



March 28, 2023

ENGROSSED HOUSE BILL No. 1315

DIGEST OF HB 1315 (Updated March 27, 2023 11:00 am - DI 87)

Citations Affected: IC 16-41; IC 32-27; IC 36-7.

Synopsis: Home warranties and regulation of residential structures. Allows a builder to disclaim implied warranties for a new home that is first occupied by a person renting the home as a residence from the initial home buyer. Allows a builder to disclaim implied warranties on a model home in the same manner as a home that is first occupied as a residence. Prohibits regulation of a mobile home, a manufactured home, or an industrialized residential structure on private property (other than within a mobile home community) based on age. Allows the owner of a legal, nonconforming residential structure on private property that is damaged or destroyed to replace or repair the structure without losing legal nonconforming use status as long as the structure
(Continued next page)

Effective: July 1, 2023.

Miller D, Teshka, May, Moed

(SENATE SPONSORS — BALDWIN, ROGERS)

January 12, 2023, read first time and referred to Committee on Local Government.
January 24, 2023, reported — Do Pass.
January 30, 2023, read second time, ordered engrossed.
January 31, 2023, engrossed. Read third time, passed. Yeas 97, nays 0.

SENATE ACTION

February 23, 2023, read first time and referred to Committee on Local Government.
March 27, 2023, amended, reported favorably — Do Pass.

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Digest Continued

continues to be used for residential purposes. Provides that a comprehensive plan and ordinance in a county (other than Marion County) may not preclude the installation of manufactured homes that exceed a certain width (in addition to a certain square footage) as permanent residences on a lot on which any other type of dwelling unit may be placed. Provides that after June 30, 2023, a mobile home, a manufactured home, or an industrialized residential structure is not considered a new home or model home subject to the provisions concerning home warranties. Prohibits a county, city, or town from exercising its planning and zoning authority in a way that differentiates between fraternity and sorority houses on the sole basis of whether the fraternity or sorority is officially approved or recognized by the college or university.



March 28, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1315

A BILL FOR AN ACT to amend the Indiana Code concerning property.

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

- 1 SECTION 1. IC 16-41-27-32, AS AMENDED BY P.L.53-2022,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 32. (a) As used in this section, "regulation" refers
4 to any:
5 (1) ordinance, including any:
6 (A) zoning or land use ordinance; or
7 (B) general or specific planning ordinance;
8 (2) regulation, including any:
9 (A) zoning or land use regulation; or
10 (B) general or specific planning regulation;
11 (3) requirement; or
12 (4) restriction;
13 that is adopted or imposed by a unit (as defined in IC 36-1-2-23).
14 (b) A governmental body other than the state department of health
15 may not license or regulate mobile home communities, except for the
16 following:
17 (1) Local boards may enforce the standards of health and

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1 sanitation prescribed for mobile homes, manufactured homes,
 2 industrialized residential structures, and mobile home
 3 communities by the state department.

4 (2) Subject to IC 36-7-2-12, **IC 36-7-4-1019, IC 36-7-4-1106,**
 5 and subsections (d) and (f), county and municipal authorities
 6 within their respective jurisdictions have jurisdiction regarding
 7 zoning and building codes and ordinances pertaining to mobile
 8 home communities.

9 (3) Local boards may regulate the construction and operation of
 10 groups of a combined total of not more than four (4) mobile
 11 homes, manufactured homes, and industrialized residential
 12 structures in accordance with standards that are compatible with
 13 standards set by the state department for mobile home
 14 communities.

15 (c) A governmental body other than the state department of ~~health~~
 16 may not regulate mobile homes, manufactured homes, or industrialized
 17 residential structures regarding habitability or minimum housing
 18 conditions unless the regulation is applicable in the same manner to
 19 other forms of residential housing in the jurisdiction.

20 (d) **Except as provided in IC 36-7-4-1106(d), IC 36-7-4-1106(e),**
 21 **and IC 36-7-4-1106(f) and** unless required under IC 36-7-2-9, a
 22 governmental body may not regulate or restrict, by regulation or
 23 otherwise, the installation, use, occupancy, movement, **renovation,**
 24 relocation, or replacement of a mobile home, **a** manufactured home, or
 25 **an** industrialized residential structure within a mobile home community
 26 based upon the age or size of the mobile home, manufactured home, or
 27 industrialized residential structure **or other private property based**
 28 **upon the age of the mobile home, manufactured home, or**
 29 **industrialized residential structure** regardless of whether:

30 (1) the mobile home, manufactured home, or industrialized
 31 residential structure; ~~within a mobile home community;~~

32 (2) the lot or site, or any part of the lot or site, ~~within a mobile~~
 33 ~~home community;~~ on which the mobile home, manufactured
 34 home, or industrialized residential structure is located or installed,
 35 or will be located or installed; or

36 (3) the mobile home community ~~or any part of the mobile home~~
 37 ~~community;~~ **or other private property, in whole or in part,** in
 38 which the mobile home, manufactured home, or industrialized
 39 residential structure is located or installed, or will be located or
 40 installed;

41 constitutes a conforming structure or use, or a legal, nonconforming
 42 structure or use.



