



February 15, 2013

# HOUSE BILL No. 1132

DIGEST OF HB 1132 (Updated February 13, 2013 2:45 pm - DI 101)

**Citations Affected:** IC 32-29; IC 36-7.

**Synopsis:** Real property and housing matters. Allows an officer or agent of a title insurance company, on behalf of a mortgagor or a person who has a lien against all or part of the mortgaged property, to execute and record a certificate of release in each county in which the mortgage is recorded if the company, officer, or agent has received, before executing and recording the certificate of release, written consent from the mortgagee or from the mortgage servicer or mortgage servicer's successor in interest. Provides that the company, officer, or agent may use to record the certificate of release any recording fee collected if the company, officer, or agent has received the required consent to the recording from the mortgagee or from the mortgage servicer or mortgage servicer's successor in interest. Provides that a certificate of release must contain: (1) a statement that the payoff amount of the mortgage was an amount of not more than \$1,000,000 instead of a statement that the mortgage was in the original principal amount of not more than \$1,000,000; and (2) a statement that the mortgagee or mortgage servicer provided a written payoff statement that was used to make payment in full of the unpaid balance of the loan secured by the mortgage. Allows the resources of the Indianapolis housing trust fund to be used to fund programs considered appropriate to meet the affordable housing and community development needs of lower income families and very low income families, including lower income elderly individuals, individuals with disabilities, and homeless individuals.

**Effective:** July 1, 2013.

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**Burton, Speedy**

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January 10, 2013, read first time and referred to Committee on Financial Institutions.  
February 14, 2013, amended, reported — Do Pass.

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HB 1132—LS 7048/DI 69+



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February 15, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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## HOUSE BILL No. 1132

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 32-29-6-5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. As used in this  
3 chapter, "payoff statement" means a **written** statement of the amount  
4 of:  
5 (1) the unpaid balance of a loan secured by a mortgage, including  
6 principal, interest, and any other charges properly due under or  
7 secured by the mortgage; and  
8 (2) interest on a per day basis for the unpaid balance.  
9 SECTION 2. IC 32-29-6-9 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. **(a)** An officer or  
11 appointed agent of a title insurance company may, on behalf of a  
12 mortgagor or a person who acquired from the mortgagor a lien against  
13 all or part of the property described in a mortgage, execute a certificate  
14 of release that complies with the requirements of this chapter and  
15 record the certificate of release in the real property records of each  
16 county in which the mortgage is recorded if  
17 ~~(1) a satisfaction or release of the mortgage has not been executed~~

HB 1132—LS 7048/DI 69+



1 and recorded within sixty (60) days after the date payment in full  
2 of the loan secured by the mortgage was sent in accordance with  
3 a payoff statement furnished by the mortgagee or the mortgage  
4 servicer; and

5 (2) the title insurance company, an officer of the title insurance  
6 company, or an agent of the title insurance company has sent to  
7 the last known address of the mortgagee or the mortgage servicer;  
8 at least thirty (30) days before executing the certificate of release;  
9 written notice of its intention to execute and record a certificate  
10 of release in accordance with this section after the expiration of  
11 the sixty (60) day period. received, before executing and  
12 recording the certificate of release, written consent to the  
13 recording of the certificate of release from the:

- 14 (1) mortgagee; or
- 15 (2) mortgage servicer or mortgage servicer's successor in  
16 interest.

17 (b) If the title insurance company, officer of the title insurance  
18 company, or agent of the title insurance company has received the  
19 written consent required under subsection (a) from a person  
20 described in subsection (a)(1) or (a)(2), the title insurance  
21 company, officer of the title insurance company, or agent of the  
22 title insurance company may use any recording fee the company,  
23 officer, or agent collected for the:

- 24 (1) recording of the certificate of release; or
  - 25 (2) satisfaction of the mortgage;
- 26 to record the certificate of release.

27 SECTION 3. IC 32-29-6-10 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. A certificate of  
29 release executed under this chapter must contain substantially all of the  
30 following:

31 (1) The name of the mortgagor, the name of the original  
32 mortgagee and, if applicable, the name of the mortgage servicer,  
33 the date of the mortgage, the date of recording of the mortgage,  
34 and the volume and page or instrument number for the mortgage  
35 in the real property records where the mortgage is recorded,  
36 together with similar information for the last recorded assignment  
37 of the mortgage.

