



January 26, 2010

# HOUSE BILL No. 1048

DIGEST OF HB 1048 (Updated January 21, 2010 10:00 am - DI 101)

**Citations Affected:** IC 6-1.1; IC 32-21; IC 33-42; IC 34-30.

**Synopsis:** Property tax deductions for contract purchasers. With respect to a contract for the purchase of a single family dwelling that is not prepared by an attorney or a licensed real estate broker or salesperson, provides that the contract is valid only if: (1) the contract is notarized; and (2) if the contract is for a term of at least three years, the contract is recorded in the county in which the dwelling is located. Provides that the notary public who notarizes the contract must provide to the contract purchaser a form that: (1) is prescribed by the department of local government finance; (2) is made available to notaries public, certain county officials, and the public in an electronic format; and (3) describes the availability of certain property tax deductions. Provides that a notary is not liable for the content of the form or for failing to provide the form. Provides that the requirements that: (1) a contract for the purchase of a single family dwelling must be notarized and, in certain circumstances, recorded; and (2) the notary public notarizing the contract must provide the contract purchaser with the form concerning property tax benefits; do not apply to a contract between an initial home buyer and a builder for the construction of a new home. Provides the same exemption for a contract in which an individual purchases a new manufactured home or new mobile home: (1) for use as a residence that the individual will occupy as the first occupant; and (2) directly from the manufacturer, the manufacturer's agent, a dealer, or a seller that did not previously purchase the manufactured home or mobile home in a retail transaction.

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**Effective:** Upon passage.

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January 5, 2010, read first time and referred to Committee on Financial Institutions.  
January 26, 2010, amended, reported — Do Pass.

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HB 1048—LS 6271/DI 52+



January 26, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

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## HOUSE BILL No. 1048

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

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

- 1 SECTION 1. IC 6-1.1-12-43.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE UPON PASSAGE]: **Sec. 43.5. (a) This section does not**  
4 **apply to the following:**  
5 (1) **A contract between an initial home buyer (as defined in**  
6 **IC 32-27-2-2) and a builder (as defined in IC 32-27-2-6) for**  
7 **the construction of a new home.**  
8 (2) **A contract under which:**  
9 (A) **an individual agrees to purchase a new:**  
10 (i) **manufactured home; or**  
11 (ii) **mobile home;**  
12 **that is not assessed as real property;**  
13 (B) **the individual will use the manufactured home or**  
14 **mobile home:**  
15 (i) **as a residence; and**  
16 (ii) **as the first occupant of the manufactured home or**  
17 **mobile home; and**

HB 1048—LS 6271/DI 52+



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- (C) the individual purchases the manufactured home or mobile home:**
  - (i) directly from the manufacturer, the manufacturer's agent, or a dealer of manufactured homes or mobile homes; or**
  - (ii) from a seller that otherwise did not previously purchase the manufactured home or mobile home in a retail transaction.**
- (3) A transaction that is subject to section 43 of this chapter.**
- (b) For purposes of this section:**
  - (1) "benefit" refers to a deduction under section 1, 9, 11, 13, 14, 16, 17.4, 26, 29, 31, 33, 34, 34.5, 37, or 37.5 of this chapter; and**
  - (2) "contract" refers to a contract that:**
    - (A) is for the purchase of a single family dwelling (as defined in section 37 of this chapter) that the purchaser will occupy as a residence; and**
    - (B) is not prepared by:**
      - (i) an attorney; or**
      - (ii) a broker or salesperson licensed under IC 25-34.1.**
  - (c) Before notarizing a contract after June 30, 2010, a notary public must provide to the contract purchaser the form referred to in subsection (d).**
  - (d) Before July 1, 2010, the department of local government finance shall prescribe the form to be provided by notaries public to contract purchasers under subsection (c). The department shall make the form available to notaries public, county assessors, county auditors, and county treasurers in an electronic format that may be printed and reproduced. County assessors, county auditors, and county treasurers shall make the form available to the general public. The form must:**
    - (1) list each benefit;**
    - (2) list the eligibility criteria for each benefit;**
    - (3) indicate:**
      - (A) each action that a contract purchaser must take; and**
      - (B) each type of documentation that a contract purchaser must provide;**
    - to file for each benefit; and**
    - (4) provide sufficient instructions and information to permit a party to terminate a standard deduction under section 37 of this chapter on any property on which the party or the spouse of the party will no longer be eligible for the standard**

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1 deduction under section 37 of this chapter after the party or  
2 the party's spouse begins to reside at the property that is the  
3 subject of the contract, including an explanation of the tax  
4 consequences and applicable penalties if a party unlawfully  
5 claims a standard deduction under section 37 of this chapter.