1 (e) A government body may not regulate or restrict the ability of a:

2 (1) mobile home community:

3 (A) owner; or

4 (B) manager; or

5 (2) manufactured home community:

6 (A) owner; or

7 (B) manager;

8 to obtain a dealer's license or to sell a mobile home, manufactured
9 home, or industrialized residential structure located within the owner's
10 or manager's mobile home community or manufactured housing
11 community.

12 (f) **Except as provided under IC 36-7-4-1106(d),**
13 **IC 36-7-4-1106(e), and IC 36-7-4-1106(f) and** unless required under
14 IC 36-7-2-9, after March 14, 2022:

15 (1) a unit may not:

16 (A) adopt or impose a regulation that violates, or that includes
17 a provision that violates, subsection (d);

18 (B) amend a regulation so that the regulation, after its
19 amendment, includes a provision that violates subsection (d),
20 regardless of when the regulation was originally adopted or
21 imposed; or

22 (C) enforce a provision in a regulation adopted or imposed by
23 the unit if the provision violates subsection (d), regardless of
24 when the regulation or provision was originally adopted or
25 imposed; and

26 (2) any provision that:

27 (A) is included in a regulation adopted or imposed by a unit;
28 and

29 (B) violates subsection (d);

30 is void and unenforceable regardless of when the regulation or
31 provision was originally adopted or imposed.

32 SECTION 2. IC 32-27-2-1 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. The warranties
34 defined by this chapter (or IC 34-4-20.5 or IC 32-15-7 before their
35 repeal) become effective on the warranty date attributed to a new home
36 **or model home.**

37 SECTION 3. IC 32-27-2-2 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. As used in this
39 chapter, "initial home buyer" means a person who:

40 (1) executes a contract with a builder to buy a new home; and
41 ~~who:~~

42 (2) **either:**



- 1 (1) (A) occupies the new home as:
 2 (i) ~~its the home's~~ first occupant; and ~~(2) occupies the new~~
 3 home as
 4 (ii) a residence; or
 5 (B) rents the new home to an individual who occupies the
 6 new home as:
 7 (i) the home's first occupant; and
 8 (ii) a residence.
- 9 SECTION 4. IC 32-27-2-3 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. As used in this
 11 chapter, "major structural defect" means actual damage to the load
 12 bearing part of a new home **or model home**, including actual damage
 13 due to:
 14 (1) subsidence;
 15 (2) expansion; or
 16 (3) lateral movement;
 17 of the soil affecting the load bearing function, unless the subsidence,
 18 expansion, or lateral movement of the soil is caused by flood,
 19 earthquake, or some other natural disaster.
- 20 SECTION 5. IC 32-27-2-3.5 IS ADDED TO THE INDIANA CODE
 21 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 2023]: **Sec. 3.5. (a) As used in this chapter, "model home" means**
 23 **a new dwelling that is used for the first time after construction as:**
 24 (1) a model;
 25 (2) a sales office;
 26 (3) a design center; or
 27 (4) any combination of subdivisions (1) through (3).
 28 (b) **After June 30, 2023, the term does not include a mobile**
 29 **home, a manufactured home, or an industrialized residential**
 30 **structure.**
- 31 SECTION 6. IC 32-27-2-4 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. (a) As used in this
 33 chapter, "new home" means a new dwelling occupied for the first time
 34 **as a residence** after construction.
 35 (b) The term does not include:
 36 (1) a detached garage;
 37 (2) a driveway;
 38 (3) a walkway;
 39 (4) a patio;
 40 (5) a boundary wall;
 41 (6) a retaining wall not necessary for the structural stability of the
 42 new home;



- 1 (7) landscaping;
 2 (8) a fence;
 3 (9) nonpermanent construction material;
 4 (10) an off-site improvement;
 5 (11) an appurtenant recreational facility; ~~or~~
 6 (12) other similar item; ~~or~~
 7 **(13) a model home.**
 8 **(c) After June 30, 2023, the term does not include a mobile**
 9 **home, manufactured home, or an industrialized residential**
 10 **structure.**
 11 SECTION 7. IC 32-27-2-5 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) As used in this
 13 chapter, "home buyer" means a purchaser of a new home **or a model**
 14 **home.**
 15 (b) The term includes any owner of the new home **or model home**
 16 before the expiration of the warranties defined by this chapter.
 17 SECTION 8. IC 32-27-2-7, AS AMENDED BY P.L.165-2005,
 18 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2023]: Sec. 7. As used in this chapter, "warranty date" means
 20 **the following:**
 21 **(1) In the case of a new home,** the date of the first occupancy of
 22 the new home as a residence by one (1) of the following:
 23 ~~(1)~~ **(A)** The builder.
 24 ~~(2)~~ **(B)** An individual ~~or individuals~~ renting the home from the
 25 builder.
 26 ~~(3)~~ **(C)** An individual ~~or individuals~~ living in the home at the
 27 request of the builder.
 28 ~~(4)~~ **(D)** The initial home buyer.
 29 **(E) An individual renting the home from the initial home**
 30 **buyer.**
 31 **(2) In the case of a model home, the date that the home was**
 32 **first used as a model home.**
 33 SECTION 9. IC 32-27-2-8, AS AMENDED BY P.L.165-2005,
 34 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2023]: Sec. 8. (a) In selling a completed new home, and in
 36 contracting to sell a new home to be completed, the builder may
 37 warrant to the initial home buyer the following:
 38 (1) During the two (2) year period beginning on the warranty date,
 39 the new home will be free from defects caused by faulty
 40 workmanship or defective materials.
 41 (2) During the two (2) year period beginning on the warranty date,
 42 the new home will be free from defects caused by faulty