38 (2) A statement that the **payoff amount of the mortgage was in**  
39 **the original principal** an amount of not more than one million  
40 dollars (\$1,000,000).

41 (3) A statement that the person executing the certificate of release  
42 is an officer or a duly appointed agent of a title insurance

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1 company authorized and licensed to transact the business of  
 2 insuring titles to interests in real property in Indiana under IC 27.  
 3 (4) A statement that the certificate of release is made on behalf of  
 4 the mortgagor or a person who acquired a lien from the mortgagor  
 5 against all or part of the property described in the mortgage.  
 6 (5) A statement that the mortgagee or mortgage servicer provided  
 7 a **written** payoff statement that was used to make payment in full  
 8 of the unpaid balance of the loan secured by the mortgage.  
 9 (6) A statement that payment in full of the unpaid balance of the  
 10 loan secured by the mortgage was made in accordance with the  
 11 written ~~or verbal~~ payoff statement and received by the mortgagee  
 12 or mortgage servicer, as evidenced in the records of the title  
 13 insurance company or its agents by:  
 14 (A) a bank check;  
 15 (B) a certified check;  
 16 (C) an escrow account check from the title company or title  
 17 insurance agent;  
 18 (D) an attorney trust account check that has been negotiated by  
 19 the mortgagee or mortgage servicer; or  
 20 (E) any other documentary evidence of payment to the  
 21 mortgagee or mortgage servicer.  
 22 ~~(7) A statement indicating that more than sixty (60) days have~~  
 23 ~~elapsed since the date payment in full was sent.~~  
 24 ~~(8) A statement that after the expiration of the sixty (60) day~~  
 25 ~~period referred to in section 9 of this chapter, the title insurance~~  
 26 ~~company, its officers, or its agent sent to the last known address~~  
 27 ~~of the mortgagee or mortgage servicer, at least thirty (30) days~~  
 28 ~~before executing the certificate of release, notice in writing of its~~  
 29 ~~intention to execute and record a certificate of release as required~~  
 30 ~~under this section, with an unexecuted copy of the proposed~~  
 31 ~~certificate of release attached to the written notice.~~  
 32 ~~(9) (7) A statement that neither the title insurance company nor its~~  
 33 ~~officers or agent have received notification in writing of any~~  
 34 ~~reason why the certificate of release should not be executed and~~  
 35 ~~recorded. after the expiration of the thirty (30) day notice period~~  
 36 ~~referred to in section 9 of this chapter.~~  
 37 SECTION 4. IC 36-7-15.1-35.5, AS AMENDED BY P.L.211-2007,  
 38 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39 JULY 1, 2013]: Sec. 35.5. (a) The general assembly finds the  
 40 following:  
 41 (1) Federal law permits the sale of a multiple family housing  
 42 project that is or has been covered, in whole or in part, by a

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1 contract for project based assistance from the United States  
 2 Department of Housing and Urban Development without  
 3 requiring the continuation of that project based assistance.

4 (2) Such a sale displaces the former residents of a multiple family  
 5 housing project described in subdivision (1) and increases the  
 6 shortage of safe and affordable housing for persons of low and  
 7 moderate income within the county.

8 (3) The displacement of families and individuals from affordable  
 9 housing requires increased expenditures of public funds for crime  
 10 prevention, public health and safety, fire and accident prevention,  
 11 and other public services and facilities.

12 (4) The establishment of a supplemental housing program under  
 13 this section will do the following:

14 (A) Benefit the health, safety, morals, and welfare of the  
 15 county and the state.

16 (B) Serve to protect and increase property values in the county  
 17 and the state.

18 (C) Benefit persons of low and moderate income by making  
 19 affordable housing available to them.

20 (5) The establishment of a supplemental housing program under  
 21 this section and sections 32 through 35 of this chapter is:

22 (A) necessary in the public interest; and

23 (B) a public use and purpose for which public money may be  
 24 spent and private property may be acquired.

25 (b) In addition to its other powers with respect to a housing program  
 26 under sections 32 through 35 of this chapter, the commission may  
 27 establish a supplemental housing program. Except as provided by this  
 28 section, the commission has the same powers and duties with respect  
 29 to the supplemental housing program that the commission has under  
 30 sections 32 through 35 of this chapter with respect to the housing  
 31 program.

