
HOUSE BILL No. 1066

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-29; IC 32-30; IC 36-1-6-1.5; IC 36-7.

Synopsis: Abandoned housing. Requires a person who purchases property at a foreclosure sale to record the deed within 60 days. With respect to mortgaged real property that the mortgagor surrenders in writing to the court or to a mortgagee, provides that 30 days after the date on which the mortgagor surrenders real property the mortgagee is responsible for ensuring that the property does not violate local ordinances or nuisance, unsafe building, and vacant and abandoned structures statutes. Specifies that the mortgagee is personally liable for ensuring that the property complies with local ordinances or nuisance, unsafe building, and vacant and abandoned structures statutes, and provides that the mortgagee may be liable for additional civil penalties as determined by the appropriate local legislative body. Requires a mortgagee to whom property has been surrendered to record the mortgagee's interest in the property not later than 60 days after receipt. Provides that a mortgagee has the authority to enter onto real property in order to carry out its responsibilities.

Effective: July 1, 2011.

Day, Hinkle

January 5, 2011, read first time and referred to Committee on Judiciary.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1066



A BILL FOR AN ACT to amend the Indiana Code concerning property and to make an appropriation.

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

1 SECTION 1. IC 32-29-7-10, AS AMENDED BY P.L.105-2009,
2 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 10. (a) Immediately after a foreclosure sale under
4 this chapter, the sheriff shall:
5 (1) execute and deliver to the purchaser; and
6 (2) except as provided in subsection (b), record with the recorder
7 of the county in which the premises are located;
8 a deed of conveyance for the premises, which must be valid to convey
9 all the right, title, and interest held or claimed by all of the parties to
10 the action and all persons claiming under them. The sheriff shall file a
11 return with the clerk of the court.
12 (b) The sheriff is not required to record the deed of conveyance for
13 the premises under subsection (a)(2) if the mortgage involved in the
14 foreclosure action resulting in the foreclosure sale under this chapter
15 was insured by the United States Department of Housing and Urban
16 Development.
17 (c) **This section does not apply if the mortgage involved in the**



1 foreclosure action resulting in the foreclosure sale under this
 2 chapter was insured by the United States Department of Housing
 3 and Urban Development. Not later than sixty (60) days after the
 4 date on which a purchaser receives a deed of conveyance for the
 5 premises, the purchaser shall record the deed with the county
 6 recorder.

7 (d) A purchaser who fails to record a deed under subsection (c)
 8 may be liable for additional civil penalties if the county legislative
 9 body has established a civil penalty for failure to comply with
 10 subsection (c). A civil penalty collected under this subsection shall
 11 be deposited in the county general fund and shall be appropriated
 12 to the county treasurer for purposes relating to abandoned
 13 property.

14 SECTION 2. IC 32-29-12 IS ADDED TO THE INDIANA CODE
 15 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2011]:

17 Chapter 12. Effect of Surrender in Bankruptcy

18 Sec. 1. (a) This chapter applies only to mortgaged real property
 19 that the mortgagor surrenders in writing to the court or to a
 20 mortgagee as a part of or while in bankruptcy proceedings.

21 (b) This chapter does not apply to mortgaged real property that
 22 the mortgagor surrenders to the court or to a mortgagee as a part
 23 of or while in bankruptcy proceedings while the real property is
 24 occupied by the mortgagor or a tenant.

25 Sec. 2. (a) Thirty (30) days after the date on which a mortgagor
 26 surrenders real property to which this chapter applies, the
 27 mortgagee of the property is responsible for:

- 28 (1) abating a nuisance under IC 32-30-6;
- 29 (2) abating an indecent nuisance under IC 32-30-7;
- 30 (3) abating a drug nuisance under IC 32-30-8;
- 31 (4) bringing the property into compliance with an ordinance
 32 under IC 36-1-6;
- 33 (5) complying with IC 36-7-9; and
- 34 (6) abating unsafe conditions under IC 36-7-36.

35 (b) If the real property has one (1) or more mortgagees, each
 36 mortgagee is jointly and severally liable for abatement expenses.

