
HOUSE BILL No. 1181

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-30-10.5.

Synopsis: Residential foreclosures. Amends the definition of "mortgage" in the statute concerning foreclosure prevention agreements for residential mortgages to: (1) specify that the term does not include a land contract; (2) specify that the term includes a first lien on residential real estate upon which a dwelling is constructed or intended to be constructed; and (3) more closely correspond to the definition of the term used in the statute concerning first lien mortgage lending. Provides that in a residential foreclosure action filed after June 30, 2011, the creditor shall include with the complaint filed with the court the most recent contact information for the debtor that the creditor has available, including: (1) all telephone numbers and electronic mail addresses; and (2) any mailing address other than the address of the mortgaged property; that the creditor has on file for the debtor.

Effective: July 1, 2011.

Burton, Bardon, Riecken

January 10, 2011, read first time and referred to Committee on Financial Institutions.

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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. 1181



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 32-30-10.5-5, AS ADDED BY P.L.105-2009,
2 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 5. As used in this chapter, "mortgage" means:

- 4 (1) a loan; or
- 5 (2) a consumer credit sale;
- 6 ~~in which a first mortgage, or a land contract that constitutes a first lien,~~
- 7 ~~is created or retained against land upon which there is a dwelling that~~
- 8 ~~is or will be used by the debtor primarily for personal, family, or~~
- 9 ~~household purposes and that is secured by a mortgage (or another~~
- 10 ~~equivalent consensual security interest) that constitutes a first lien~~
- 11 ~~on a dwelling or on residential real estate upon which a dwelling is~~
- 12 ~~constructed or intended to be constructed.~~

13 SECTION 2. IC 32-30-10.5-8, AS AMENDED BY P.L.68-2010,
14 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2011]: Sec. 8. (a) This section applies to a foreclosure action
16 that is filed after June 30, 2009. Except as provided in subsection (e)
17 and section 10(g) of this chapter, not later than thirty (30) days before



1 a creditor files an action for foreclosure, the creditor shall send to the
2 debtor by certified mail a presuit notice on a form prescribed by the
3 Indiana housing and community development authority created by
4 IC 5-20-1-3. The notice required by this subsection must do the
5 following:

6 (1) Inform the debtor that:

7 (A) the debtor is in default;

8 (B) the debtor is encouraged to obtain assistance from a
9 mortgage foreclosure counselor; and

10 (C) if the creditor proceeds to file a foreclosure action and
11 obtains a foreclosure judgment, the debtor has a right to do the
12 following before a sheriff's sale is conducted:

13 (i) Appeal a finding of abandonment by a court under
14 IC 32-29-7-3(a)(2).

15 (ii) Redeem the real estate from the judgment under
16 IC 32-29-7-7.

17 (iii) Retain possession of the property under
18 IC 32-29-7-11(b), subject to the conditions set forth in
19 IC 32-29-7-11(b).

20 (2) Provide the contact information for the Indiana Foreclosure
21 Prevention Network.

22 (3) Include the following statement printed in at least 14 point
23 boldface type:

24 "NOTICE REQUIRED BY STATE LAW

25 Mortgage foreclosure is a complex process. People may
26 approach you about "saving" your home. You should be
27 careful about any such promises. There are government
28 agencies and nonprofit organizations you may contact for
29 helpful information about the foreclosure process. For the
30 name and telephone number of an organization near you,
31 please call the Indiana Foreclosure Prevention Network."

32 (b) The notice required by subsection (a) shall be sent to:

33 (1) the address of the mortgaged property; or

34 (2) the last known mailing address of the debtor if the creditor's
35 records indicate that the mailing address of the debtor is other
36 than the address of the mortgaged property.

37 If the creditor provides evidence that the notice required by subsection
38 (a) was sent by certified mail, return receipt requested, and **as**
39 **prescribed by in accordance with** this subsection, it is not necessary
40 that the debtor accept receipt of the notice for an action to proceed as
41 allowed under this chapter.

42 (c) Except as provided in subsection (e) and section 10(g) of this

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1 chapter, if a creditor files an action to foreclose a mortgage, the creditor
 2 shall include with the complaint served on the debtor a notice that
 3 informs the debtor of the debtor's right to participate in a settlement
 4 conference, **subject to section 9(b) of this chapter**. The notice must
 5 be in a form prescribed by the Indiana housing and community
 6 development authority created by IC 5-20-1-3. The notice must inform
 7 the debtor that the debtor may schedule a settlement conference by
 8 notifying the court, not later than thirty (30) days after the notice
 9 **required by this subsection** is served, of the debtor's intent to
 10 participate in a settlement conference.

11 (d) ~~In a foreclosure action filed under IC 32-30-10-3 after June 30,~~
 12 ~~2009, If a creditor files an action to foreclose a mortgage,~~ the
 13 creditor shall ~~attach to~~ **include with** the complaint filed with the court:

14 **(1) except as provided in subsection (e) and section 10(g) of**
 15 **this chapter, a copy of the notices sent to the debtor under**
 16 **subsections (a) and (c), if the foreclosure action is filed after**
 17 **June 30, 2009, but before July 1, 2011; or**

18 **(2) the following, if the foreclosure action is filed after June**
 19 **30, 2011:**

20 **(A) Except as provided in subsection (e) and section 10(g)**
 21 **of this chapter, a copy of the notices sent to the debtor**
 22 **under subsections (a) and (c).**

23 **(B) The most recent contact information for the debtor**
 24 **that the creditor has available or on file, including:**

25 **(i) all telephone numbers and electronic mail addresses**
 26 **used by the debtor; and**

27 **(ii) any mailing address described in subsection (b)(2).**

28 (e) A creditor is not required to send the notices described in this
 29 section if:

30 (1) the mortgage is secured by a dwelling that is not the debtor's
 31 primary residence;

32 (2) the mortgage has been the subject of a prior foreclosure
 33 prevention agreement under this chapter and the debtor has
 34 defaulted with respect to the terms of that foreclosure prevention
 35 agreement; or

36 (3) bankruptcy law prohibits the creditor from participating in a
 37 settlement conference under this chapter with respect to the
 38 mortgage.

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