32 (c) One (1) allocation area may be established for the supplemental  
 33 housing program. The commission is not required to make the findings  
 34 required under section 34(5) through 34(8) of this chapter with respect  
 35 to the allocation area. However, the commission must find that the  
 36 property contained within the boundaries of the allocation area consists  
 37 solely of one (1) or more multiple family housing projects that are or  
 38 have been covered, in whole or in part, by a contract for project based  
 39 assistance from the United States Department of Housing and Urban  
 40 Development or have been owned at one time by a public housing  
 41 agency. The allocation area need not be contiguous. The definition of  
 42 "base assessed value" set forth in section 35(a) of this chapter applies

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1 to the special fund established under section 26(b) of this chapter for  
2 the allocation area.

3 (d) The special fund established under section 26(b) of this chapter  
4 for the allocation area established under this section may be used only  
5 for the following purposes:

6 (1) Subject to subdivision (2), on January 1 and July 1 of each  
7 year the balance of the special fund shall be transferred to the  
8 housing trust fund established under subsection (e).

9 (2) The commission may provide each taxpayer in the allocation  
10 area a credit for property tax replacement in the manner provided  
11 by section 35(b)(7) of this chapter. Transfers made under  
12 subdivision (1) shall be reduced by the amount necessary to  
13 provide the credit.

14 (e) The commission shall, by resolution, establish a housing trust  
15 fund to be administered, subject to the terms of the resolution, by:

16 (1) the housing division of the consolidated city; or

17 (2) the department, division, or agency that has been designated  
18 to perform the public housing function by an ordinance adopted  
19 under IC 36-7-18-1.

20 (f) The housing trust fund consists of:

21 (1) amounts transferred to the fund under subsection (d);

22 (2) payments in lieu of taxes deposited in the fund under  
23 IC 36-3-2-11;

24 (3) gifts and grants to the fund;

25 (4) investment income earned on the fund's assets;

26 (5) money deposited in the fund under IC 36-2-7-10(j); and

27 (6) other funds from sources approved by the commission.

28 (g) The commission shall, by resolution, establish uses for the  
29 housing trust fund. However, the uses must be limited to:

30 (1) providing financial assistance to those individuals and  
31 families whose income is at or below eighty percent (80%) of the  
32 county's median income for individuals and families, respectively,  
33 to enable those individuals and families to purchase or lease  
34 residential units within the county;

35 (2) paying expenses of administering the fund;

36 (3) making grants, loans, and loan guarantees for the  
37 development, rehabilitation, or financing of affordable housing  
38 for individuals and families whose income is at or below eighty  
39 percent (80%) of the county's median income for individuals and  
40 families, respectively, including the elderly, persons with  
41 disabilities, and homeless individuals and families; ~~and~~

42 (4) providing technical assistance to nonprofit developers of

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1 affordable housing; and

2 **(5) funding other programs considered appropriate to meet**  
 3 **the affordable housing and community development needs of**  
 4 **lower income families (as defined in IC 5-20-4-5) and very low**  
 5 **income families (as defined in IC 5-20-4-6), including lower**  
 6 **income elderly individuals, individuals with disabilities, and**  
 7 **homeless individuals.**

8 (h) At least fifty percent (50%) of the dollars allocated for  
 9 production, rehabilitation, or purchase of housing must be used for  
 10 units to be occupied by individuals and families whose income is at or  
 11 below fifty percent (50%) of the county's area median income for  
 12 individuals and families, respectively.

13 (i) The low income housing trust fund advisory committee is  
 14 established. The low-income housing trust fund advisory committee  
 15 consists of eleven (11) members. The membership of the low income  
 16 housing trust fund advisory committee is comprised of:

17 (1) one (1) member appointed by the mayor, to represent the  
 18 interests of low income families;

19 (2) one (1) member appointed by the mayor, to represent the  
 20 interests of owners of subsidized, multifamily housing  
 21 communities;

22 (3) one (1) member appointed by the mayor, to represent the  
 23 interests of banks and other financial institutions;

24 (4) one (1) member appointed by the mayor, of the department of  
 25 metropolitan development;

26 (5) three (3) members representing the community at large  
 27 appointed by the commission, from nominations submitted to the  
 28 commission as a result of a general call for nominations from  
 29 neighborhood associations, community based organizations, and  
 30 other social services agencies;

31 (6) one (1) member appointed by and representing the Coalition  
 32 for Homeless Intervention and Prevention of Greater Indianapolis;

33 (7) one (1) member appointed by and representing the Local  
 34 Initiatives Support Corporation;

35 (8) one (1) member appointed by and representing the  
 36 Indianapolis Coalition for Neighborhood Development; and

37 (9) one (1) member appointed by and representing the  
 38 Indianapolis Neighborhood Housing Partnership.