37 (c) Liability for abatement expenses under this chapter is
 38 personal liability.

39 (d) A mortgagee has the authority to enter onto real property
 40 described in this chapter to carry out its responsibilities under this
 41 section.

42 Sec. 3. A mortgagee shall properly record the mortgagee's

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1 interest in the property with the county recorder not later than
2 sixty (60) days after the property is surrendered under this
3 chapter.

4 Sec. 4. (a) A mortgagee who fails to carry out the mortgagee's
5 responsibilities under this chapter may be liable for additional civil
6 penalties as determined by the:

7 (1) legislative body of the unit having responsibility for
8 enforcing the items described in section 2 of this chapter, for
9 noncompliance with an item described in section 2 of this
10 chapter; or

11 (2) county legislative body for failure to record a deed as
12 required by section 3 of this chapter. A civil penalty collected
13 under this subdivision shall be deposited in the county general
14 fund and shall be appropriated to the county treasurer for
15 purposes relating to abandoned property.

16 (b) A mortgagee is personally liable for a civil penalty imposed
17 under this section.

18 SECTION 3. IC 32-29-13 IS ADDED TO THE INDIANA CODE
19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2011]:

21 **Chapter 13. Surrender of Property to a Mortgagee**

22 Sec. 1. (a) This chapter applies only to mortgaged real property
23 that the mortgagor surrenders to a mortgagee in accordance with
24 section 2 of this chapter.

25 (b) This chapter does not apply to mortgaged real property:

- 26 (1) that the mortgagor surrenders to the court or to a
27 mortgagee as a part of or while in bankruptcy proceedings; or
- 28 (2) while the real property is occupied by the mortgagor or a
29 tenant.

30 Sec. 2. A mortgagor may surrender mortgaged property to a
31 mortgagor as follows:

32 (1) The mortgagor transmits to the mortgagee by certified
33 mail, return receipt requested:

- 34 (A) written notice of the mortgagor's intent to surrender
35 the mortgaged property; and
- 36 (B) a valid quitclaim deed transferring the mortgaged
37 property to the mortgagee.

38 (2) The mortgagor transmits a copy of the notice of intent to
39 surrender the property and a copy of the quitclaim deed to
40 the county auditor.

41 Sec. 3. (a) Thirty (30) days after the date on which a mortgagor
42 surrenders real property to which this chapter applies in

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1 accordance with section 2 of this chapter, the mortgagee of the
2 property is responsible for:

- 3 (1) abating a nuisance under IC 32-30-6;
- 4 (2) abating an indecent nuisance under IC 32-30-7;
- 5 (3) abating a drug nuisance under IC 32-30-8;
- 6 (4) bringing the property into compliance with an ordinance
7 under IC 36-1-6;
- 8 (5) complying with IC 36-7-9; and
- 9 (6) abating unsafe conditions under IC 36-7-36.

10 (b) If the real property has one (1) or more mortgagees, each
11 mortgagee is jointly and severally liable for abatement expenses.

12 (c) Liability for abatement expenses under this chapter is
13 personal liability.

14 (d) A mortgagee has the authority to enter onto real property
15 described in this chapter to carry out its responsibilities under this
16 section.

17 Sec. 4. A mortgagee shall properly record the quitclaim deed
18 received under section 2 of this chapter with the county recorder
19 not later than sixty (60) days after receipt of the quitclaim deed.

20 Sec. 5. (a) A mortgagee who fails to carry out the mortgagee's
21 responsibilities under this chapter may be liable for additional civil
22 penalties as determined by the:

- 23 (1) legislative body of the unit having responsibility for
24 enforcing the items described in section 3 of this chapter, for
25 noncompliance with an item described in section 3 of this
26 chapter; or
- 27 (2) county legislative body for failure to record a deed as
28 required by section 4 of this chapter. A civil penalty collected
29 under this subdivision shall be deposited in the county general
30 fund and shall be appropriated to the county treasurer for
31 purposes relating to abandoned property.

32 (b) A mortgagee is personally liable for a civil penalty imposed
33 under this section.