6 (e) A notary public:

- 7 (1) may print and reproduce the form referred to in
- 8 subsection (d); and
- 9 (2) is not responsible for the content of the form referred to in
- 10 subsection (d) and shall be held harmless by the department
- 11 of local government finance from any liability for the content
- 12 of the form.

13 (f) A notary public is not liable for any other damages claimed  
14 by a contract purchaser because of the notary public's mere failure  
15 to provide the appropriate document to the contract purchaser  
16 under subsection (c).

17 SECTION 2. IC 32-21-1.5 IS ADDED TO THE INDIANA CODE  
18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
19 UPON PASSAGE]:

20 **Chapter 1.5. Requirement to Notarize and Record Contract**

21 **Sec. 1. This chapter does not apply to the following:**

- 22 (1) A contract between an initial home buyer (as defined in
- 23 IC 32-27-2-2) and a builder (as defined in IC 32-27-2-6) for
- 24 the construction of a new home.
- 25 (2) A contract under which:
  - 26 (A) an individual agrees to purchase a new:
    - 27 (i) manufactured home; or
    - 28 (ii) mobile home;
  - 29 that is not assessed as real property;
  - 30 (B) the individual will use the manufactured home or
  - 31 mobile home:
    - 32 (i) as a residence; and
    - 33 (ii) as the first occupant of the manufactured home or
    - 34 mobile home; and
  - 35 (C) the individual purchases the manufactured home or
  - 36 mobile home:
    - 37 (i) directly from the manufacturer, the manufacturer's
    - 38 agent, or a dealer of manufactured homes or mobile
    - 39 homes; or
    - 40 (ii) from a seller that otherwise did not previously
    - 41 purchase the manufactured home or mobile home in a
    - 42 retail transaction.

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1                   **(3) A transaction that is subject to IC 6-1.1-12-43.**  
2                   **Sec. 2. As used in this chapter, "contract" refers to a contract**  
3                   **that:**  
4                   **(1) is for the purchase of a single family dwelling (as defined**  
5                   **in IC 6-1.1-12-37) that the purchaser will occupy as a**  
6                   **residence; and**  
7                   **(2) is not prepared by:**  
8                   **(A) an attorney; or**  
9                   **(B) a broker or salesperson licensed under IC 25-34.1.**  
10                  **Sec. 3. A contract executed after June 30, 2010, is valid only if**  
11                  **the contract is notarized.**  
12                  **Sec. 4. A contract that:**  
13                  **(1) is for a term of at least three (3) years; and**  
14                  **(2) is executed after June 30, 2010;**  
15                  **is valid only if the contract is recorded in the recorder's office of**  
16                  **the county in which the dwelling that is the subject of the contract**  
17                  **is located.**  
18                  SECTION 3. IC 33-42-2-11 IS ADDED TO THE INDIANA CODE  
19                  AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
20                  UPON PASSAGE]: **Sec. 11. Before notarizing a contract (as defined**  
21                  **in IC 6-1.1-12-43.5(a)(2)) after June 30, 2010, a notary public must**  
22                  **comply with IC 6-1.1-12-43.5.**  
23                  SECTION 4. IC 34-30-2-16.9 IS ADDED TO THE INDIANA  
24                  CODE AS A NEW SECTION TO READ AS FOLLOWS  
25                  [EFFECTIVE UPON PASSAGE]: **Sec. 16.9. IC 6-1.1-12-43.5**  
26                  **(Concerning a notary public's failure to provide a form concerning**  
27                  **property tax benefits and a notary public's liability with respect to**  
28                  **the content of the form).**  
29                  SECTION 5. An emergency is declared for this act.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1048, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "For purposes of this" and insert "**This section does not apply to the following:**

(1) **A contract between an initial home buyer (as defined in IC 32-27-2-2) and a builder (as defined in IC 32-27-2-6) for the construction of a new home.**

(2) **A contract under which:**

(A) **an individual agrees to purchase a new:**

(i) **manufactured home; or**

(ii) **mobile home;**

**that is not assessed as real property;**

(B) **the individual will use the manufactured home or mobile home:**

(i) **as a residence; and**

(ii) **as the first occupant of the manufactured home or mobile home; and**

(C) **the individual purchases the manufactured home or mobile home:**

(i) **directly from the manufacturer, the manufacturer's agent, or a dealer of manufactured homes or mobile homes; or**

(ii) **from a seller that otherwise did not previously purchase the manufactured home or mobile home in a retail transaction.**

(3) **A transaction that is subject to section 43 of this chapter.**

**(b) For purposes of this section:".**

Page 1, delete line 4.

