
HOUSE BILL No. 1537

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-29-7-3; IC 32-30; IC 36-7-36-1.

Synopsis: Abandoned houses. Permits an enforcement authority to file a praecipe for a sheriff's sale following a foreclosure action if: (1) the creditor does not file a praecipe within 30 days; and (2) the enforcement authority has issued an abatement order with respect to the property. Requires the plaintiff in a mortgage foreclosure action to notify the appropriate enforcement authority: (1) when the plaintiff files the complaint; and (2) if the complaint is dismissed. Permits an enforcement authority to petition a court to determine that a property is abandoned before a creditor has filed a foreclosure action. Requires the enforcement authority to serve a copy of its petition on the debtor, creditor, and any other appropriate party. Provides that, if a court finds that the property is abandoned, the creditor must file a foreclosure action within 90 days. Makes conforming amendments.

Effective: July 1, 2013.

Price, Clere, Burton

January 22, 2013, read first time and referred to Committee on Judiciary.

C
O
P
Y



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.

C
O
P
Y

HOUSE BILL No. 1537



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 32-29-7-3, AS AMENDED BY P.L.102-2012,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 3. (a) In a proceeding for the foreclosure of a
4 mortgage executed on real estate, process may not issue for the
5 execution of a judgment or decree of sale for a period of three (3)
6 months after the filing of a complaint in the proceeding. However:
7 (1) the period is:
8 (A) twelve (12) months in a proceeding for the foreclosure of
9 a mortgage executed before January 1, 1958; and
10 (B) six (6) months in a proceeding for the foreclosure of a
11 mortgage executed after December 31, 1957, but before July
12 1, 1975; and
13 (2) if the court finds under IC 32-30-10.6 or **IC 32-30-10.7** that
14 the mortgaged real estate has been abandoned, a judgment or
15 decree of sale may be executed on the date the judgment of
16 foreclosure or decree of sale is entered, regardless of the date the
17 mortgage is executed.



1 (b) A judgment and decree in a proceeding to foreclose a mortgage
 2 that is entered by a court having jurisdiction may be filed with the clerk
 3 in any county as provided in IC 33-32-3-2. After the period set forth in
 4 subsection (a) expires, a person who may enforce the judgment and
 5 decree may file a praecipe with the clerk in any county where the
 6 judgment and decree is filed, and the clerk shall promptly issue and
 7 certify to the sheriff of that county a copy of the judgment and decree
 8 under the seal of the court. However, if:

9 (1) a praecipe is not filed with the clerk within ~~one hundred eighty~~
 10 **(+80) thirty (30)** days after the later of the dates on which:

11 (A) the period specified in subsection (a) expires; or

12 (B) the judgment and decree is filed; and

13 (2) the sale is not:

14 (A) otherwise prohibited by law;

15 (B) subject to a voluntary statewide foreclosure moratorium;
 16 or

17 (C) subject to a written agreement that:

18 (i) provides for a delay in the sale of the mortgaged real
 19 estate; and

20 (ii) is executed by and between the owner of the mortgaged
 21 real estate and a party entitled to enforce the judgment and
 22 decree;

23 an enforcement authority that has issued an abatement order under
 24 IC 36-7-36-9 with respect to the mortgaged real estate may file a
 25 praecipe with the clerk in any county where the judgment and decree
 26 is filed. If an enforcement authority files a praecipe under this
 27 subsection, the clerk of the county in which the praecipe is filed shall
 28 promptly issue and certify to the sheriff of that county a copy of the
 29 judgment and decree under the seal of the court.

30 (c) Upon receiving a certified judgment under subsection (b), the
 31 sheriff shall, subject to section 4 of this chapter, sell the mortgaged
 32 premises or as much of the mortgaged premises as necessary to satisfy
 33 the judgment, interest, and costs at public auction at the office of the
 34 sheriff or at another location that is reasonably likely to attract higher
 35 competitive bids. The sheriff shall schedule the date and time of the
 36 sheriff's sale for:

37 (1) a date not later than one hundred twenty (120) days after the
 38 date on which the judgment and decree under seal of the court are
 39 certified to the sheriff by the clerk; and

40 (2) a time certain between the hours of 10 a.m. and 4 p.m. on any
 41 day of the week except Sunday.

