



March 27, 2013

ENGROSSED HOUSE BILL No. 1084

DIGEST OF HB 1084 (Updated March 25, 2013 5:35 pm - DI 44)

Citations Affected: IC 4-6; IC 24-5.5; IC 24-9; IC 25-1; IC 32-25.5; noncode.

Synopsis: Various property issues. Provides that the homeowner protection unit of the attorney general's office shall enforce violations of the statute concerning homeowners associations. Makes changes to the mortgage rescue protection fraud act to make it consistent with the credit services organization act and the home loan practices act, including providing that the statute of limitations on filing claims runs for five years from the occurrence of the violation and not from the time the home loan is made. Allows for suspension of the license of an individual licensed under the real estate licensing law for an emergency period if the licensee has engaged in material and intentional
(Continued next page)

Effective: July 1, 2013.

Burton, Riecken, Torr, Kubacki

(SENATE SPONSORS — WALKER, SMITH J)

January 7, 2013, read first time and referred to Committee on Employment, Labor and Pensions.

January 22, 2013, reported — Do Pass.

January 28, 2013, read second time, amended, ordered engrossed.

January 29, 2013, engrossed.

January 31, 2013, read third time, passed. Yeas 93, nays 3.

SENATE ACTION

February 25, 2013, read first time and referred to Committee on Commerce, Economic Development and Technology.

March 26, 2013, amended, reported favorably — Do Pass.

EH 1084—LS 6634/DI 14+



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Digest Continued

misrepresentations or omissions. (The law currently allows for emergency suspension of the licenses of real estate appraisers only.) With certain exceptions, requires a homeowners association to: (1) make financial records available for inspection upon written request by a member of the association; and (2) provide all communications concerning a dispute with a homeowner to that homeowner. Permits a homeowners association to charge a search fee for time spent on records searches in excess of one hour, not to exceed the lesser of the hourly rate of the person making the search or \$35 per hour. Provides that the homeowners association statute does not abrogate an agreement by a homeowners association to provide additional inspection rights. Urges the legislative council to establish a study committee on the topic of homeowners associations.

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March 27, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1084

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

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

- 1 SECTION 1. IC 4-6-12-3, AS AMENDED BY P.L.230-2007,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 3. (a) Beginning July 1, 2005, the unit shall do the
4 following:
- 5 (1) Investigate deceptive acts in connection with mortgage
6 lending.
 - 7 (2) Investigate violations of IC 24-9.
 - 8 (3) Institute appropriate administrative and civil actions to
9 redress:
 - 10 (A) deceptive acts in connection with mortgage lending; and
 - 11 (B) violations of IC 24-5-0.5 and IC 24-9.
 - 12 (4) Cooperate with federal, state, and local law enforcement
13 agencies in the investigation of the following:
 - 14 (A) Deceptive acts in connection with mortgage lending.
 - 15 (B) Criminal violations involving deceptive acts in connection
16 with mortgage lending.
 - 17 (C) Violations of IC 24-5-0.5 and IC 24-9.

EH 1084—LS 6634/DI 14+



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- (D) Violations of:
 - (i) the federal Truth in Lending Act (15 U.S.C. 1601 et seq.);
 - (ii) the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.); and
 - (iii) any other federal laws or regulations concerning mortgage lending.

To the extent authorized by federal law, the unit may enforce compliance with the federal statutes or regulations described in this clause or refer suspected violations of the statutes or regulations to the appropriate federal regulatory agencies.

(5) Enforce violations of IC 32-25.5-3 by homeowners associations.

(b) The attorney general shall adopt rules under IC 4-22-2 to the extent necessary to organize the unit.