- 1 installation of:
- 2 (A) plumbing;
- 3 (B) electrical;
- 4 (C) heating;
- 5 (D) cooling; or
- 6 (E) ventilating;
- 7 systems, exclusive of fixtures, appliances, or items of equipment.
- 8 (3) During the four (4) year period beginning on the warranty
- 9 date, the new home will be free from defects caused by faulty
- 10 workmanship or defective materials in the roof or roof systems of
- 11 the new home.
- 12 (4) During the ten (10) year period beginning on the warranty
- 13 date, the new home will be free from major structural defects.
- 14 (b) The warranties provided in this section (or IC 34-4-20.5-8 or
- 15 IC 32-15-7 before their repeal) survive the passing of legal or equitable
- 16 title in the new home to a home buyer.
- 17 (c) An individual identified in section ~~7(1), 7(2), or 7(3)~~ **7(1)(A),**
- 18 **7(1)(B), or 7(1)(C)** of this chapter who is selling a new home shall
- 19 notify the purchaser of the home in writing on or before the date of
- 20 closing or transfer of the new home of:
- 21 (1) the warranty date (as defined in section 7 of this chapter); and
- 22 (2) the amount of time remaining under the warranty.
- 23 SECTION 10. IC 32-27-2-8.5 IS ADDED TO THE INDIANA
- 24 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 25 [EFFECTIVE JULY 1, 2023]: **Sec. 8.5. (a) In selling a model home,**
- 26 **the builder may warrant to the home buyer that during the ten (10)**
- 27 **year period beginning on the warranty date the model home will be**
- 28 **free from major structural defects.**
- 29 **(b) The warranty provided in this section survives the passing**
- 30 **of legal or equitable title in the model home to a subsequent home**
- 31 **buyer.**
- 32 **(c) The home buyer who purchases the model home from the**
- 33 **builder shall, in writing on or before the date of closing or transfer**
- 34 **of the model home to a subsequent home buyer, notify the**
- 35 **subsequent home buyer of:**
- 36 **(1) the warranty date (as defined in section 7 of this chapter);**
- 37 **and**
- 38 **(2) the amount of time remaining under the warranty.**
- 39 SECTION 11. IC 32-27-2-9 IS AMENDED TO READ AS
- 40 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 9. (a) A builder may
- 41 disclaim all implied warranties **on a new home or model home** only
- 42 if ~~all~~ of the following conditions are met:



1 (1) The warranties defined in this chapter are expressly provided
2 for in the written contract between a builder and:

3 (A) an initial home buyer of a new home; **or**

4 (B) **the home buyer of a model home.**

5 (2) The performance of the warranty obligations is backed by an
6 insurance policy in an amount at least equal to the purchase price
7 of the new home **or model home.**

8 (3) The builder carries completed operations products liability
9 insurance covering the builder's liability for reasonably
10 foreseeable consequential damages arising from a defect covered
11 by the warranties provided by the builder **on a new home.**

12 (b) The disclaimer must be printed in a minimum size of 10 point
13 boldface type setting forth that the statutory warranties of **section 8 of**
14 **this chapter for a new home or section 8.5 of this chapter for a**
15 **model home** are in lieu of the implied warranties that have been
16 disclaimed by the builder, and the initial home buyer **of a new home**
17 **or the home buyer of a model home** must affirmatively acknowledge
18 by complete signature that the **initial home buyer of a new home or**
19 **the home buyer of a model home** has read, understands, and
20 voluntarily agrees to the disclaimer. Additionally, the initial home
21 buyer **or home buyer** must acknowledge the disclaimer of implied
22 warranties by signing, at the time of execution of the contract, a
23 separate one (1) page notice, attached to the contract, that includes and
24 begins with the following language:

25 "NOTICE OF WAIVER OF IMPLIED WARRANTIES

26 I recognize that by accepting the express warranties and the
27 insurance covering those warranties for the periods of time
28 provided in this contract, I am giving up the right to any claims
29 for implied warranties, which may be greater than the express
30 warranties. Implied warranties are unwritten warranties relating
31 to the reasonable expectations of a homeowner with regard to the
32 construction of the homeowner's home, as those reasonable
33 expectations are defined by the courts on a case by case basis."

34 (c) If there is a default of either:

35 (1) the insurance for the performance of the warranty obligations;

36 or

37 (2) the completed operations products liability insurance;

38 the disclaimer by the builder is void from and after the default.

