

Document: Proposed Rule, **Register Page Number:** 26 IR 3142

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**TITLE 876 INDIANA REAL ESTATE
COMMISSION**

Proposed Rule
LSA Document #03-42

DIGEST

Amends 876 IAC 1-4-1 to update the statutory reference to the seller's disclosure form. Amends 876 IAC 1-4-2 to revise the residential sales disclosure form. Partially effective 30 days after filing with the secretary of state and partially effective January 1, 2004.

876 IAC 1-4-1

876 IAC 1-4-2

SECTION 1. 876 IAC 1-4-1 IS AMENDED TO READ AS FOLLOWS:

876 IAC 1-4-1 Residential real estate sales disclosure

Authority: IC 32-21-5-7

Affected: IC 32-21-5-7

Sec. 1. (a) This rule establishes the seller's residential real estate sales disclosure form provided for in ~~IC 24-4-6-2-7~~. **IC 32-21-5-7**.

(b) The form appears in section 2 of this rule. (*Indiana Real Estate Commission; 876 IAC 1-4-1; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2352; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824*)

SECTION 2. 876 IAC 1-4-2, AS AMENDED AT 26 IR 789, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

876 IAC 1-4-2 Residential sales disclosure; form

Authority: IC 32-21-5-7

Affected: IC 32-21-5

Sec. 2. The following is the seller's residential real estate sales disclosure form:

SELLER'S RESIDENTIAL REAL ESTATE SALES DISCLOSURE

State Form 46234 (R/1293)

Date (month, day, year)

Seller states that the information contained in this Disclosure is correct to the best of Seller's CURRENT ACTUAL KNOWLEDGE as of the above date. The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and provide for appropriate provisions in a contract between them concerning any advice, inspections, defects, or warranties obtained on the property. The representations in this form are the representations of the owner and are not the representations of the agent, if any. This information is for disclosure only and is not intended to be a part of any contract between the buyer and the owner. Indiana law (~~IC 24-4-6-2~~) (**IC 32-21-5**) generally requires sellers of 1-4 unit residential property to complete this form regarding the known physical condition of the property. An owner must complete and sign the disclosure form and submit the form to a prospective buyer before an offer is accepted for the sale of the real estate.

Property address (number and street, city, state, ZIP code)

1. The following are in the conditions indicated:

| A. APPLIANCES | None/Not Included | Defective | Not Defective | Do Not Know | | C. WATER & SEWER SYSTEM | None/Not Included | Defective | Not Defective | Do Not Know |
|-------------------------|-------------------|-----------|---------------|-------------|--|------------------------------|-------------------|-----------|---------------|-------------|
| Built-in Vacuum System | | | | | | Cistern | | | | |
| Clothes Dryer | | | | | | Septic Field/Bed | | | | |
| Clothes Washer | | | | | | Hot Tub | | | | |
| Dishwasher | | | | | | Plumbing | | | | |
| Disposal | | | | | | Aerator System | | | | |
| Freezer | | | | | | Sump Pump | | | | |
| Gas Grill | | | | | | Irrigation Systems | | | | |
| Hood | | | | | | Water Heater/Electric | | | | |
| Microwave Oven | | | | | | Water Heater/Gas | | | | |
| Oven | | | | | | Water Heater/Solar | | | | |
| Range | | | | | | Water Purifier | | | | |
| Refrigerator | | | | | | Water Softener | | | | |
| Room Air Conditioner(s) | | | | | | Well | | | | |
| Trash Compactor | | | | | | Other Sewer System (Explain) | | | | |