42 (d) Before selling mortgaged property, the sheriff must advertise the

C
O
P
Y



1 sale by publication once each week for three (3) successive weeks in
 2 a daily or weekly newspaper of general circulation. The sheriff shall
 3 publish the advertisement in at least one (1) newspaper published and
 4 circulated in each county where the real estate is situated. The first
 5 publication shall be made at least thirty (30) days before the date of
 6 sale. At the time of placing the first advertisement by publication, the
 7 sheriff shall also serve a copy of the written or printed notice of sale
 8 upon each owner of the real estate. Service of the written notice shall
 9 be made as provided in the Indiana Rules of Trial Procedure governing
 10 service of process upon a person. The sheriff shall charge a fee of ten
 11 dollars (\$10) to one (1) owner and three dollars (\$3) to each additional
 12 owner for service of written notice under this subsection. The fee is:

13 (1) a cost of the proceeding;

14 (2) to be collected as other costs of the proceeding are collected;
 15 and

16 (3) to be deposited in the county general fund for appropriation
 17 for operating expenses of the sheriff's department.

18 (e) The sheriff also shall post written or printed notices of the sale
 19 at the door of the courthouse of each county in which the real estate is
 20 located.

21 (f) If the sheriff is unable to procure the publication of a notice
 22 within the county, the sheriff may dispense with publication. The
 23 sheriff shall state that the sheriff was not able to procure the
 24 publication and explain the reason why publication was not possible.

25 (g) Notices under subsections (d) and (e) must contain a statement,
 26 for informational purposes only, of the location of each property by
 27 street address, if any, or other common description of the property other
 28 than legal description. A misstatement in the informational statement
 29 under this subsection does not invalidate an otherwise valid sale.

30 (h) The sheriff may charge an administrative fee of not more than
 31 two hundred dollars (\$200) with respect to a proceeding referred to in
 32 subsection (b) for actual costs directly attributable to the administration
 33 of the sale under subsection (c). The fee is:

34 (1) payable by the person seeking to enforce the judgment and
 35 decree; and

36 (2) due at the time of filing of the praecipe;
 37 under subsection (b).

38 SECTION 2. IC 32-30-10-3, AS AMENDED BY P.L.105-2009,
 39 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 JULY 1, 2013]: Sec. 3. (a) Subject to IC 32-30-10.5 with respect to
 41 mortgage transactions described in IC 32-30-10.5-5, if a mortgagor
 42 defaults in the performance of any condition contained in a mortgage,

C
O
P
Y



1 the mortgagee or the mortgagee's assigns may proceed in the circuit
2 court of the county where the real estate is located to foreclose the
3 equity of redemption contained in the mortgage.

4 (b) If the real estate is located in more than one (1) county, the
5 circuit court of any county in which the real estate is located has
6 jurisdiction for an action for the foreclosure of the equity of redemption
7 contained in the mortgage.

8 **(c) If a person brings an action to foreclose a mortgage under
9 this section, the person shall, not later than the time of filing, serve
10 a copy of the complaint on the enforcement authority (as defined
11 in IC 36-7-9-2) that has jurisdiction in the location of the property
12 that is the subject of a mortgage foreclosure action.**

13 **(d) If a mortgage foreclosure action is withdrawn or dismissed
14 (with or without prejudice), the plaintiff shall, not later than three
15 (3) days after the action is withdrawn or dismissed, notify in
16 writing:**

17 **(1) the enforcement authority that has jurisdiction in the
18 location of the property that is the subject of a mortgage
19 foreclosure action that the action has been dismissed; and**

20 **(2) the property owner.**

21 SECTION 3. IC 32-30-10.5-8, AS AMENDED BY P.L.102-2012,
22 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2013]: Sec. 8. (a) This section applies to a foreclosure action
24 that is filed after June 30, 2009. Except as provided in subsection (e)
25 and section 10(g) of this chapter, not later than thirty (30) days before
26 a creditor files an action for foreclosure, the creditor shall send to the
27 debtor by certified mail a presuit notice on a form prescribed by the
28 authority. The notice required by this subsection must do the following:

29 (1) Inform the debtor that:

30 (A) the debtor is in default;

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

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

36 (i) Appeal a finding of abandonment by a court under
37 IC 32-30-10.6 or **IC 32-30-10.7.**