39 SECTION 12. IC 32-27-2-10 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) If a builder
41 provides and breaches a warranty set forth in section 8 **or 8.5** of this
42 chapter (or IC 34-4-20.5-8 or IC 32-15-7-8 before their repeal), the



1 home buyer may bring an action against the builder for:

- 2 (1) damages arising from the breach; or
 3 (2) specific performance.

4 (b) If damages are awarded for a breach of a warranty set forth in
 5 section 8 **or 8.5** of this chapter (or IC 34-4-20.5-8 or IC 32-15-7-8
 6 before their repeal), the award may be for not more than:

- 7 (1) the actual damages, which are either:
 8 (A) the amount necessary to effect repair of the defect that is
 9 the cause of the breach; or
 10 (B) the amount of the difference between the value of the new
 11 home without the defect and the value of the new home with
 12 the defect;
 13 (2) the reasonably foreseeable consequential damages arising
 14 from the defect covered by the warranty; and
 15 (3) attorney's fees, if those fees are provided for in the written
 16 contract between the parties.

17 SECTION 13. IC 36-7-2-12, AS AMENDED BY P.L.53-2022,
 18 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2023]: Sec. 12. (a) The definitions in IC 16-41-27 apply
 20 throughout this section.

21 (b) Unless required under IC 36-7-2-9 and ~~notwithstanding and~~
 22 **except as provided in IC 36-7-4-1106(d), IC 36-7-4-1106(e), and**
 23 **IC 36-7-4-1106(f)** a unit may not adopt, impose, or enforce a
 24 regulation that:

- 25 (1) mandates size requirements for or that is based on the age of,
 26 a mobile home, a manufactured home or an industrialized
 27 residential structure that will be installed in a mobile home
 28 community licensed under IC 16-41-27; **or**
 29 **(2) is based on the age of a mobile home, a manufactured**
 30 **home, or an industrialized residential structure that will be**
 31 **installed on other private property;**

32 regardless of whether the mobile home community **or other private**
 33 **property, in whole or in part or any part of the mobile home**
 34 **community**; constitutes ~~(1)~~ a conforming structure or use or
 35 ~~(2)~~ a legal, nonconforming structure or use.

36 (c) Nothing in this section shall be construed to prohibit a unit from
 37 adopting or enforcing a requirement of a regulation related to:

- 38 (1) transportation;
 39 (2) water and sewer service; or
 40 (3) another requirement concerning the use or development of
 41 land.

42 (d) Unless required under IC 36-7-2-9, after March 14, 2022:



- 1 (1) a unit may not:
 2 (A) adopt or impose a regulation that violates, or that includes
 3 a provision that violates, subsection (b);
 4 (B) amend a regulation so that the regulation, after its
 5 amendment, includes a provision that violates subsection (b),
 6 regardless of when the regulation was originally adopted or
 7 imposed; or
 8 (C) enforce a provision in a regulation adopted or imposed by
 9 the unit if the provision violates subsection (b), regardless of
 10 when the regulation or provision was originally adopted or
 11 imposed; and
 12 (2) any provision that:
 13 (A) is included in a regulation adopted or imposed by a unit;
 14 and
 15 (B) violates subsection (b);
 16 is void and unenforceable regardless of when the regulation or
 17 provision was originally adopted or imposed.
- 18 SECTION 14. IC 36-7-2-13 IS ADDED TO THE INDIANA CODE
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 20 1, 2023]: **Sec. 13. (a) As used in this section, "chapter house" means**
 21 **a building or portion of a building used as a residence for students**
 22 **who are:**
 23 **(1) active members of the same fraternity or sorority; and**
 24 **(2) enrolled at the same college or university.**
 25 **(b) As used in this section, "college or university" has the**
 26 **meaning set forth in IC 21-7-13-10.**
 27 **(c) As used in this section, "ordinance or regulation" means a**
 28 **planning or zoning ordinance or regulation adopted under**
 29 **IC 36-7-4.**
 30 **(d) A county, city, or town may not:**
 31 **(1) adopt an ordinance or regulation that; or**
 32 **(2) enforce an ordinance or regulation in a manner that;**
 33 **differentiates between chapter houses on the sole basis of whether**
 34 **a chapter house is approved or recognized by a college or**
 35 **university or a chapter house is not approved or recognized by a**
 36 **college or university.**
- 37 SECTION 15. IC 36-7-4-1019, AS AMENDED BY P.L.53-2022,
 38 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2023]: Sec. 1019. (a) The definitions in IC 16-41-27 apply
 40 throughout this section.
 41 (b) For purposes of this section:
 42 (1) a legal, nonconforming structure includes:



- 1 (A) a mobile home;
 2 (B) a manufactured home; or
 3 (C) an industrialized residential structure;
 4 that is considered a legal, nonconforming structure by a unit; and
 5 (2) a legal, nonconforming use includes the use of a parcel of real
 6 property, or any part of a parcel of real property, for residential
 7 purposes by one (1) or more:
 8 (A) mobile homes;
 9 (B) manufactured homes; or
 10 (C) industrialized residential structures;
 11 if the use is considered a legal, nonconforming use by a unit.
 12 (c) In an enforcement action brought under this chapter, the party
 13 alleging the existence of a legal, nonconforming use or variance
 14 granted by a board of zoning appeals has the burden of proof on that
 15 issue. The nonexistence of a nonconforming use or variance need not
 16 be proved.
 17 (d) Except as provided in subsection (e) and subject to subsection
 18 (f), whenever a legal, nonconforming structure on a parcel of real
 19 property used for residential purposes within a mobile home
 20 community **or on other private property** is damaged, destroyed, or
 21 removed, the owner of the parcel shall be permitted to reconstruct,
 22 repair, renovate, or replace the structure without losing the status of the
 23 structure or parcel, or any part of the parcel, as a legal, nonconforming
 24 structure or use if the reconstruction, repair, renovation, or replacement
 25 meets the following requirements:
 26 (1) The structure will continue to be used for residential purposes.
 27 (2) Subject to IC 25-23.7-8, the new foundation of the
 28 reconstructed, repaired, renovated, or replaced structure may not
 29 exceed the square footage of the foundation of the damaged,
 30 destroyed, or removed structure.
 31 (e) The provisions of subsection (d) concerning the reconstruction,
 32 repair, renovation, or replacement of a damaged, destroyed, or removed
 33 nonconforming structure do not authorize the reconstruction, repair, or
 34 renovation of a damaged or destroyed nonconforming structure that is:
 35 (1) subject to the jurisdiction of a preservation commission
 36 organized under:
 37 (A) IC 36-7-11;
 38 (B) IC 36-7-11.1;
 39 (C) IC 36-7-11.2; or
 40 (D) IC 36-7-11.3; or
 41 (2) located within a flood plain (as defined in IC 14-8-2-99).
 42 (f) The provisions of subsection (d) concerning the continuing status



1 of a structure or parcel, or any part of the parcel, as a legal,
2 nonconforming structure or use apply regardless of whether:

3 (1) the structure or parcel, or any part of the parcel, is conferred
4 status as a legal, nonconforming structure or use within a mobile
5 home community **or on other private property**; or

6 (2) the legal nonconforming structure is:

7 (A) damaged, destroyed, or removed; or

8 (B) reconstructed, renovated, repaired, or replaced;

9 before, on, or after March 15, 2022.

10 SECTION 16. IC 36-7-4-1106, AS AMENDED BY P.L.168-2020,
11 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2023]: Sec. 1106. (a) This section does not affect a
13 requirement applicable to property that is subject to the jurisdiction of
14 a preservation commission organized under any of the following:

15 (1) IC 36-7-11.

16 (2) IC 36-7-11.1.

17 (3) IC 36-7-11.2.

18 (4) IC 36-7-11.3.

19 (b) As used in this section:

20 (1) "Manufactured home" means a dwelling unit, designed and
21 built in a factory, which bears a seal certifying that it was built in
22 compliance with the federal Manufactured Housing Construction
23 and Safety Standards Law of 1974 (42 U.S.C. 5401 et seq.).

24 (2) "Underfloor space" means that space between the bottom of
25 the floor joists and the earth.

26 (3) "Occupied space" means the total area of earth horizontally
27 covered by the structure, excluding accessory structures such as,
28 but not limited to, garages, patios and porches.

29 (4) "Permanent foundation system" includes a pier footing
30 foundation system that is specified as suitable in the
31 manufacturer's installation specifications for a manufactured
32 home.

33 (c) Comprehensive plans and ordinances adopted under the
34 provisions of this chapter may subject dwelling units and lots to
35 identical standards and requirements, whether or not the dwelling unit
36 to be placed on a lot is a manufactured home or some other type of
37 dwelling unit. These standards and requirements may include but are
38 not limited to the following:

39 (1) Setback distance.

40 (2) Side and rear yard area.

41 (3) Vehicle parking space.

42 (4) Minimum square footage of the dwelling unit.



1 (5) Underfloor space enclosure requirements.

2 (6) Aesthetics. However, aesthetic standards and requirements
3 pertaining to the home structure itself which are adopted under
4 this section may only pertain to the following:

5 (A) Roofing materials and siding materials.

6 (B) Permanent foundation systems of manufactured homes that
7 are located outside of a mobile home community licensed
8 under IC 16-41-27. A unit may require compatibility of a
9 permanent foundation system with surrounding residential
10 structures. However, the unit may not require:

11 (i) a permanent foundation system that is incompatible with
12 the structural design of the manufactured home; or

13 (ii) more than one (1) permanent foundation system for a
14 manufactured home.

15 (d) METRO. Standards and requirements, specified in
16 comprehensive plans and ordinances, adopted under this section for
17 lots and dwelling units may not ~~totally~~ preclude all manufactured
18 homes ~~constructed after January 1, 1981, and~~ that exceed:

19 (1) twenty-three (23) feet in width; and

20 (2) nine hundred fifty (950) square feet of occupied space;

21 from being installed as permanent residences on any lot on which any
22 other type of dwelling unit may be placed.