39 Members of the low income housing trust fund advisory committee  
 40 serve for a term of four (4) years, and are eligible for reappointment. If  
 41 a vacancy exists on the committee, the appointing authority who  
 42 appointed the former member whose position has become vacant shall

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1 appoint an individual to fill the vacancy. A committee member may be  
2 removed at any time by the appointing authority who appointed the  
3 committee member.

4 (j) The low income housing trust fund advisory committee shall  
5 make recommendations to the commission regarding:

6 (1) the development of policies and procedures for the uses of the  
7 low income housing trust fund; and

8 (2) long term sources of capital for the low income housing trust  
9 fund, including:

10 (A) revenue from:

11 (i) development ordinances;

12 (ii) fees; or

13 (iii) taxes;

14 (B) financial market based income;

15 (C) revenue derived from private sources; and

16 (D) revenue generated from grants, gifts, donations, or income  
17 in any other form, from a:

18 (i) government program;

19 (ii) foundation; or

20 (iii) corporation.

21 (k) The county treasurer shall invest the money in the fund not  
22 currently needed to meet the obligations of the fund in the same  
23 manner as other public funds may be invested.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1132, has had the same under consideration and begs leave to report the same back to the House 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 32-29-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. As used in this chapter, "payoff statement" means a **written** statement of the amount of:

- (1) the unpaid balance of a loan secured by a mortgage, including principal, interest, and any other charges properly due under or secured by the mortgage; and
- (2) interest on a per day basis for the unpaid balance."

Page 2, line 3, delete "not received an objection" and insert "**received, before executing and recording the certificate of release, written consent**".

Page 2, line 8, delete "The" and insert "**If the**".

Page 2, line 9, after "insurance company" insert "**has received the written consent required under subsection (a) from a person described in subsection (a)(1) or (a)(2), the title insurance company, officer of the title insurance company, or agent of the title insurance company**".

Page 3, delete lines 24 through 37, begin a new paragraph and insert:

"SECTION 3. IC 36-7-15.1-35.5, AS AMENDED BY P.L.211-2007, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 35.5. (a) The general assembly finds the following:

- (1) Federal law permits the sale of a multiple family housing project that is or has been covered, in whole or in part, by a contract for project based assistance from the United States Department of Housing and Urban Development without requiring the continuation of that project based assistance.
- (2) Such a sale displaces the former residents of a multiple family housing project described in subdivision (1) and increases the shortage of safe and affordable housing for persons of low and moderate income within the county.
- (3) The displacement of families and individuals from affordable housing requires increased expenditures of public funds for crime



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prevention, public health and safety, fire and accident prevention, and other public services and facilities.

(4) The establishment of a supplemental housing program under this section will do the following:

(A) Benefit the health, safety, morals, and welfare of the county and the state.

(B) Serve to protect and increase property values in the county and the state.

(C) Benefit persons of low and moderate income by making affordable housing available to them.

(5) The establishment of a supplemental housing program under this section and sections 32 through 35 of this chapter is:

(A) necessary in the public interest; and

(B) a public use and purpose for which public money may be spent and private property may be acquired.

(b) In addition to its other powers with respect to a housing program under sections 32 through 35 of this chapter, the commission may establish a supplemental housing program. Except as provided by this section, the commission has the same powers and duties with respect to the supplemental housing program that the commission has under sections 32 through 35 of this chapter with respect to the housing program.

(c) One (1) allocation area may be established for the supplemental housing program. The commission is not required to make the findings required under section 34(5) through 34(8) of this chapter with respect to the allocation area. However, the commission must find that the property contained within the boundaries of the allocation area consists solely of one (1) or more multiple family housing projects that are or have been covered, in whole or in part, by a contract for project based assistance from the United States Department of Housing and Urban Development or have been owned at one time by a public housing agency. The allocation area need not be contiguous. The definition of "base assessed value" set forth in section 35(a) of this chapter applies to the special fund established under section 26(b) of this chapter for the allocation area.