34 SECTION 4. IC 32-30-7-6 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. The following are
36 guilty of maintaining an indecent nuisance and may be enjoined from
37 maintaining the indecent nuisance under this chapter:

- 38 (1) A person who uses, occupies, establishes, maintains, or
39 conducts an indecent nuisance.
- 40 (2) The owner (including a mortgagee responsible for the
41 property under IC 32-29-12-2 or IC 32-29-13-3), agent, or
42 lessee of any interest in an indecent nuisance.

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1 (3) A person employed in an indecent nuisance.
 2 SECTION 5. IC 32-30-8-5 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) A person
 4 initiating an action under this chapter to abate a nuisance existing on
 5 a property shall, at least forty-five (45) days before filing the action,
 6 provide notice to:
 7 (1) each tenant of the property; and
 8 (2) the owner of record, **including a mortgagee responsible for**
 9 **the property under IC 32-29-12-2 or IC 32-29-13-3;**
 10 that a nuisance exists on the property.
 11 (b) The notice required under this section must specify the
 12 following:
 13 (1) The date and time the nuisance was first discovered.
 14 (2) The location on the property where the nuisance is allegedly
 15 occurring.
 16 (c) The notice must be:
 17 (1) hand delivered; or
 18 (2) sent by certified mail;
 19 to each tenant and the owner of record.
 20 (d) A person initiating an action to abate a nuisance under this
 21 chapter shall:
 22 (1) when notice is provided under this section, produce all
 23 evidence in the person's possession or control of the existence of
 24 the nuisance; and
 25 (2) if requested by the owner, assist the owner in the production
 26 of witness and physical evidence.
 27 SECTION 6. IC 36-1-6-1.5 IS ADDED TO THE INDIANA CODE
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 29 1, 2011]: **Sec. 1.5. As used in this chapter, "owner" includes a**
 30 **mortgagee responsible for the property under IC 32-29-12-2 or**
 31 **IC 32-29-13-3.**
 32 SECTION 7. IC 36-7-9-2, AS AMENDED BY P.L.73-2010,
 33 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2011]: Sec. 2. As used in this chapter:
 35 "Community organization" means a citizen's group, neighborhood
 36 association, neighborhood development corporation, or similar
 37 organization that:
 38 (1) has specific geographic boundaries defined in its bylaws or
 39 articles of incorporation and contains at least forty (40)
 40 households within those boundaries;
 41 (2) is a nonprofit corporation that is representative of at least
 42 twenty-five (25) households or twenty percent (20%) of the

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- 1 households in the community, whichever is less;
- 2 (3) is operated primarily for the promotion of social welfare and
- 3 general neighborhood improvement and enhancement;
- 4 (4) has been incorporated for at least two (2) years; and
- 5 (5) is exempt from taxation under Section 501(c)(3) or 501(c)(4)
- 6 of the Internal Revenue Code.

7 "Continuous enforcement order" means an order that:
 8 (1) is issued for compliance or abatement and that remains in full
 9 force and effect on a property without further requirements to
 10 seek additional:

- 11 (A) compliance and abatement authority; or
- 12 (B) orders for the same or similar violations;
- 13 (2) authorizes specific ongoing compliance and enforcement
- 14 activities if a property requires reinspection or additional periodic
- 15 abatement;
- 16 (3) can be enforced, including assessment of fees and costs,
- 17 without the need for additional notice or hearing; and
- 18 (4) authorizes the enforcement authority to assess and collect
- 19 ongoing costs for continuous enforcement order activities from
- 20 any party that is subject to the enforcement authority's order.

21 "Department" refers to the executive department authorized by
 22 ordinance to administer this chapter. In a consolidated city, this
 23 department is the department of metropolitan development, subject to
 24 IC 36-3-4-23.

25 "Enforcement authority" refers to the chief administrative officer of
 26 the department, except in a consolidated city. In a consolidated city, the
 27 division of development services is the enforcement authority, subject
 28 to IC 36-3-4-23.

