

Insights

Changes to the Indiana Sales Disclosure Form Effective January 1, 2021

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Last week, the Indiana Department of Local Government Finance ("DLGF") released the new Indiana Sales Disclosure Form ("SDF"). This article provides a brief overview for buyers and sellers of when the SDF is required and of the substantive changes made to the SDF that take effect January 1, 2021.

Circumstances under which an SDF is Necessary

As an overview, the SDF must be completed whenever a conveyance document is filed. A conveyance is a transfer of real property for valuable consideration.¹ For the purposes of the SDF, a conveyance document includes a deed, a contract for sale, an agreement, a judgment, a lease that includes the fee simple estate for period of more than 90 years, a quitclaim deed serving as a source of title, and any recorded document for a transfer of real property interest for valuable consideration.² Other transactions that require the SDF, but do not impose the SDF filing fee, include compulsory transactions resulting from a foreclosure, court order, condemnation or divorce, the partition of land between tenants in common, joint tenants, or tenants by the entirety, and transfer to a charity, non-profit organization or government.³

Background to Substantive Changes

According to a DLGF memorandum, the SDF is the main tool used by assessors "to develop trending factors used in the annual adjustment process."⁴ The primary purposes for the changes to the SDF were to (i) reorganize and regroup the data in a more logical manner, (ii) reduce the number of rejections, (iii) include additional data fields for specific property types, and (iv) incorporate the 2020 legislation.⁵

The most notable changes include (i) separate sections and data fields based on property type which are either (a) residential or agricultural and/or (b) commercial or industrial, (ii) additional italicized questions that, if left unanswered, are not grounds for rejecting the SDF, and (iii) optional addenda based on property type that can be requested by an assessing official. A more extensive summary of the substantive changes to the form is provided below.

Summary of Substantive Changes to the Indiana Sales Disclosure Form

Part 1A

- Property number is replaced with parcel number or tax identification number.
- Addition of a new section titled "Part 1A" for transactions that have multiple parcels that are (i) contiguous parcels, (ii) located within a single taxing district, and (iii) conveyed on a single conveyance document.

Part 1B

- Several data fields have been moved to Parts 1D, E, F, G and are tailored to the specific property type.

Part 1C

- Additional data fields for special circumstances related to the transaction (i.e. sheriff or tax sale, short sale, quitclaim deed, auction, etc.).
- Most of the questions and data fields regarding financing of the transaction were removed, including loan amount, interest rate, amount in points, and amortization period.
- New data field to indicate whether the transaction will have multiple SDFs, which arises in situations where multiple non-contiguous parcels are being transferred.

New Parts 1D, E, F, G

- The four new parts are separated into two boxes. Parts 1D and E are specifically for residential or agricultural property. Parts 1F and G are for commercial or industrial property.
- Several of the questions and data fields in the SDF are from Part 1B of the previous form.
- The box for commercial or industrial property includes several new italicized questions (see below).
- Each new box provides a "confidential and non-disclosable" checkbox. Though this information must still be provided to local assessing officials and the state of Indiana, it was indicated in the DLGF webinar that individual counties will determine whether this information is subject to disclosure in a public records request.**6**

General

- There are several new questions in italicized font. It is specified in the directions that the SDF should not be rejected if these questions are not answered. Some of these questions include:
 - Approximate number of days property was on the market.
 - Sale price included a liquor license?
 - Transaction was part of a portfolio sale?
 - Any part of the property leased at the time of the sale?
 - Appraisal was completed for the sale (including a data field for the appraisal value)?
 - Sale included property in a Tax Increment Finance (TIF) District?
- The SDF can still be used as an application for the homestead deduction.

Addenda

- There are two optional addenda to the SDF. Each addendum is based on property type, one for commercial or industrial property and the other for residential or agricultural property. Assessing officials can utilize the addenda to gather additional information without having to change or alter the already executed SDF.

If you have any questions regarding the new Indiana Sales Disclosure Form or any information in this article, please contact **David A. Adams** or a member of the Krieg DeVault LLP **Real Estate Practice**.

Disclaimer. The contents of this article should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult with counsel concerning your situation and specific legal questions you may have.

[1] Indiana Code 6-1.1-5.5-1.

[2] Indiana Code 6-1.1-5.5-2.

[3] Indiana Code 6-1.1-5.5-2.

[4] Memorandum, *Revised Sales Disclosure Form*, Indiana Department of Local Government Finance dated October 6, 2020. (<https://www.in.gov/dlgf/files/201006%20-%20Wood%20Memo%20-%20Revised%20Sales%20Disclosure%20Form%20Memo.pdf>).

[5] Department of Local Government Finance Webinar published October 15, 2020 and available at: https://www.youtube.com/watch?v=ZVERe6G2_Wg&feature=youtu.be

[6] Department of Local Government Finance Webinar published October 15, 2020 and available at: https://www.youtube.com/watch?v=ZVERe6G2_Wg&feature=youtu.be

To be confidential the information must meet the requirements under Indiana Code 5-14-3-4 and Indiana Code 6-1.1-35-9