

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington St., Suite 301
Indianapolis, IN 46204
(317) 233-0696
iga.in.gov

FISCAL IMPACT STATEMENT

LS 6726

BILL NUMBER: HB 1185

NOTE PREPARED: Dec 26, 2022

BILL AMENDED:

SUBJECT: Real Estate Land Contracts.

FIRST AUTHOR: Rep. Moed

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill defines "principal dwelling land contract" (contract) as a land contract for the sale of real property: (1) designed for the occupancy of one to two families; and (2) that is or will be occupied by the buyer as the buyer's principal dwelling.

This bill provides that a buyer who has completed the buyer's obligations under the contract is entitled to the homestead deduction regardless of whether the seller has conveyed title.

This bill provides that the seller under a contract must provide the buyer with certain information concerning any liens that encumber the property at least 10 days before the contract is executed.

The bill sets forth disclosures that must be included in a contract. It requires all preexisting liens on the property to be satisfied by the seller by the end of the contract term.

The bill provides that a contract must permit a buyer to pay the balance owed and receive the deed at any time. It prohibits prepayment penalties or additional charges for an early payoff. It provides a three-day cancellation period for both the buyer and seller. It also allows the seller and the buyer to transfer their respective interests in the contract to other parties, subject to certain conditions. The bill requires the seller to provide the buyer with an annual statement of account.

This bill sets forth certain rights and responsibilities of the parties upon default by either the buyer or the seller. It sets forth acts and omissions constituting violations and establishes remedies for these violations. The bill provides that a violation of these provisions constitutes an incurable deceptive act that is actionable by the Attorney General under the Deceptive Consumer Sales Act. The bill authorizes the Attorney General,

in consultation with the Department of Financial Institutions (DFI), to adopt rules to implement these provisions.

It requires that the executed contract or a memorandum of land contract be notarized.

Effective Date: Upon passage.

Explanation of State Expenditures: *Rules:* The Attorney General, in consultation with the DFI, will be permitted to adopt rules, including emergency rules, to implement the provisions of this bill. This provision's requirements are within the agencies' routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Deceptive Acts: The bill provides that a violation of the principal dwelling land contract law is a deceptive act. Deceptive acts are actionable by either the Attorney General or the consumer. This may lead to a small workload increase for the Attorney General.

Explanation of State Revenues: *Deceptive Acts:* Violations of the bill's provisions concerning the principal dwelling land contract law could potentially increase the number of deceptive acts. This bill may increase revenue to the state General Fund from civil penalties if the number of deceptive acts also increases. Under current law, a deceptive act is punishable with a civil penalty of \$500 per violation. Knowingly committing a deceptive act is punishable with a civil penalty of \$5,000 per violation. Actual increases in revenue are indeterminable.

Court Fee Revenue: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$20) are deposited into the State User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$5) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per page) are charged for preparing transcripts or copies of record or certificate under seal.
- A civil garnishee defendant service fee (\$10) is collected from the filing party for each defendant beyond the first three garnishee defendants cited in the lawsuit.

State Agencies Affected: Attorney General; Department of Financial Institutions.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

Fiscal Analyst: James Johnson, 317-232-9869.