

IC 13-25-3

Chapter 3. Responsible Property Transfer Law

IC 13-25-3-0.1

Application of chapter

Sec. 0.1. This chapter applies to transfers of property that take effect, or that are scheduled to become final, after December 31, 1989.

As added by P.L.220-2011, SEC.287.

IC 13-25-3-1

Information concerning property; liability for incomplete or erroneous information

Sec. 1. (a) In response to an inquiry from a person in connection with this chapter, the department shall provide information that is in the department's possession concerning whether a property meets any of the descriptions set forth in IC 13-11-2-174.

(b) Neither:

(1) the state;

(2) the department; nor

(3) an employee of the department who answers an inquiry under this section;

is liable in a civil action on the grounds that information provided under this section was incomplete or erroneous.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-2

Disclosure document; delivery; waiver

Sec. 2. (a) Except as provided in subsections (b) and (c), a transferor of property shall deliver a disclosure document to each of the other parties to a transfer of property at least thirty (30) days before the transfer. The disclosure document must be in the form prescribed by the department under section 7.5 of this chapter and must include the information elicited by that form. However, the signature of the transferee is not required on the disclosure document delivered to a party involved in the transfer of property as a lender.

(b) If all of the other parties to a transfer of property waive the thirty (30) day deadline set forth in subsection (a) in written waivers that indicate that the parties are aware of the purpose and intent of the disclosure document, the transferor is not required to deliver the disclosure document to the other parties thirty (30) days before the transfer of the property. However, the transferor shall deliver a disclosure document that meets the requirements set forth in subsection (a) to each of the other parties to the transfer of property on or before the date on which the transfer of property is to become final.

(c) If a party involved in a transfer of property as a lender is not identified to the transferor at least thirty (30) days before the transfer, the thirty (30) day deadline set forth in subsection (a) does not apply to the delivery of a disclosure document by the transferor to that

lender. However, if a lender is identified to a transferor less than thirty (30) days before the transfer, the transferor shall deliver a disclosure document to the lender immediately after the lender is identified to the transferor.

As added by P.L.1-1996, SEC.15. Amended by P.L.15-2006, SEC.1.

IC 13-25-3-3

Disclosure document; environmental defects revealed; obligation

Sec. 3. If the disclosure document delivered by the transferor to another party to the transfer of property under section 2 of this chapter reveals one (1) or more environmental defects in the property that were previously unknown to the other party, the other party is relieved of an obligation to:

- (1) accept the transfer of the property; or
- (2) finance the transfer of the property.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-4

Failure to deliver disclosure document

Sec. 4. (a) If a transferor:

- (1) fails to deliver a disclosure document meeting the requirements set forth in section 2 of this chapter to one (1) or more other parties to the transfer of property before the deadline set forth in section 2(a) of this chapter; and
 - (2) does not obtain a waiver under section 2(b) of this chapter;
- a party that did not receive a disclosure document may demand a disclosure document from the transferor.

(b) A party who demands a disclosure document under this section may void an obligation to accept the transfer of the property or to finance the transfer of the property if:

- (1) the party does not receive a disclosure document not later than ten (10) days after demanding a disclosure document; or
- (2) the party receives a disclosure document not later than ten (10) days after demanding the disclosure document but the disclosure document reveals one (1) or more environmental defects in the property that were previously unknown to the party.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-5

Demand of disclosure document

Sec. 5. (a) If a transferor:

- (1) obtains a waiver under section 2(b) of this chapter; but
 - (2) fails to deliver a disclosure document meeting the requirements set forth in section 2 of this chapter to one (1) or more of the other parties to the transfer of property before the date on which the transfer is scheduled to become final;
- a party that did not receive a disclosure document may demand a disclosure document from the transferor.

(b) Subject to section 6 of this chapter, a party who demands a

disclosure document under this section may void an obligation to accept the transfer of the property or to finance the transfer of the property if:

- (1) the party does not receive a disclosure document not later than ten (10) days after demanding a disclosure document; or
- (2) the party receives a disclosure document not later than ten (10) days after demanding the disclosure document but the disclosure document reveals one (1) or more environmental defects in the property that were previously unknown to the party.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-6

Voiding of obligation; limitation

Sec. 6. A party to a transfer of property may not void an obligation to:

- (1) accept the transfer of the property; or
- (2) finance the transfer of property under sections 3 through 5 of this chapter;

after the transfer of property has taken place.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-7

Repealed

(Repealed by P.L.15-2006, SEC.5.)