SECTION 2. IC 24-5.5-5-2, AS ADDED BY P.L.209-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. In addition to any prohibitions that apply under IC 24-5-15-1 through IC 24-5-15-8, a foreclosure consultant may not:

- (1) enter into or attempt to enter into a foreclosure consultant contract with a homeowner unless the foreclosure consultant first provides the homeowner written notice of the homeowner's rights under this article;
- (2) demand or receive compensation until after the foreclosure consultant has fully performed all services the foreclosure consultant contracted to perform or represented that the foreclosure consultant would perform, unless the foreclosure consultant complies with the security requirements under IC 24-5-15-8;
- (3) demand or receive a fee, interest, or any other compensation that exceeds eight percent (8%) per year of the amount of any loan that the foreclosure consultant makes to the homeowner;
- (4) take a wage assignment, a lien of any type on real or personal property, or any other security to secure the payment of compensation;
- (5) receive consideration from a third party in connection with foreclosure consulting services provided to a homeowner unless the consideration is first fully disclosed in writing to the homeowner;
- (6) acquire any interest, directly or indirectly, in residential real property in foreclosure from a homeowner with whom the foreclosure consultant has contracted; or

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- 1 (7) except to inspect documents as provided by law, take any
- 2 power of attorney from a homeowner for any purpose;
- 3 **(8) execute any contract or agreement with a homeowner or**
- 4 **receive money or other valuable consideration from a**
- 5 **homeowner without providing the homeowner with the**
- 6 **written statement required by IC 24-5-15-6; or**
- 7 **(9) fail to provide a homeowner with a written contract that**
- 8 **includes the notice of cancellation required by IC 24-5-15-7.**

9 SECTION 3. IC 24-5.5-5-8 IS ADDED TO THE INDIANA CODE
 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 11 1, 2013]: **Sec. 8. A foreclosure consultant may not represent to a**
 12 **homeowner that the foreclosure consultant is endorsed, sponsored,**
 13 **or affiliated with any governmental or government sponsored**
 14 **agency or program.**

15 SECTION 4. IC 24-5.5-6-1, AS AMENDED BY P.L.114-2010,
 16 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2013]: Sec. 1. A person who knowingly or intentionally
 18 violates this article commits:

- 19 (1) a Class A misdemeanor; ~~and~~
- 20 (2) a deceptive act that is actionable by the attorney general under
- 21 IC 24-5-0.5-4 and is subject to the penalties and remedies
- 22 available to the attorney general under IC 24-5-0.5; ~~and~~
- 23 **(3) a deceptive act that is actionable by the attorney general**
- 24 **under IC 24-9-8-2 and is subject to the penalties and remedies**
- 25 **available to the attorney general under IC 24-9.**

26 SECTION 5. IC 24-9-2-7, AS AMENDED BY P.L.226-2011,
 27 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2013]: Sec. 7. (a) "Deceptive act" means:

- 29 (1) an act or a practice as part of a mortgage transaction (as
- 30 defined in IC 24-9-3-7(a)), or of a real estate transaction (as
- 31 defined in IC 24-9-3-7(b)), in which a person at the time of the
- 32 transaction knowingly or intentionally:
- 33 ~~(1) (A)~~ (A) makes a material misrepresentation; or
- 34 ~~(2) (B)~~ (B) conceals material information regarding the terms or
- 35 conditions of the transaction; ~~or~~
- 36 **(2) a violation of IC 24-5.5 concerning mortgage rescue**
- 37 **protection fraud as set forth in IC 24-5.5-6-1.**

38 (b) For purposes of this section, "knowingly" means having actual
 39 knowledge at the time of the transaction.

40 SECTION 6. IC 24-9-8-2 IS AMENDED TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2013]: Sec. 2. (a) Beginning July 1, 2005, the
 42 attorney general and the attorney general's homeowner protection unit

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1 established under IC 4-6-12 shall enforce this article. ~~for any violation~~
 2 ~~occurring within five (5) years after the making of a home loan. An~~
 3 **action may not be brought under this article more than five (5)**
 4 **years after the occurrence of the violation.**

5 (b) The attorney general may refer a matter under section 1 of this
 6 chapter to a prosecuting attorney for enforcement.

