (or another consensual security interest equivalent to a principal dwelling land contract).

Sec. 2. This article applies only to a principal dwelling land contract entered into after June 30, 2019.

Chapter 2. Definitions

Sec. 1. The following definitions apply throughout this article:

(1) "Indiana real estate commission" refers to the Indiana real estate commission created by IC 25-34.1-2-1.

(2) "Land contract" means a contract for the sale of real estate in which the seller of the real estate retains legal title to the real estate until the total contract price is paid by the buyer.

(3) "Principal dwelling land contract" means a land contract for the sale of real property:

(A) designed primarily for the occupancy of one (1) to four (4) families; and

(B) that is or will be occupied by a buyer as the buyer's principal dwelling.

Chapter 3. Principal Dwelling Land Contracts and Disclosures

Sec. 1. At least ten (10) days before a principal dwelling land contract is executed by the parties, the seller shall provide the buyer with the following:

(1) A complete copy of a Federal Housing Administration (FHA) appraisal for the real property that has been completed within the previous six (6) months.

(2) A complete record of any liens encumbering the property, including any property tax liens or special assessment liens.

(3) The residential real estate disclosure form described in IC 32-21-5-7.

(4) If the real property was constructed before 1978, the lead-based paint disclosure form as required by the federal EPA and HUD Real Estate Notification and Disclosure Rule.

(5) The annual percentage rate of the loan, calculated based on the difference between:

(A) the appraised value of the residence as established by the FHA appraisal; and

(B) the amount to be paid by the buyer under the contract over the period of the contract, not including any amount paid to satisfy an outstanding lien.

(6) The following statement, in at least 12 point type: "INDIANA LAW PROVIDES LEGAL PROTECTION TO PERSONS BUYING A HOME UNDER A LAND CONTRACT. IF YOU HAVE EQUITY IN THE HOME AND MISS REQUIRED PAYMENTS, YOU MAY HAVE THE RIGHT TO CURE YOUR DEFAULT BY MAKING UP MISSED PAYMENTS. IN ADDITION, YOU MAY BE PROTECTED AGAINST FORFEITURE AND IMMEDIATE EVICTION, AND YOU MAY HAVE THE RIGHT TO THE RETURN OF SOME OR ALL OF YOUR EQUITY IN THE HOME.".

Sec. 2. A principal dwelling land contract must include the following information:

(1) The annual percentage rate of the loan, calculated in accordance with section 1(5) of this chapter.

(2) If the real property is encumbered by one (1) or more liens, a statement of the amount of the liens and an agreement by the seller that the seller shall use a specified portion of funds received from the buyer under the contract to satisfy the liens.

Sec. 3. All preexisting liens must be satisfied by the seller by the end of the contract term. The payment of liens that arise after the execution of the contract shall be determined by the parties and set forth in the contract.

Sec. 4. A principal dwelling land contract must permit a buyer to pay the balance owed on the contract and receive the deed at any time. A principal dwelling land contract may not impose a prepayment penalty or additional charge for an early payoff.

Sec. 5. At the time the parties execute the principal dwelling land contract, the seller shall provide the buyer with one (1)

original executed copy of the contract.

Sec. 6. The seller shall record the executed principal dwelling land contract not later than thirty (30) days after the contract is executed in the county in which the real property is located. The buyer may record the executed contract at any time.

Chapter 4. Statement of Account

Sec. 1. Before January 31 of each year, the seller shall provide the buyer with a written statement of account for the previous calendar year. The statement must include the following:

(1) A record of all payments made by the buyer.

(2) If applicable, a record of all payments made by the seller to satisfy any liens, and to whom the payments were made.

(3) The payoff amount as of the end of the previous calendar year.

Chapter 5. Standard Forms

Sec. 1. Before January 1, 2020, the Indiana real estate commission, in consultation with the department of financial institutions, shall establish:

(1) a standard principal dwelling land contract; and

(2) disclosure forms;

based on the requirements of this article.

Sec. 2. The Indiana real estate commission, in consultation with the department of financial institutions, may also require additional disclosures and contract provisions, not inconsistent with this article, that are designed to fully inform and protect persons involved in principal dwelling land contract transactions.

Sec. 3. Every principal dwelling land contract entered into after December 31, 2019, must use the standard principal dwelling land contract and disclosure forms described in this chapter.

Chapter 6. Buyer Default

Sec. 1. If a buyer fails to make a timely payment as required under a principal dwelling land contract and:

(1) has made timely payments under the contract for at least one (1) year; or

(2) the amount of all payments made by the buyer under the contract, including any down payment or prepayment, is at least five percent (5%) of the purchase price;

the seller shall send the buyer, not later than ten (10) days after the missed payment, the statement described in section 2 of this chapter.

