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TITLE 876 INDIANA REAL ESTATE COMMISSION

Proposed Rule
LSA Document #05-101

DIGEST

Amends 876 IAC 1-4-2 to add septic/holding tank and septic mound and geothermal and heat pump to the Residential Real Estate Sales Disclosure form and to require signatures and property address information on both pages of the form. Effective January 1, 2006.

876 IAC 1-4-2

SECTION 1. 876 IAC 1-4-2 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 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				
					Septic and Holding Tank/Septic Mound				
Trash Compactor					Geothermal and Heat Pump				
TV Antenna/Dish					Other Sewer System (Explain)				
Other:									
							Yes	No	Do Not Know
					Are the improvements connected to a public water system?				
					Are the improvements connected to a public sewer system?				
					Are there any additions that may require improvements to the sewage disposal system?				
					If yes, have the improvements been completed on the sewage disposal system?				
					Are the improvements connected to a private/community water system?				
					Are the improvements connected to a private/community sewer system?				

B. ELECTRICAL SYSTEM	None/Not Included	Defective	Not Defective	Do Not Know
Air Purifier				
Burglar Alarm				
Ceiling Fan(s)				
Garage Door Opener Controls				
Inside Telephone Wiring and Blocks/Jacks				
Intercom				
Light Fixtures				
Sauna				
Smoke/Fire Alarm(s)				
Switches and Outlets				
Vent Fan(s)				
60/100/200 Amp Service (Circle one)				

D. HEATING & COOLING SYSTEM	None/Not Included	Defective	Not Defective	Do Not Know
Attic Fan				
Central Air Conditioning				
Hot Water Heat				
Furnace Heat/Gas				
Furnace Heat/Electric				
Solar House-Heating				
Woodburning Stove				
Fireplace				
Fireplace Insert				
Air Cleaner				
Humidifier				
Propane Tank				
Other Heating Source				

NOTE: "Defect" means a condition that would have a significant adverse effect on the value of the property that would significantly impair the health or safety of future occupants of the property or that, if not repaired, removed, or replaced, would significantly shorten or adversely affect the expected normal life of the premises.

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 Buyer:	Date:
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Property Address (number and street, city, state, ZIP code)

	YES	NO	DO NOT KNOW
2. ROOF			
Age, if known: _____ Years			
Does the roof leak?			

	YES	NO	DO NOT KNOW
4. OTHER DISCLOSURES			
Do improvements have aluminum wiring?			
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? If so, how many layers? _____				Are there any violations of zoning, building codes, or restrictive covenants?			
				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; filed Aug 6, 2003, 12:00 p.m.: 27 IR 186, eff Jan 1, 2004)

SECTION 2. SECTION 1 of this document takes effect January 1, 2006.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 22, 2005 at 10:20 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W064, Indianapolis, Indiana the Indiana Real Estate Commission will hold a public hearing on proposed amendments to add septic/holding tank and septic mound and geothermal and heat pump to the Residential Real Estate Seller's Disclosure form and to require signatures and property address information on both pages of the form.

The Indiana Real Estate Commission has the authority to adopt rules regarding the Residential Real Estate Seller's Disclosure form. This proposed rule amendment adds septic/holding tanks, septic mounds, and geothermal and heat pumps to the items that must be disclosed by sellers of real estate property. Additionally, the amendment requires the seller to list the property address on both pages of the disclosure form and to provide original signatures on both pages of the disclosure form. This rule will have no additional costs on the regulated entities.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W072 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Frances L. Kelly
 Executive Director
 Indiana Professional Licensing Agency