7 SECTION 7. IC 25-1-11-13, AS AMENDED BY P.L.3-2008,
 8 SECTION 182, IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) The board may summarily
 10 suspend a practitioner's license for ninety (90) days before a final
 11 adjudication or during the appeals process if the board finds that a
 12 practitioner represents a clear and immediate danger to the public's
 13 health, safety, or property if the practitioner is allowed to continue to
 14 practice. The summary suspension may be renewed upon a hearing
 15 before the board, and each renewal may be for not more than ninety
 16 (90) days.

17 (b) The board may summarily suspend the license of a real estate
 18 appraiser for ninety (90) days before a final adjudication or during the
 19 appeals process if the board finds that the licensed real estate appraiser
 20 has engaged in material and intentional misrepresentations or
 21 omissions in the preparation of at least three (3) written appraisal
 22 reports that were submitted by a person to obtain a loan. The summary
 23 suspension may be renewed after a hearing before the board. Each
 24 renewal of a summary suspension may be for not more than ninety (90)
 25 days.

26 **(c) The board may summarily suspend the license of an**
 27 **individual licensed under IC 25-34.1 for ninety (90) days before a**
 28 **final adjudication or during the appeals process if the board finds**
 29 **that the individual has engaged in material and intentional**
 30 **misrepresentations or omissions in at least three (3) transactions.**
 31 **The summary suspension may be renewed after a hearing before**
 32 **the board. Each renewal of a summary suspension may be for not**
 33 **more than ninety (90) days.**

34 ~~(e)~~ **(d)** Before the board may summarily suspend a license under this
 35 section, the consumer protection division of the office of the attorney
 36 general shall make a reasonable attempt to notify a practitioner of:

37 (1) a hearing by the board to suspend the practitioner's license;
 38 and

39 (2) information regarding the allegation against the practitioner.

40 The consumer protection division of the office of the attorney general
 41 shall also notify the practitioner that the practitioner may provide a
 42 written or an oral statement to the board on the practitioner's behalf

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1 before the board issues an order for summary suspension. A reasonable
 2 attempt to notify the practitioner is made if the consumer protection
 3 division of the office of the attorney general attempts to notify the
 4 practitioner by telephone or facsimile at the last telephone number or
 5 facsimile number of the practitioner on file with the board.

6 SECTION 8. IC 32-25.5-1-1, AS AMENDED BY P.L.49-2011,
 7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2013]: Sec. 1. (a) This article applies to the following:

9 (1) A homeowners association established after June 30, 2009.

10 (2) A homeowners association established before July 1, 2009:

11 (A) if a majority of the members of the homeowners
 12 association elect to be governed by this article; or

13 (B) if the number of members required by the homeowners
 14 association's governing documents elect to be governed by this
 15 article if a different number of members other than the number
 16 established in clause (A) is required by the governing
 17 documents.

18 (b) IC 32-25.5-3-8 applies to all homeowners associations.

19 (c) **IC 32-25.5-3-3(g) through IC 32-25.5-3-3(m) apply to all**
 20 **homeowners associations.**

21 SECTION 9. IC 32-25.5-3-3, AS ADDED BY P.L.167-2009,
 22 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2013]: Sec. 3. (a) A homeowners association shall prepare an
 24 annual budget.

25 (b) The annual budget must reflect:

26 (1) the estimated revenues and expenses for the budget year; and

27 (2) the estimated surplus or deficit as of the end of the current
 28 budget year.

29 (c) The homeowners association shall provide each member of the
 30 homeowners association with:

31 (1) a:

32 (A) copy of the proposed annual budget; or

33 (B) written notice that a copy of the proposed annual budget
 34 is available upon request at no charge to the member; and

35 (2) a written notice of the amount of any increase or decrease in
 36 a regular annual assessment paid by the members that would
 37 occur if the proposed annual budget is approved;

38 before the homeowners association meeting held under subsection (d).

39 (d) Subject to subsection (f), a homeowners association budget must
 40 be approved at a meeting of the homeowners association members by
 41 a majority of the members of the homeowners association in attendance
 42 at a meeting called and conducted in accordance with the requirements

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1 of the homeowners association's governing documents.