Sec. 2. (a) A seller shall send a buyer described in section 1 of this chapter the following notice:

"EVEN THOUGH YOU HAVE FAILED TO MAKE A REQUIRED PAYMENT, INDIANA LAW PROVIDES LEGAL PROTECTION TO PERSONS BUYING A HOME UNDER A LAND CONTRACT. BECAUSE OF YOUR PAYMENT HISTORY OR EQUITY IN THE HOME, YOU MAY HAVE THE RIGHT TO CURE YOUR DEFAULT BY MAKING UP MISSED PAYMENTS. IN ADDITION, YOU MAY BE PROTECTED AGAINST FORFEITURE AND IMMEDIATE EVICTION, AND YOU MAY HAVE THE RIGHT TO SOME OR ALL OF YOUR EQUITY IN THE HOME. YOU SHOULD SEEK LEGAL ADVICE FROM AN ATTORNEY BEFORE SURRENDERING POSSESSION OF THE HOME. MANY NONPROFIT ORGANIZATIONS IN INDIANA PROVIDE FREE LEGAL COUNSEL FOR PEOPLE IN YOUR SITUATION, INCLUDING INDIANA LEGAL SERVICES, INC.".

(b) The notice described in this section shall be in at least 12 point type.

Chapter 7. Violations

Sec. 1. If a seller fails to make a required preexecution disclosure under IC 32-29.5-3-1, the buyer has the right, not later than sixty (60) days after parties execute the principal dwelling land contract, to:

(1) rescind the contract; or

(2) obtain liquidated damages of up to one (1) month's payment under the contract.

If a buyer brings an action under this section and prevails, the court shall award the buyer court costs and reasonable attorney's fees.

Sec. 2. If a seller fails to send a written statement of account:

(1) that substantially complies with IC 32-29.5-4; and

(2) before March 1 of the year in which it is due;

the buyer is entitled to liquidated damages of up to one (1) month's payment under the contract. If a buyer brings an action under this section and prevails, the court shall award the buyer court costs and reasonable attorney's fees.

Sec. 3. (a) This subsection applies to a contract entered into after June 30, 2019, and before January 1, 2020. If a seller prepares a principal dwelling land contract that does not substantially comply with IC 32-29.5-3, the buyer is entitled to:

(1) liquidated damages of up to one (1) month's payment under the contract; and

(2) a new principal dwelling land contract containing substantially identical terms to the original contract, prepared at the seller's expense, that complies with IC 32-29.5-3.

However, if the seller fails to present the buyer with a new principal dwelling land contract containing substantially identical terms that complies with IC 32-29.5-3 within sixty (60) days of being requested to do so in writing, the buyer is entitled to rescind the principal dwelling land contract. If a buyer brings an action under this section and prevails, the court shall award the buyer court costs and reasonable attorney's fees.

(b) This subsection applies to a contract entered into after December 31, 2019. If a seller provides a principal dwelling land contract that is not the standard principal dwelling land contract established by the Indiana real estate commission under IC 32-29.5-5, the buyer is entitled to:

(1) liquidated damages of up to one (1) month's payment under the contract; and

(2) a new principal dwelling land contract containing substantially identical terms to the original contract, prepared on the Indiana real estate commission's standard principal dwelling land contract form and prepared at the seller's expense.

However, if the seller fails to present the buyer with a new principal dwelling land contract containing substantially identical terms prepared on the Indiana real estate commission's standard principal dwelling land contract form within sixty (60) days of being requested to do so in writing, the buyer is entitled to rescind the contract. If a buyer brings an action under this section and prevails, the court shall award the buyer court costs and reasonable attorney's fees.

Chapter 8. Seller Default

Sec. 1. (a) If:

(1) the buyer has fulfilled the requirements of the principal dwelling land contract; and

(2) the seller is unable to convey a clear deed to the buyer due to the seller's failure to satisfy one (1) or more liens placed on the real property before the contract was executed;

the seller shall pay the buyer liquidated damages in the amount of twenty-five dollars ($25) per day until the lien is satisfied. If a buyer brings an action under this section and prevails, the court shall award the buyer court costs and reasonable attorney's fees.

(b) This section does not affect the seller's obligation to satisfy

the lien.

(c) A buyer who has fulfilled the requirements of the principal dwelling land contract is entitled to possession of the real property with no further payments due to the seller.

Chapter 9. Rulemaking

Sec. 1. (a) The Indiana real estate commission, in consultation with the department of financial institutions, shall adopt rules under IC 4-22-2, including emergency rules adopted in the manner provided by IC 4-22-2-37.1, to implement this article.

(b) Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the Indiana real estate commission under this subsection and in the manner provided by IC 4-22-2-37.1 expires on the date on which a rule that supersedes the emergency rule is adopted by the Indiana real estate commission under IC 4-22-2-24 through IC 4-22-2-36.

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