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

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

C
o
p
y



- 1 (2) Provide the contact information for the Indiana Foreclosure
2 Prevention Network.
- 3 (3) Include the following statement printed in at least 14 point
4 boldface type:
- 5 "NOTICE REQUIRED BY STATE LAW
6 Mortgage foreclosure is a complex process. People may
7 approach you about "saving" your home. You should be
8 careful about any such promises. There are government
9 agencies and nonprofit organizations you may contact for
10 helpful information about the foreclosure process. For the
11 name and telephone number of an organization near you,
12 please call the Indiana Foreclosure Prevention Network.".
- 13 (b) The notice required by subsection (a) shall be sent to:
- 14 (1) the address of the mortgaged property; or
15 (2) the last known mailing address of the debtor if the creditor's
16 records indicate that the mailing address of the debtor is other
17 than the address of the mortgaged property.
- 18 If the creditor provides evidence that the notice required by subsection
19 (a) was sent by certified mail, return receipt requested, and in
20 accordance with this subsection, it is not necessary that the debtor
21 accept receipt of the notice for an action to proceed as allowed under
22 this chapter.
- 23 (c) Except as provided in subsection (e) and section 10(g) of this
24 chapter, if a creditor files an action to foreclose a mortgage, the creditor
25 shall:
- 26 (1) in the case of a foreclosure action filed after June 30, 2009,
27 but before July 1, 2011, include with the complaint served on the
28 debtor, on a form prescribed by the authority; and
29 (2) subject to subsection (f), in the case of a foreclosure action
30 filed after June 30, 2011, include on the first page of the summons
31 that is served on the debtor in conjunction with the complaint;
32 a notice that informs the debtor of the debtor's right to participate in a
33 settlement conference, subject to section 9(b) of this chapter. The
34 notice under subdivision (1) or (2) must inform the debtor that the
35 debtor may schedule a settlement conference by notifying the court, not
36 later than thirty (30) days after the complaint is served on the debtor,
37 of the debtor's intent to participate in a settlement conference.
- 38 (d) If a creditor files an action to foreclose a mortgage, the creditor
39 shall do the following:
- 40 (1) Include with the complaint filed with the court:
41 (A) except as provided in subsection (e) and section 10(g) of
42 this chapter, a copy of the notices sent to the debtor under

C
o
p
y

1 subsections (a) and (c), if the foreclosure action is filed after
2 June 30, 2009, but before July 1, 2011; or

3 (B) the following, if the foreclosure action is filed after June
4 30, 2011:

5 (i) Except as provided in subsection (e) and section 10(g) of
6 this chapter, a copy of the notice sent to the debtor under
7 subsection (a).

8 (ii) The following most recent contact information for the
9 debtor that the creditor has on file: all telephone numbers
10 and electronic mail addresses for the debtor and any mailing
11 address described in subsection (b)(2). The contact
12 information provided under this item is confidential under
13 IC 5-14-3-4(a)(13).

14 (2) For a foreclosure action filed after June 30, 2011, at the time
15 the complaint is filed with the court, send:

16 (A) by certified mail, return receipt requested; and

17 (B) to the last known mailing address of the insurance
18 company;

19 a copy of the complaint filed with the court to the insurance
20 company of record for the property that is the subject of the
21 foreclosure action.

22 It is not necessary that the insurance company accept receipt of the
23 copy of the complaint for the creditor to satisfy the requirement of
24 subdivision (2). A creditor's failure to provide a copy of the complaint
25 as required by subdivision (2) does not affect the foreclosure action or
26 subject the creditor to any liability. Subject to section 9(b) of this
27 chapter, in the case of a foreclosure action filed after June 30, 2011,
28 upon the filing of the complaint by the creditor, the court shall send to
29 the debtor, by United States mail and to the address of the mortgaged
30 property, or to an address for the debtor provided by the creditor under
31 subdivision (1)(B)(ii), if applicable, a notice that informs the debtor of
32 the debtor's right to participate in a settlement conference. The court's
33 notice must inform the debtor that the debtor may schedule a settlement
34 conference by notifying the court of the debtor's intent to participate in
35 a settlement conference. The court's notice must specify a date by
36 which the debtor must request a settlement conference, which date
37 must be the date that is thirty (30) days after the date of the creditor's
38 service of the complaint on the debtor under subsection (c), as
39 determined by the court from the service list included with the
40 complaint filed with the court. The court may not delegate the duty to
41 send the notice the court is required to provide under this subsection to
42 the creditor or to any other person.