2 (e) For purposes of this section, a member of a homeowners
3 association is considered to be in attendance at a meeting if the
4 member attends:

5 (1) in person;

6 (2) by proxy; or

7 (3) by any other means allowed under:

8 (A) state law; or

9 (B) the governing documents of the homeowners association.

10 (f) If the number of members of the homeowners association in
11 attendance at a meeting held under subsection (d) does not constitute
12 a quorum as defined in the governing documents of the homeowners
13 association, the board may adopt an annual budget for the homeowners
14 association for the ensuing year in an amount that does not exceed one
15 hundred percent (100%) of the amount of the last approved
16 homeowners association annual budget. However, the board may adopt
17 an annual budget for the homeowners association for the ensuing year
18 in an amount that does not exceed one hundred ten percent (110%) of
19 the amount of the last approved homeowners association annual budget
20 if the governing documents of the homeowners association allow the
21 board to adopt an annual budget under this subsection for the ensuing
22 year in an amount that does not exceed one hundred ten percent
23 (110%) of the amount of the last approved homeowners association
24 annual budget.

25 **(g) Subject to subsection (k), the financial records, including all**
26 **contracts, invoices, bills, receipts, and bank records, of a**
27 **homeowners association must be available for inspection by each**
28 **member of the homeowners association upon written request. A**
29 **written request for inspection must identify with reasonable**
30 **particularity the information being requested. A member's ability**
31 **to inspect records under this section shall not be unreasonably**
32 **denied or conditioned upon provision of an appropriate purpose**
33 **for the request.**

34 **(h) If there is a dispute between a homeowner and a**
35 **homeowners association, the officers of the homeowners**
36 **association must make all communications concerning the dispute**
37 **available to the homeowner.**

38 **(i) A homeowners association must make all communications**
39 **and information concerning a lot available to the owner of the lot**
40 **or a home on the lot.**

41 **(j) Notwithstanding subsections (h) and (i), a homeowners**
42 **association is not required to make:**



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- 1 (1) communications between the homeowners association and
- 2 the legal counsel of the homeowners association; and
- 3 (2) other communications or attorney work product prepared
- 4 in anticipation of litigation;
- 5 available to the owner of a lot or home.

6 (k) A homeowners association is not required to make available
7 to a member for inspection:

- 8 (1) unexecuted contracts;
- 9 (2) records regarding contract negotiations;
- 10 (3) information regarding an individual member's association
- 11 account to a person who is not a named party on the account;
- 12 (4) any other information that is prohibited from release
- 13 under state or federal law; or
- 14 (5) any records that were created more than two (2) years
- 15 before the request.

16 (l) Nothing in this chapter:

- 17 (1) abrogates or eliminates provisions in homeowners
- 18 association agreements that permit or require additional
- 19 disclosure or inspection rights not required by this chapter;
- 20 or
- 21 (2) prevents a homeowners association from agreeing to make
- 22 disclosures or to provide inspection rights not required by this
- 23 chapter.

24 (m) A homeowners association may not charge a fee for the first
25 hour required to search for a record in response to a written
26 request submitted under this chapter. A homeowners association
27 may charge a search fee for any time in excess of one (1) hour. The
28 following provisions apply if a homeowners association charges a
29 search fee:

- 30 (1) The homeowners association shall charge an hourly fee
- 31 that does not exceed the lesser of:
- 32 (A) the hourly rate of the person making the search; or
- 33 (B) thirty-five dollars (\$35) per hour.
- 34 (2) The homeowners association may charge the fee only for
- 35 time that the person making the search actually spends in
- 36 searching for the record.
- 37 (3) The homeowners association shall prorate the fee to reflect
- 38 any search time of less than one (1) hour.