23 (e) ~~ADVISORY—AREA. This subsection applies only to lots and~~
24 ~~dwelling units that are within a city or town's planning and zoning~~
25 ~~jurisdiction.~~ Standards and requirements, specified in comprehensive
26 plans and ordinances, adopted under this section for lots and dwelling
27 units may not ~~totally~~ preclude ~~all~~ manufactured homes ~~constructed after~~
28 ~~January 1, 1981, and~~ that exceed nine hundred fifty (950) square feet
29 of occupied space from being installed as permanent residences on any
30 lot on which any other type of dwelling unit may be placed.

31 (f) ~~ADVISORY—AREA. This subsection applies only to lots and~~
32 ~~dwelling units that are within a county's planning and zoning~~
33 ~~jurisdiction.~~ Standards and requirements, specified in
34 comprehensive plans and ordinances, adopted under this section
35 for lots and dwelling units may not preclude manufactured homes
36 that exceed:

37 (1) twenty-three (23) feet in width; and

38 (2) nine hundred fifty (950) square feet of occupied space;

39 from being installed as permanent residences on any lot on which
40 any other type of dwelling unit may be placed.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1315, 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.

(Reference is to HB 1315 as introduced.)

MAY

Committee Vote: Yeas 11, Nays 0

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred House Bill No. 1315, 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 16-41-27-32, AS AMENDED BY P.L.53-2022, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 32. (a) As used in this section, "regulation" refers to any:

- (1) ordinance, including any:
 - (A) zoning or land use ordinance; or
 - (B) general or specific planning ordinance;
- (2) regulation, including any:
 - (A) zoning or land use regulation; or
 - (B) general or specific planning regulation;
- (3) requirement; or
- (4) restriction;

that is adopted or imposed by a unit (as defined in IC 36-1-2-23).

(b) A governmental body other than the state department of ~~health~~ may not license or regulate mobile home communities, except for the following:

- (1) Local boards may enforce the standards of health and sanitation prescribed for mobile homes, manufactured homes, industrialized residential structures, and mobile home communities by the state department.
- (2) Subject to IC 36-7-2-12, **IC 36-7-4-1019, IC 36-7-4-1106,**

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and subsections (d) and (f), county and municipal authorities within their respective jurisdictions have jurisdiction regarding zoning and building codes and ordinances pertaining to mobile home communities.

(3) Local boards may regulate the construction and operation of groups of a combined total of not more than four (4) mobile homes, manufactured homes, and industrialized residential structures in accordance with standards that are compatible with standards set by the state department for mobile home communities.

(c) A governmental body other than the state department of health may not regulate mobile homes, manufactured homes, or industrialized residential structures regarding habitability or minimum housing conditions unless the regulation is applicable in the same manner to other forms of residential housing in the jurisdiction.

(d) **Except as provided in IC 36-7-4-1106(d), IC 36-7-4-1106(e), and IC 36-7-4-1106(f) and** unless required under IC 36-7-2-9, a governmental body may not regulate or restrict, by regulation or otherwise, the installation, use, occupancy, movement, **renovation**, relocation, or replacement of a mobile home, a manufactured home, or **an** industrialized residential structure within a mobile home community based upon the age or size of the mobile home, manufactured home, or industrialized residential structure **or other private property based upon the age of the mobile home, manufactured home, or industrialized residential structure** regardless of whether:

- (1) the mobile home, manufactured home, or industrialized residential structure; ~~within a mobile home community;~~
- (2) the lot or site, or any part of the lot or site, ~~within a mobile home community;~~ on which the mobile home, manufactured home, or industrialized residential structure is located or installed, or will be located or installed; or
- (3) the mobile home community ~~or any part of the mobile home community;~~ **or other private property, in whole or in part,** in which the mobile home, manufactured home, or industrialized residential structure is located or installed, or will be located or installed;

constitutes a conforming structure or use, or a legal, nonconforming structure or use.

(e) A governmental body may not regulate or restrict the ability of a:

- (1) mobile home community:
 - (A) owner; or
 - (B) manager; or



(2) manufactured home community:

(A) owner; or

(B) manager;

to obtain a dealer's license or to sell a mobile home, manufactured home, or industrialized residential structure located within the owner's or manager's mobile home community or manufactured housing community.

(f) **Except as provided under IC 36-7-4-1106(d), IC 36-7-4-1106(e), and IC 36-7-4-1106(f) and** unless required under IC 36-7-2-9, after March 14, 2022:

(1) a unit may not:

(A) adopt or impose a regulation that violates, or that includes a provision that violates, subsection (d);

(B) amend a regulation so that the regulation, after its amendment, includes a provision that violates subsection (d), regardless of when the regulation was originally adopted or imposed; or

(C) enforce a provision in a regulation adopted or imposed by the unit if the provision violates subsection (d), regardless of when the regulation or provision was originally adopted or imposed; and

(2) any provision that:

(A) is included in a regulation adopted or imposed by a unit; and

(B) violates subsection (d);

is void and unenforceable regardless of when the regulation or provision was originally adopted or imposed."