Page 1, line 9, delete "residence;" and insert "**dwelling (as defined in section 37 of this chapter) that the purchaser will occupy as a residence;**".

Page 1, line 12, delete "real estate agent" and insert "**broker or salesperson**".

Page 1, line 13, delete "(b)" and insert "**(c)**".

Page 1, line 15, delete "(c)." and insert "**(d)**".

Page 1, line 16, delete "(c)" and insert "**(d)**".

Page 2, line 1, delete "(b)" and insert "**(c)**".

Page 2, line 3, delete "hard copy and electronic" and insert "**an electronic format that may be printed and reproduced**".

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Page 2, line 4, delete "form."

Page 2, delete lines 7 through 23, begin a new line block indented and insert:

- "(1) list each benefit;**
- (2) list the eligibility criteria for each benefit;**
- (3) indicate:**
  - (A) each action that a contract purchaser must take; and**
  - (B) each type of documentation that a contract purchaser must provide;**
- to file for each benefit; and**
- (4) provide sufficient instructions and information to permit a party to terminate a standard deduction under section 37 of this chapter on any property on which the party or the spouse of the party will no longer be eligible for the standard deduction under section 37 of this chapter after the party or the party's spouse begins to reside at the property that is the subject of the contract, including an explanation of the tax consequences and applicable penalties if a party unlawfully claims a standard deduction under section 37 of this chapter."**

Page 2, line 24, delete "(d)" and insert "(e)".

Page 2, line 25, after "may" insert "**print and**".

Page 2, line 25, delete "(c);" and insert "**(d);**".

Page 2, line 27, delete "(c)" and insert "**(d)**".

Page 2, delete lines 30 through 41.

Page 2, line 42, delete "(g)" and insert "**(f)**".

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

Page 3, delete lines 4 through 7.

Page 3, line 11, after "Notarize" insert "**and Record**".

Page 3, between lines 11 and 12, begin a new paragraph and insert:

**"Sec. 1. This chapter does not apply to the following:**

- (1) A contract between an initial home buyer (as defined in IC 32-27-2-2) and a builder (as defined in IC 32-27-2-6) for the construction of a new home.**
- (2) A contract under which:**
  - (A) an individual agrees to purchase a new:**
    - (i) manufactured home; or**
    - (ii) mobile home;**
  - that is not assessed as real property;**
  - (B) the individual will use the manufactured home or mobile home:**
    - (i) as a residence; and**
    - (ii) as the first occupant of the manufactured home or**

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**mobile home; and  
(C) the individual purchases the manufactured home or mobile home:**

**(i) directly from the manufacturer, the manufacturer's agent, or a dealer of manufactured homes or mobile homes; or**

**(ii) from a seller that otherwise did not previously purchase the manufactured home or mobile home in a retail transaction.**

**(3) A transaction that is subject to IC 6-1.1-12-43."**

Page 3, line 12, delete "1." and insert "2."

Page 3, line 14, delete "residence;" and insert "**dwelling (as defined in IC 6-1.1-12-37) that the purchaser will occupy as a residence;**".

Page 3, line 17, delete "real estate agent" and insert "**broker or salesperson**".

Page 3, line 18, delete "2." and insert "3."

Page 3, between lines 19 and 20, begin a new paragraph and insert: "**Sec. 4. A contract that:**

**(1) is for a term of at least three (3) years; and**

**(2) is executed after June 30, 2010;**

**is valid only if the contract is recorded in the recorder's office of the county in which the dwelling that is the subject of the contract is located."**

Page 3, between lines 24 and 25, begin a new paragraph and insert:

**"SECTION 4. IC 34-30-2-16.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.9. IC 6-1.1-12-43.5 (Concerning a notary public's failure to provide a form concerning property tax benefits and a notary public's liability with respect to the content of the form)."**

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1048 as introduced.)

BARDON, Chair

Committee Vote: yeas 7, nays 0.

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