39 SECTION 10. [EFFECTIVE JULY 1, 2013] (a) As used in this
40 SECTION, "study committee" means either of the following:

- 41 (1) A statutory committee established under IC 2-5.
- 42 (2) An interim study committee established by the legislative

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1 **council.**
2 **(b) The legislative council is urged to assign to a study**
3 **committee during the 2013 legislative interim the topic of**
4 **homeowners associations, including mediation or arbitration of**
5 **disputes involving homeowners associations and members of**
6 **homeowners associations.**
7 **(c) If the topic described in subsection (b) is assigned to a study**
8 **committee, the study committee shall, not later than November 1,**
9 **2013, issue a final report to the legislative council in an electronic**
10 **format under IC 5-14-6. The final report must contain the study**
11 **committee's findings and recommendations (including any**
12 **recommended legislation concerning the topic).**
13 **(d) This SECTION expires December 31, 2013.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1084, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

GUTWEIN, Chair

Committee Vote: yeas 12, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1084 be amended to read as follows:

Page 5, after line 30, begin a new paragraph and insert:

"(h) If there is a dispute between a homeowner and a homeowners association, the officers of the homeowners association must make all communications concerning the dispute available to the homeowner.

(i) A homeowners association must make all communications and information concerning a lot available to the owner of the lot or a home on the lot.

(j) Notwithstanding subsections (h) and (i), a homeowners association is not required to make:

(1) communications between the homeowners association and the legal counsel of the homeowners association; and

(2) other communications or attorney work product prepared in anticipation of litigation;

available to the owner of a lot or home."

(Reference is to HB 1084 as printed January 22, 2013.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Economic Development and Technology, to which was referred House Bill No. 1084, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-6-12-3, AS AMENDED BY P.L.230-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) Beginning July 1, 2005, the unit shall do the following:

- (1) Investigate deceptive acts in connection with mortgage lending.
- (2) Investigate violations of IC 24-9.
- (3) Institute appropriate administrative and civil actions to redress:
 - (A) deceptive acts in connection with mortgage lending; and
 - (B) violations of IC 24-5-0.5 and IC 24-9.
- (4) Cooperate with federal, state, and local law enforcement agencies in the investigation of the following:
 - (A) Deceptive acts in connection with mortgage lending.
 - (B) Criminal violations involving deceptive acts in connection with mortgage lending.
 - (C) Violations of IC 24-5-0.5 and IC 24-9.
 - (D) Violations of:
 - (i) the federal Truth in Lending Act (15 U.S.C. 1601 et seq.);
 - (ii) the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.); and
 - (iii) any other federal laws or regulations concerning mortgage lending.

To the extent authorized by federal law, the unit may enforce compliance with the federal statutes or regulations described in this clause or refer suspected violations of the statutes or regulations to the appropriate federal regulatory agencies.

(5) Enforce violations of IC 32-25.5-3 by homeowners associations.

(b) The attorney general shall adopt rules under IC 4-22-2 to the extent necessary to organize the unit."

Page 4, delete lines 16 through 42, begin a new paragraph and

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insert:

"SECTION 8. IC 32-25.5-1-1, AS AMENDED BY P.L.49-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) This article applies to the following:

- (1) A homeowners association established after June 30, 2009.
- (2) A homeowners association established before July 1, 2009:
 - (A) if a majority of the members of the homeowners association elect to be governed by this article; or
 - (B) if the number of members required by the homeowners association's governing documents elect to be governed by this article if a different number of members other than the number established in clause (A) is required by the governing documents.

(b) IC 32-25.5-3-8 applies to all homeowners associations.

(c) IC 32-25.5-3-3(g) through IC 32-25.5-3-3(m) apply to all homeowners associations.

SECTION 9. IC 32-25.5-3-3, AS ADDED BY P.L.167-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) A homeowners association shall prepare an annual budget.

(b) The annual budget must reflect:

- (1) the estimated revenues and expenses for the budget year; and
- (2) the estimated surplus or deficit as of the end of the current budget year.

(c) The homeowners association shall provide each member of the homeowners association with:

- (1) a:
 - (A) copy of the proposed annual budget; or
 - (B) written notice that a copy of the proposed annual budget is available upon request at no charge to the member; and
- (2) a written notice of the amount of any increase or decrease in a regular annual assessment paid by the members that would occur if the proposed annual budget is approved;

before the homeowners association meeting held under subsection (d).