C
O
P
Y



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

3 (1) the mortgage is secured by a dwelling that is not occupied by
4 the debtor as the debtor's primary residence;

5 (2) the mortgage has been the subject of a prior foreclosure
6 prevention agreement under this chapter and the debtor has
7 defaulted with respect to the terms of that foreclosure prevention
8 agreement; or

9 (3) bankruptcy law prohibits the creditor from participating in a
10 settlement conference under this chapter with respect to the
11 mortgage.

12 (f) Not later than June 1, 2011, the authority, in consultation with
13 the division of state court administration, shall prescribe language for
14 the notice required under subsection (c)(2) to be included on the first
15 page of the summons that is served on the debtor in a foreclosure action
16 filed after June 30, 2011. The language must convey the same
17 information as the form prescribed by the authority under subsection
18 (c)(1) for foreclosure actions filed after June 30, 2009, but before July
19 1, 2011. The authority shall make the language prescribed under this
20 subsection available on the authority's Internet web site. A creditor
21 complies with subsection (c)(2) in a foreclosure action filed after June
22 30, 2011, if the creditor includes on the first page of the summons
23 served on the debtor:

24 (1) the language that is prescribed by the authority under this
25 subsection and made available on the authority's Internet web site;

26 or

27 (2) language that conveys the same information as the language
28 that is prescribed by the authority under this subsection and made
29 available on the authority's Internet web site.

30 SECTION 4. IC 32-30-10.7 IS ADDED TO THE INDIANA CODE
31 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2013]:

33 **Chapter 10.7. Judicial Determination of Abandonment**

34 **Sec. 1. This chapter does not apply to a property with respect to**
35 **which a foreclosure action has been filed under IC 32-30-10-3.**

36 **Sec. 2. As used in this chapter, "enforcement authority" refers**
37 **to the enforcement authority (as defined in IC 36-7-9-2) that has**
38 **jurisdiction in the location of the property that is the subject of a**
39 **mortgage foreclosure action.**

40 **Sec. 3. At any time before a mortgage foreclosure action has**
41 **been filed, the enforcement authority that has jurisdiction in the**
42 **location of a mortgaged property may petition a court for a**

C
o
p
y



1 determination that the mortgaged property is abandoned. A
 2 petition filed with the court under this section must:

- 3 (1) include a statement of the enforcement authority's
 4 jurisdiction in the location of the mortgaged property;
 5 (2) allege that the mortgaged property is abandoned; and
 6 (3) include evidence that one (1) or more of the conditions set
 7 forth in section 5(a) or 5(b) of this chapter apply.

8 A petition under this section shall be served on the creditor, debtor,
 9 and any other appropriate party in the manner prescribed by the
 10 Indiana Rules of Trial Procedure.

11 Sec. 4. (a) Upon receiving a request for a determination of
 12 abandonment from an enforcement authority through a petition
 13 filed with the court and served on the required parties in
 14 accordance with section 3 of this chapter, the court shall issue an
 15 order to show cause as to why the property should not be found to
 16 be abandoned and directing the petitioner, the debtor, the creditor,
 17 and any other person or party the court considers appropriate to
 18 appear before the court on a date and time specified in the order
 19 under subdivision (1). The court's order under this subsection must
 20 do the following:

21 (1) Direct the parties subject to the order to appear before the
 22 court on a date and time specified by the court. The date
 23 specified under this subdivision must not be:

- 24 (A) earlier than fifteen (15) days; or
 25 (B) later than twenty-five (25) days;

26 after the date of the court's order under this section.

27 (2) Notify the parties subject to the order that any party
 28 ordered to appear:

29 (A) may present evidence or objections on the issue of
 30 abandonment to the court:

31 (i) in writing before the appearance date specified by the
 32 court under subdivision (1); or

33 (ii) in writing or by oral testimony on the date and at the
 34 time specified by the court under subdivision (1);

35 in the manner specified by the court; and

36 (B) has the right to be represented by an attorney when
 37 appearing before the court.

38 (3) Notify the parties subject to the order that if a party fails
 39 to:

40 (A) submit written evidence or objections to the court
 41 before the appearance date specified by the court under
 42 subdivision (1); or

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

(B) appear before the court on the date and at the time specified by the court under subdivision (1); the failure to submit evidence or objections or to appear before the court may result in a finding of abandonment by the court.