Page 2, line 16, after "3.5." insert "(a)".

Page 2, between lines 21 and 22, begin a new paragraph and insert:

"(b) After June 30, 2023, the term does not include a mobile home, a manufactured home, or an industrialized residential structure."

Page 2, between lines 40 and 41, begin a new paragraph and insert:

"(c) After June 30, 2023, the term does not include a mobile home, manufactured home, or an industrialized residential structure."

Page 3, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 9. IC 32-27-2-8, AS AMENDED BY P.L.165-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 8. (a) In selling a completed new home, and in contracting to sell a new home to be completed, the builder may warrant to the initial home buyer the following:



(1) During the two (2) year period beginning on the warranty date, the new home will be free from defects caused by faulty workmanship or defective materials.

(2) During the two (2) year period beginning on the warranty date, the new home will be free from defects caused by faulty installation of:

- (A) plumbing;
- (B) electrical;
- (C) heating;
- (D) cooling; or
- (E) ventilating;

systems, exclusive of fixtures, appliances, or items of equipment.

(3) During the four (4) year period beginning on the warranty date, the new home will be free from defects caused by faulty workmanship or defective materials in the roof or roof systems of the new home.

(4) During the ten (10) year period beginning on the warranty date, the new home will be free from major structural defects.

(b) The warranties provided in this section (or IC 34-4-20.5-8 or IC 32-15-7 before their repeal) survive the passing of legal or equitable title in the new home to a home buyer.

(c) An individual identified in section 7(1); 7(2); ~~or 7(3)~~ **7(1)(A), 7(1)(B), or 7(1)(C)** of this chapter who is selling a new home shall notify the purchaser of the home in writing on or before the date of closing or transfer of the new home of:

- (1) the warranty date (as defined in section 7 of this chapter); and
- (2) the amount of time remaining under the warranty."

Page 5, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 13. IC 36-7-2-12, AS AMENDED BY P.L.53-2022, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 12. (a) The definitions in IC 16-41-27 apply throughout this section.

(b) Unless required under IC 36-7-2-9 and ~~notwithstanding~~ **and except as provided in IC 36-7-4-1106(d), IC 36-7-4-1106(e), and IC 36-7-4-1106(f)** a unit may not adopt, impose, or enforce a regulation that:

- (1) mandates size requirements for or that is based on the age of, a mobile home, a manufactured home or an industrialized residential structure that will be installed in a mobile home community licensed under IC 16-41-27; **or**
- (2) **is based on the age of a mobile home, a manufactured home, or an industrialized residential structure that will be**



installed on other private property;
 regardless of whether the mobile home community **or other private property, in whole or in part or any part of the mobile home community**, constitutes ~~(1)~~ a conforming structure or use or ~~(2)~~ a legal, nonconforming structure or use.

(c) Nothing in this section shall be construed to prohibit a unit from adopting or enforcing a requirement of a regulation related to:

- (1) transportation;
- (2) water and sewer service; or
- (3) another requirement concerning the use or development of land.

(d) Unless required under IC 36-7-2-9, after March 14, 2022:

- (1) a unit may not:
 - (A) adopt or impose a regulation that violates, or that includes a provision that violates, subsection (b);
 - (B) amend a regulation so that the regulation, after its amendment, includes a provision that violates subsection (b), regardless of when the regulation was originally adopted or imposed; or
 - (C) enforce a provision in a regulation adopted or imposed by the unit if the provision violates subsection (b), regardless of when the regulation or provision was originally adopted or imposed; and
- (2) any provision that:
 - (A) is included in a regulation adopted or imposed by a unit; and
 - (B) violates subsection (b);
 is void and unenforceable regardless of when the regulation or provision was originally adopted or imposed."

Page 5, line 30, delete "a chapter house that is approved or" and insert "**chapter houses on the sole basis of whether a chapter house is approved or recognized by a college or university or a chapter house is not approved or recognized by a college or university.**".

Page 5, delete lines 31 through 32, begin a new paragraph and insert:

"SECTION 15. IC 36-7-4-1019, AS AMENDED BY P.L.53-2022, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1019. (a) The definitions in IC 16-41-27 apply throughout this section.

(b) For purposes of this section:

- (1) a legal, nonconforming structure includes:
 - (A) a mobile home;



(B) a manufactured home; or
 (C) an industrialized residential structure;
 that is considered a legal, nonconforming structure by a unit; and
 (2) a legal, nonconforming use includes the use of a parcel of real property, or any part of a parcel of real property, for residential purposes by one (1) or more:

- (A) mobile homes;
- (B) manufactured homes; or
- (C) industrialized residential structures;

if the use is considered a legal, nonconforming use by a unit.

(c) In an enforcement action brought under this chapter, the party alleging the existence of a legal, nonconforming use or variance granted by a board of zoning appeals has the burden of proof on that issue. The nonexistence of a nonconforming use or variance need not be proved.