(d) Subject to subsection (f), a homeowners association budget must be approved at a meeting of the homeowners association members by a majority of the members of the homeowners association in attendance at a meeting called and conducted in accordance with the requirements of the homeowners association's governing documents.

(e) For purposes of this section, a member of a homeowners association is considered to be in attendance at a meeting if the member attends:

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- (1) in person;
- (2) by proxy; or
- (3) by any other means allowed under:
 - (A) state law; or
 - (B) the governing documents of the homeowners association.

(f) If the number of members of the homeowners association in attendance at a meeting held under subsection (d) does not constitute a quorum as defined in the governing documents of the homeowners association, the board may adopt an annual budget for the homeowners association for the ensuing year in an amount that does not exceed one hundred percent (100%) of the amount of the last approved homeowners association annual budget. However, the board may adopt an annual budget for the homeowners association for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved homeowners association annual budget if the governing documents of the homeowners association allow the board to adopt an annual budget under this subsection for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved homeowners association annual budget.

(g) Subject to subsection (k), the financial records, including all contracts, invoices, bills, receipts, and bank records, of a homeowners association must be available for inspection by each member of the homeowners association upon written request. A written request for inspection must identify with reasonable particularity the information being requested. A member's ability to inspect records under this section shall not be unreasonably denied or conditioned upon provision of an appropriate purpose for the request.

(h) If there is a dispute between a homeowner and a homeowners association, the officers of the homeowners association must make all communications concerning the dispute available to the homeowner.

(i) A homeowners association must make all communications and information concerning a lot available to the owner of the lot or a home on the lot.

(j) Notwithstanding subsections (h) and (i), a homeowners association is not required to make:

- (1) communications between the homeowners association and the legal counsel of the homeowners association; and**
- (2) other communications or attorney work product prepared in anticipation of litigation;**



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available to the owner of a lot or home.

(k) A homeowners association is not required to make available to a member for inspection:

- (1) unexecuted contracts;**
- (2) records regarding contract negotiations;**
- (3) information regarding an individual member's association account to a person who is not a named party on the account;**
- (4) any other information that is prohibited from release under state or federal law; or**
- (5) any records that were created more than two (2) years before the request.**

(l) Nothing in this chapter:

- (1) abrogates or eliminates provisions in homeowners association agreements that permit or require additional disclosure or inspection rights not required by this chapter; or**
- (2) prevents a homeowners association from agreeing to make disclosures or to provide inspection rights not required by this chapter.**

(m) A homeowners association may not charge a fee for the first hour required to search for a record in response to a written request submitted under this chapter. A homeowners association may charge a search fee for any time in excess of one (1) hour. The following provisions apply if a homeowners association charges a search fee:

- (1) The homeowners association shall charge an hourly fee that does not exceed the lesser of:**
 - (A) the hourly rate of the person making the search; or**
 - (B) thirty-five dollars (\$35) per hour.**
- (2) The homeowners association may charge the fee only for time that the person making the search actually spends in searching for the record.**
- (3) The homeowners association shall prorate the fee to reflect any search time of less than one (1) hour.**

SECTION 10. [EFFECTIVE JULY 1, 2013] (a) As used in this SECTION, "study committee" means either of the following:

- (1) A statutory committee established under IC 2-5.**
- (2) An interim study committee established by the legislative council.**

(b) The legislative council is urged to assign to a study committee during the 2013 legislative interim the topic of homeowners associations, including mediation or arbitration of

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disputes involving homeowners associations and members of homeowners associations.

(c) If the topic described in subsection (b) is assigned to a study committee, the study committee shall, not later than November 1, 2013, issue a final report to the legislative council in an electronic format under IC 5-14-6. The final report must contain the study committee's findings and recommendations (including any recommended legislation concerning the topic).

(d) This SECTION expires December 31, 2013."

Delete pages 5 through 6.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1084 as reprinted January 29, 2013.)

BUCK, Chairperson

Committee Vote: Yeas 7, Nays 0.

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