29 "Hearing authority" refers to a person or persons designated as such
 30 by the executive of a city or county, or by the legislative body of a
 31 town. However, in a consolidated city, the director of the department
 32 or a person designated by the director is the hearing authority. An
 33 employee of the enforcement authority may not be designated as the
 34 hearing authority.

35 "Known or recorded fee interest, life estate interest, or equitable
 36 interest of a contract purchaser" means any fee interest, life estate
 37 interest, or equitable interest of a contract purchaser held by a person
 38 whose identity and address may be determined from:

- 39 (1) an instrument recorded in the recorder's office of the county
- 40 where the unsafe premises is located;
- 41 (2) written information or actual knowledge received by the
- 42 department (or, in the case of a consolidated city, the enforcement

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1 authority); or
2 (3) a review of department (or, in the case of a consolidated city,
3 the enforcement authority) records that is sufficient to identify
4 information that is reasonably ascertainable.

5 "Known or recorded substantial property interest" means any right
6 in real property, including a fee interest, a life estate interest, a future
7 interest, a mortgage interest, a lien as evidenced by a certificate of sale
8 issued under IC 6-1.1-24, or an equitable interest of a contract
9 purchaser, that:

10 (1) may be affected in a substantial way by actions authorized by
11 this chapter; and

12 (2) is held by a person whose identity and address may be
13 determined from:

14 (A) an instrument recorded in:

15 (i) the recorder's office of the county where the unsafe
16 premises is located; or

17 (ii) the office of the county auditor of the county where the
18 unsafe premises are located in the case of a lien evidenced
19 by a certificate of sale issued under IC 6-1.1-24;

20 (B) written information or actual knowledge received by the
21 department (or, in the case of a consolidated city, the
22 enforcement authority); or

23 (C) a review of department (or, in the case of a consolidated
24 city, the enforcement authority) records that is sufficient to
25 identify information that is reasonably ascertainable.

26 **"Owner" includes a mortgagee responsible for the property**
27 **under IC 32-29-12-2 or IC 32-29-13-3.**

28 "Substantial property interest" means any right in real property that
29 may be affected in a substantial way by actions authorized by this
30 chapter, including a fee interest, a life estate interest, a future interest,
31 a mortgage interest, or an equitable interest of a contract purchaser.

32 SECTION 8. IC 36-7-36-1, AS ADDED BY P.L.88-2009,
33 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2011]: Sec. 1. As used in this chapter, "abandoned structure"
35 means any of the following:

36 (1) Commercial real property or a vacant structure on commercial
37 real property that is used or was previously used for industrial or
38 commercial purposes, and:

39 (A) that the owner of the property or structure has declared in
40 writing to be abandoned; or

41 (B) for which the owner of the property or structure has been
42 given a written order by an enforcement authority to

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- rehabilitate or demolish, and the owner:
 - (i) has not applied for a permit to rehabilitate or demolish the property or structure; or
 - (ii) applied for and was granted a permit, but rehabilitation or demolition work has not commenced on the property or structure within thirty (30) days after the date the permit was granted.
- (2) Real property that has not been used for a legal purpose for at least six (6) consecutive months and:
 - (A) in the judgment of an enforcement authority, is in need of completion, rehabilitation, or repair, and completion, rehabilitation, or repair work has not taken place on the property for at least six (6) consecutive months;
 - (B) on which at least one (1) installment of property taxes is delinquent; or
 - (C) that has been declared a public nuisance by a hearing authority.
- (3) Real property that has been declared in writing to be abandoned by the owner, including an estate or a trust that possesses the property.
- (4) Vacant real property on which a municipal lien has remained unpaid for at least one (1) year.
- (5) Mortgaged real property that has been surrendered in bankruptcy as described in IC 32-29-12-1 and that is not occupied by the mortgagor or a tenant.**

SECTION 9. IC 36-7-36-4, AS ADDED BY P.L.88-2009, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. As used in this chapter, "owner" means a person that holds a substantial interest in property in the form of a known or recorded fee interest, life estate, or equitable interest as a contract purchaser. **The term includes a mortgagee responsible for the property under IC 32-29-12-2 or IC 32-29-13-3.**

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