IC 13-25-3-7.5

Department prescribes form of disclosure document; information in form

Sec. 7.5. The department shall prescribe the form of a disclosure document to be completed and delivered by a transferor of property under this chapter. The form must elicit at least the following information:

- (1) Property identification, including address, legal description, and property characteristics.
- (2) The nature of the transfer, including identities of the transferor and transferee.
- (3) Environmental information, including:
 - (A) regulatory information during the transferor's ownership; and
 - (B) site information under other ownership or operation.
- (4) Certification by the transferor that the information submitted on the disclosure document is true and accurate to the best of the transferor's knowledge and belief.
- (5) Certification by the transferee that the disclosure document was delivered with all elements completed.

As added by P.L.15-2006, SEC.2.

IC 13-25-3-8

Recording and filing of disclosure document

Sec. 8. (a) Not more than thirty (30) days after the effective date of a transfer of property that requires the preparation of a disclosure document under this chapter:

(1) the transferor or transferee shall record the disclosure document in the office of the county recorder of the county in which the property is located; and

(2) the transferor shall file a copy of the disclosure document with the department.

(b) The transferor and transferee are jointly responsible for recording a disclosure document in the county recorder's office under this section. However, the recording of a disclosure document by one (1) person referred to in this subsection discharges the responsibility of the other person.

(c) A disclosure document recorded in the county recorder's office or filed with the department:

(1) is a public record under IC 5-14-3; and

(2) must be available for inspection and copying during normal business hours.

As added by P.L.1-1996, SEC.15. Amended by P.L.15-2006, SEC.3.

IC 13-25-3-9

Environmental defect elimination; recording

Sec. 9. (a) If a disclosure document recorded under section 8(a)(1) of this chapter reports the existence of an environmental defect on a property, a person who has a financial interest in the property may record, in the same county recorder's office in which the disclosure document is recorded, a document that reports that the environmental defect has been eliminated from the property.

(b) A professional engineer registered under IC 25-31-1 who does not have a financial interest in the property must certify a document filed under this section.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-10

Failure to deliver disclosure document; penalty

Sec. 10. A transferor who fails to deliver a disclosure document to a party in violation of section 2 of this chapter commits a Class B infraction.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-11

Knowingly making false statement in disclosure document; penalty

Sec. 11. A transferor who knowingly makes a false statement in a disclosure document delivered under this chapter commits a Class A infraction. Each day that the transferor knows of the falsity of the statement made in the disclosure document but fails to correct that statement through the filing, recording, and delivery of a corrected disclosure statement constitutes a separate infraction.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-12

Failure to record disclosure document; penalty

Sec. 12. (a) Except as provided in subsection (b), a person who:

(1) is responsible for filing a disclosure document in the office of the county recorder under section 8(a)(1) and 8(b) of this chapter; and

(2) fails to record the disclosure document;

commits a Class A infraction.

(b) The failure of a transferee to record a disclosure document within the period allowed under section 8(a) of this chapter is not an infraction under this section if the disclosure document:

(1) was not delivered to the transferee within the time allowed under section 2 of this chapter; or

(2) contains one (1) or more false statements about substantive matters.

As added by P.L.1-1996, SEC.15. Amended by P.L.15-2006, SEC.4.

IC 13-25-3-13

Exceptions to disclosure document requirements

Sec. 13. (a) The duties imposed by this chapter are subject to the exceptions set forth in this section.

(b) A buyer of property who finances the purchase of the property through a mortgage loan is not required under section 2, 4, or 5 of this chapter to deliver a disclosure document to the mortgagee that provides the mortgage loan.

(c) A person who lends money and takes a mortgage on property to secure the loan is not required under section 8 of this chapter to:

(1) record a disclosure document concerning the property in the office of the county recorder of the county in which the property is located; or

(2) file a copy of the disclosure document with the department.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-14

Order requiring compliance with chapter

Sec. 14. In an action based on an alleged commission of an infraction defined in sections 10 through 12 of this chapter, the prosecuting attorney may obtain an order requiring the defendant to comply with this chapter.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-15

Civil action; damages; costs; attorney's fees

Sec. 15. A party to a transfer of property may bring a civil action against another party to the transfer of property to recover consequential damages based upon a violation of this chapter. In an action brought under this section, a party may recover reasonable costs and attorney's fees.

As added by P.L.1-1996, SEC.15.