(b) A party subject to an order issued by the court under this section has the following rights, as described in the court's order under subsection (a):

(1) The right to present evidence or objections on the issue of abandonment to the court:

(A) in writing before the appearance date specified in the court's order under subsection (a)(1); or

(B) in writing or by oral testimony on the date and at the time specified in the court's order under subsection (a)(1); in the manner specified by the court.

(2) The right to be represented by an attorney when appearing before the court.

Sec. 5. (a) Subject to subsection (b), for purposes of an abandonment determination under this chapter, one (1) or more of the following constitute prima facie evidence that mortgaged property is abandoned:

(1) The enforcement authority that has jurisdiction in the location of the mortgaged property has issued an order under IC 36-7-36-9 with respect to the property.

(2) Windows or entrances to the mortgaged property are boarded up or closed off.

(3) Multiple window panes on the mortgaged property are broken and unrepaired.

(4) One (1) or more doors to the mortgaged property are smashed through, broken off, unhinged, or continuously unlocked.

(5) Gas service, electric service, water service, or other utility service to the mortgaged property has been terminated.

(6) Rubbish, trash, or debris has accumulated on the mortgaged property.

(7) The mortgaged property is deteriorating and is either below or in imminent danger of falling below minimum community standards for public safety and sanitation.

(8) The creditor has changed the locks on the mortgaged property and for at least fifteen (15) days after the changing of the locks the owner has not requested entrance to the mortgaged property.

C
o
p
y



1 (9) One (1) or more written statements, including documents
2 of conveyance, exist that have been executed by the debtor, or
3 by the debtor's personal representatives or assigns, and that
4 indicate a clear intent to abandon the mortgaged property.

5 (10) Other evidence exists indicating a clear intent to abandon
6 the mortgaged property.

7 (b) Regardless of whether any of the conditions described in
8 subsection (a) are found to apply, the failure to either:

9 (1) present evidence or objections on the issue of
10 abandonment to the court in writing before the appearance
11 date specified in the court's order under section 4(a)(1) of this
12 chapter; or

13 (2) appear before the court on the date specified in the court's
14 order under section 4(a)(1) of this chapter;

15 constitutes prima facie evidence that the mortgaged property is
16 abandoned.

17 (c) If the court finds that:

18 (1) one (1) or more of the conditions described in subsection
19 (a) apply; or

20 (2) the circumstances described in subsection (b) apply;

21 the court shall issue an order finding that the mortgaged property
22 is abandoned.

23 **Sec. 6. If a court has issued an order under this chapter finding
24 that the mortgaged property is abandoned, the creditor shall file
25 an action to foreclose the mortgage not later than ninety (90) days
26 from the date the court issues its order.**

27 SECTION 5. IC 36-7-36-1, AS AMENDED BY P.L.102-2012,
28 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2013]: Sec. 1. As used in this chapter, "abandoned structure"
30 means any of the following:

31 (1) Commercial real property or a vacant structure on commercial
32 real property that is used or was previously used for industrial or
33 commercial purposes, and:

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

36 (B) for which the owner of the property or structure has been
37 given a written order by an enforcement authority to
38 rehabilitate or demolish, and the owner:

39 (i) has not applied for a permit to rehabilitate or demolish
40 the property or structure; or

41 (ii) applied for and was granted a permit, but rehabilitation
42 or demolition work has not commenced on the property or

C
o
p
y



- 1 structure within thirty (30) days after the date the permit was
- 2 granted.
- 3 (2) Real property that has not been used for a legal purpose for at
- 4 least six (6) consecutive months and:
 - 5 (A) in the judgment of an enforcement authority, is in need of
 - 6 completion, rehabilitation, or repair, and completion,
 - 7 rehabilitation, or repair work has not taken place on the
 - 8 property for at least six (6) consecutive months;
 - 9 (B) on which at least one (1) installment of property taxes is
 - 10 delinquent; or
 - 11 (C) that has been declared a public nuisance by a hearing
 - 12 authority.
- 13 (3) Real property that has been declared in writing to be
- 14 abandoned by the owner, including an estate or a trust that
- 15 possesses the property.
- 16 (4) Vacant real property on which a municipal lien has remained
- 17 unpaid for at least one (1) year.
- 18 (5) Real estate that a court has determined to be abandoned under
- 19 IC 32-30-10.6 or IC 32-30-10.7.

C
o
p
y