(d) Except as provided in subsection (e) and subject to subsection (f), whenever a legal, nonconforming structure on a parcel of real property used for residential purposes within a mobile home community **or on other private property** is damaged, destroyed, or removed, the owner of the parcel shall be permitted to reconstruct, repair, renovate, or replace the structure without losing the status of the structure or parcel, or any part of the parcel, as a legal, nonconforming structure or use if the reconstruction, repair, renovation, or replacement meets the following requirements:

- (1) The structure will continue to be used for residential purposes.
- (2) Subject to IC 25-23.7-8, the new foundation of the reconstructed, repaired, renovated, or replaced structure may not exceed the square footage of the foundation of the damaged, destroyed, or removed structure.

(e) The provisions of subsection (d) concerning the reconstruction, repair, renovation, or replacement of a damaged, destroyed, or removed nonconforming structure do not authorize the reconstruction, repair, or renovation of a damaged or destroyed nonconforming structure that is:

- (1) subject to the jurisdiction of a preservation commission organized under:
 - (A) IC 36-7-11;
 - (B) IC 36-7-11.1;
 - (C) IC 36-7-11.2; or
 - (D) IC 36-7-11.3; or
- (2) located within a flood plain (as defined in IC 14-8-2-99).

(f) The provisions of subsection (d) concerning the continuing status of a structure or parcel, or any part of the parcel, as a legal,



nonconforming structure or use apply regardless of whether:

- (1) the structure or parcel, or any part of the parcel, is conferred status as a legal, nonconforming structure or use within a mobile home community **or on other private property**; or
- (2) the legal nonconforming structure is:
 - (A) damaged, destroyed, or removed; or
 - (B) reconstructed, renovated, repaired, or replaced;

before, on, or after March 15, 2022.

SECTION 16. IC 36-7-4-1106, AS AMENDED BY P.L.168-2020, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1106. (a) This section does not affect a requirement applicable to property that is subject to the jurisdiction of a preservation commission organized under any of the following:

- (1) IC 36-7-11.
- (2) IC 36-7-11.1.
- (3) IC 36-7-11.2.
- (4) IC 36-7-11.3.

(b) As used in this section:

- (1) "Manufactured home" means a dwelling unit, designed and built in a factory, which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law of 1974 (42 U.S.C. 5401 et seq.).
- (2) "Underfloor space" means that space between the bottom of the floor joists and the earth.
- (3) "Occupied space" means the total area of earth horizontally covered by the structure, excluding accessory structures such as, but not limited to, garages, patios and porches.
- (4) "Permanent foundation system" includes a pier footing foundation system that is specified as suitable in the manufacturer's installation specifications for a manufactured home.

(c) Comprehensive plans and ordinances adopted under the provisions of this chapter may subject dwelling units and lots to identical standards and requirements, whether or not the dwelling unit to be placed on a lot is a manufactured home or some other type of dwelling unit. These standards and requirements may include but are not limited to the following:

- (1) Setback distance.
- (2) Side and rear yard area.
- (3) Vehicle parking space.
- (4) Minimum square footage of the dwelling unit.
- (5) Underfloor space enclosure requirements.

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(6) Aesthetics. However, aesthetic standards and requirements pertaining to the home structure itself which are adopted under this section may only pertain to the following:

(A) Roofing materials and siding materials.

(B) Permanent foundation systems of manufactured homes that are located outside of a mobile home community licensed under IC 16-41-27. A unit may require compatibility of a permanent foundation system with surrounding residential structures. However, the unit may not require:

(i) a permanent foundation system that is incompatible with the structural design of the manufactured home; or

(ii) more than one (1) permanent foundation system for a manufactured home.

(d) METRO. Standards and requirements, specified in comprehensive plans and ordinances, adopted under this section for lots and dwelling units may not ~~totally~~ preclude all manufactured homes ~~constructed after January 1, 1981, and~~ that exceed:

(1) twenty-three (23) feet in width; and

(2) nine hundred fifty (950) square feet of occupied space;

from being installed as permanent residences on any lot on which any other type of dwelling unit may be placed.

(e) ~~ADVISORY~~—AREA. **This subsection applies only to lots and dwelling units that are within a city or town's planning and zoning jurisdiction.** Standards and requirements, specified in comprehensive plans and ordinances, adopted under this section for lots and dwelling units may not ~~totally~~ preclude all manufactured homes ~~constructed after January 1, 1981, and~~ that exceed nine hundred fifty (950) square feet of occupied space from being installed as permanent residences on any lot on which any other type of dwelling unit may be placed.

(f) ~~ADVISORY~~—AREA. **This subsection applies only to lots and dwelling units that are within a county's planning and zoning jurisdiction. Standards and requirements, specified in comprehensive plans and ordinances, adopted under this section for lots and dwelling units may not preclude manufactured homes that exceed:**

(1) twenty-three (23) feet in width; and

(2) nine hundred fifty (950) square feet of occupied space;

from being installed as permanent residences on any lot on which any other type of dwelling unit may be placed."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.



(Reference is to HB 1315 as printed January 24, 2023.)

BUCK, Chairperson

Committee Vote: Yeas 10, Nays 0.