(d) The special fund established under section 26(b) of this chapter for the allocation area established under this section may be used only for the following purposes:

(1) Subject to subdivision (2), on January 1 and July 1 of each year the balance of the special fund shall be transferred to the housing trust fund established under subsection (e).

(2) The commission may provide each taxpayer in the allocation

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area a credit for property tax replacement in the manner provided by section 35(b)(7) of this chapter. Transfers made under subdivision (1) shall be reduced by the amount necessary to provide the credit.

(e) The commission shall, by resolution, establish a housing trust fund to be administered, subject to the terms of the resolution, by:

- (1) the housing division of the consolidated city; or
- (2) the department, division, or agency that has been designated to perform the public housing function by an ordinance adopted under IC 36-7-18-1.

(f) The housing trust fund consists of:

- (1) amounts transferred to the fund under subsection (d);
- (2) payments in lieu of taxes deposited in the fund under IC 36-3-2-11;
- (3) gifts and grants to the fund;
- (4) investment income earned on the fund's assets;
- (5) money deposited in the fund under IC 36-2-7-10(j); and
- (6) other funds from sources approved by the commission.

(g) The commission shall, by resolution, establish uses for the housing trust fund. However, the uses must be limited to:

- (1) providing financial assistance to those individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, to enable those individuals and families to purchase or lease residential units within the county;
- (2) paying expenses of administering the fund;
- (3) making grants, loans, and loan guarantees for the development, rehabilitation, or financing of affordable housing for individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, including the elderly, persons with disabilities, and homeless individuals and families; ~~and~~
- (4) providing technical assistance to nonprofit developers of affordable housing; **and**
- (5) funding other programs considered appropriate to meet the affordable housing and community development needs of lower income families (as defined in IC 5-20-4-5) and very low income families (as defined in IC 5-20-4-6), including lower income elderly individuals, individuals with disabilities, and homeless individuals.**

(h) At least fifty percent (50%) of the dollars allocated for production, rehabilitation, or purchase of housing must be used for

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units to be occupied by individuals and families whose income is at or below fifty percent (50%) of the county's area median income for individuals and families, respectively.

(i) The low income housing trust fund advisory committee is established. The low-income housing trust fund advisory committee consists of eleven (11) members. The membership of the low income housing trust fund advisory committee is comprised of:

- (1) one (1) member appointed by the mayor, to represent the interests of low income families;
- (2) one (1) member appointed by the mayor, to represent the interests of owners of subsidized, multifamily housing communities;
- (3) one (1) member appointed by the mayor, to represent the interests of banks and other financial institutions;
- (4) one (1) member appointed by the mayor, of the department of metropolitan development;
- (5) three (3) members representing the community at large appointed by the commission, from nominations submitted to the commission as a result of a general call for nominations from neighborhood associations, community based organizations, and other social services agencies;
- (6) one (1) member appointed by and representing the Coalition for Homeless Intervention and Prevention of Greater Indianapolis;
- (7) one (1) member appointed by and representing the Local Initiatives Support Corporation;
- (8) one (1) member appointed by and representing the Indianapolis Coalition for Neighborhood Development; and
- (9) one (1) member appointed by and representing the Indianapolis Neighborhood Housing Partnership.

Members of the low income housing trust fund advisory committee serve for a term of four (4) years, and are eligible for reappointment. If a vacancy exists on the committee, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy. A committee member may be removed at any time by the appointing authority who appointed the committee member.

(j) The low income housing trust fund advisory committee shall make recommendations to the commission regarding:

- (1) the development of policies and procedures for the uses of the low income housing trust fund; and
- (2) long term sources of capital for the low income housing trust fund, including:

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- (A) revenue from:
  - (i) development ordinances;
  - (ii) fees; or
  - (iii) taxes;
- (B) financial market based income;
- (C) revenue derived from private sources; and
- (D) revenue generated from grants, gifts, donations, or income in any other form, from a:
  - (i) government program;
  - (ii) foundation; or
  - (iii) corporation.

(k) The county treasurer shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1132 as introduced.)

BURTON, Chair

Committee Vote: yeas 10, nays 0.

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