[illegible]

| | | | | | | | | |
|----------------------------|------------|-----------|--------------------|--|--|------------|-----------|--------------------|
| 2. ROOF | YES | NO | DO NOT KNOW | | 4. OTHER DISCLOSURES | YES | NO | DO NOT KNOW |
| Age, if known: _____ Years | | | | | Do improvements have aluminum wiring? | | | |
| Does the roof leak? | | | | | Are there any foundation problems with the improvements? | | | |

| | | | | | | | | |
|----------------------------|------------|-----------|--------------------|--|--|------------|-----------|--------------------|
| 2. ROOF | YES | NO | DO NOT KNOW | | 4. OTHER DISCLOSURES | YES | NO | DO NOT KNOW |
| Age, if known: _____ Years | | | | | Do improvements have aluminum wiring? | | | |
| Does the roof leak? | | | | | Are there any foundation problems with the improvements? | | | |

| | | | | | | | |
|---|------------|-----------|--------------------|---|--|------|--|
| Is there present damage to the roof? | | | | Are there any encroachments? | | | |
| Is there more than one roof on the house? | | | | Are there any violations of zoning, building codes, or restrictive covenants? | | | |
| If so, how many layers? _____ | | | | Is the present use a nonconforming use? Explain: | | | |
| 3. HAZARDOUS CONDITIONS | YES | NO | DO NOT KNOW | Is the access to your property via a private road? | | | |
| Have there been or are there any hazardous conditions on the property, such as methane gas, lead paint, radon gas in house or well, radioactive material, landfill, mineshaft, expansive soil, toxic materials, mold, other biological contaminants, asbestos insulation, or PCB's? Explain: | | | | Is the access to your property via a public road? | | | |
| | | | | Is access to your property via an easement? | | | |
| | | | | Have you received any notices by any governmental or quasi-governmental agencies affecting this property? | | | |
| | | | | Are there any structural problems with the building? | | | |
| | | | | Have any substantial additions or alterations been made without a required building permit? | | | |
| | | | | Are there moisture and/or water problems in the basement, crawl space area, or any other area? | | | |
| | | | | Is there any damage due to wind, flood, termites, or rodents? | | | |
| | | | | Have any improvements been treated for wood destroying insects? | | | |
| | | | | Are the furnace/woodstove/chimney/flue all in working order? | | | |
| | | | | Is the property in a flood plain? | | | |
| | | | | Do you currently pay flood insurance? | | | |
| | | | | Does the property contain underground storage tank(s)? | | | |
| | | | | Is the homeowner a licensed real estate salesperson or broker? | | | |
| | | | | Is there any threatened or existing litigation regarding the property? | | | |
| | | | | Is the property subject to covenants, conditions, and/or restrictions of a homeowner's association? | | | |
| Is the property located within one (1) mile of an airport? | | | | | | | |
| E. ADDITIONAL COMMENTS AND/OR EXPLANATIONS: (Use additional pages if necessary). | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| The information contained in this Disclosure has been furnished by the Seller, who certifies to the truth thereof, based on the Seller's CURRENT ACTUAL KNOWLEDGE. A disclosure form is not a warranty by the owner or the owner's agent, if any, and the disclosure form may not be used as a substitute for any inspections or warranties that the prospective buyer or owner may later obtain. At or before settlement, the owner is required to disclose any material change in the physical condition of the property or certify to the purchaser at settlement that the condition of the property is substantially the same as it was when the disclosure form was provided. Seller and Purchaser hereby acknowledge receipt of this Disclosure by signing below: | | | | | | | |
| Signature of Seller | | Date | | Signature of Buyer | | Date | |

| | | | |
|--|------|---------------------|------|
| Signature of Seller | Date | Signature of Buyer | Date |
| The seller hereby certifies that the condition of the property is substantially the same as it was when the Seller's Disclosure form was originally provided to the Buyer. | | | |
| Signature of Seller | Date | Signature of Seller | Date |

(Indiana Real Estate Commission; 876 IAC 1-4-2; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2352; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2787; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Oct 28, 2002, 12:01 p.m.: 26 IR 789)

SECTION 3. SECTION 2 of this document takes effect January 1, 2004.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on June 26, 2003 at 10:40 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 12, Indianapolis, Indiana the Indiana Real Estate Commission will hold a public hearing on proposed amendments to update the statutory reference to the seller's disclosure form and to revise the residential sales disclosure form revise the residential sales disclosure form. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E012 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Gerald H. Quigley
Executive Director
Indiana Professional Licensing Agency