

SENATE BILL No. 308

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-30-10.7.

Synopsis: Abandoned structure mortgage liens. Permits a local governmental unit to extinguish a mortgage lien on an abandoned structure under certain circumstances.

Effective: July 1, 2013.

Broden

January 8, 2013, read first time and referred to Committee on Local Government.

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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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SENATE BILL No. 308



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 32-30-10.7 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2013]:
- 4 **Chapter 10.7. Removal of Abandoned Structure Mortgage and**
- 5 **Vendor's Liens**
- 6 **Sec. 1. The following definitions apply throughout this chapter:**
- 7 (1) "Abandoned structure" has the meaning set forth in
- 8 IC 36-7-36-1.
- 9 (2) "Unit" means a county or municipality, including an
- 10 agency or enforcement authority of a county or municipality.
- 11 **Sec. 2. If:**
- 12 (1) six (6) months have elapsed from the date a structure
- 13 became an abandoned structure;
- 14 (2) the structure remains an abandoned structure;
- 15 (3) the abandoned structure is encumbered by a mortgage or
- 16 vendor's lien; and
- 17 (4) the abandoned structure presents a danger to the health or



1 safety of the community;
 2 a unit may file an action in a circuit or superior court to extinguish
 3 the lien.

4 **Sec. 3.** A unit filing an action under section 2 of this chapter
 5 shall name the owner of the abandoned structure and the
 6 lienholder on the abandoned structure as defendants and serve
 7 them with copies of all documents in accordance with the Indiana
 8 rules of trial procedure.

9 **Sec. 4.** If a unit proves by a preponderance of the evidence that:

- 10 (1) six (6) months have elapsed from the date a structure
 11 became an abandoned structure;
 12 (2) the structure remains an abandoned structure;
 13 (3) the abandoned structure is encumbered by a mortgage or
 14 vendor's lien; and
 15 (4) the abandoned structure presents a danger to the health or
 16 safety of the community;

17 the court shall issue a provisional order extinguishing the mortgage
 18 or vendor's lien on the abandoned structure.

19 **Sec. 5.** After issuing a provisional order extinguishing the
 20 mortgage or vendor's lien under section 4 of this chapter, the court
 21 shall issue a stay of the order for a period of at least ninety (90)
 22 days and not more than one hundred eighty (180) days. The stay
 23 period is tolled during any period in which an action to foreclose
 24 the lienholder's lien on the abandoned structure is pending.

25 **Sec. 6. (a)** If, during the pendency of the stay, the lienholder on
 26 the abandoned structure or owner of the abandoned structure
 27 demonstrates that all liens held by the lienholder have been
 28 released, the court shall rescind its provisional order extinguishing
 29 the mortgage or vendor's lien.

30 (b) If, during the pendency of the stay, the lienholder on the
 31 abandoned structure or owner of the abandoned structure
 32 demonstrates that the structure is no longer an abandoned
 33 structure, the court may, if the structure is not habitable but is
 34 under repair, extend the stay for the duration of the repairs, if the
 35 court finds that repairs are being made in good faith and in a
 36 manner reasonably calculated to make the structure habitable.

37 (c) If, during the pendency of the stay, the lienholder on the
 38 abandoned structure or owner of the abandoned structure
 39 demonstrates that the structure is no longer an abandoned
 40 structure and is habitable, the court shall rescind its provisional
 41 order extinguishing the mortgage or vendor's lien.

42 (d) If, at the conclusion of the stay period, the structure remains

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1 an abandoned structure and the mortgage or vendor's lien has not
2 been released, the court shall issue a final order extinguishing the
3 mortgage or vendor's lien.
4 Sec. 7. If a court has issued a final order extinguishing a
5 mortgage or vendor's lien, the recorder in whose office the
6 mortgage is recorded may record the order. The recorded final
7 order extinguishing the mortgage or vendor's lien bars all suits and
8 actions on the mortgage or lien.
9 Sec. 8. A final order extinguishing a mortgage or vendor's lien
10 under section 6(d) of this chapter is an appealable final order.

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