



Reprinted  
April 8, 2005

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**ENGROSSED**  
**SENATE BILL No. 295**

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DIGEST OF SB 295 (Updated April 7, 2005 5:29 pm - DI 107)

**Citations Affected:** IC 27-7; IC 32-21.

**Synopsis:** Instruments of defeasance and title searches. Requires certain instruments of defeasance concerning the conveyance of an estate in land, except deeds of defeasance or bonds, to: (1) be in a form required by the deed; (2) contain an accurate legal description of the estate in land; (3) be dated; (4) have been acknowledged before a notary public; (5) have been made for consideration; and (6) be recorded within 90 days after the date of the deed. Requires certain persons to perform a title search in conjunction with certain mortgages.

**Effective:** July 1, 2005.

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**Steele**

(HOUSE SPONSOR — FOLEY)

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January 6, 2005, read first time and referred to Committee on Judiciary.  
February 24, 2005, reported favorably — Do Pass.  
February 28, 2005, read second time, ordered engrossed. Engrossed.  
March 1, 2005, read third time, passed. Yeas 47, nays 1.

HOUSE ACTION

March 14, 2005, read first time and referred to Committee on Judiciary.  
April 4, 2005, reported — Do Pass.  
April 7, 2005, read second time, amended, ordered engrossed.

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April 8, 2005

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 295

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 27-7-3-18 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. The provisions of  
3 this chapter, **except section 21 of this chapter**, shall not apply to any  
4 insurance company organized or desiring to organize under and  
5 pursuant to IC 27-1 nor to any person, firm, partnership, corporation,  
6 limited liability company, association, or company whose business is  
7 the making of abstracts of title to real estate and attaching their  
8 certificate thereto and not engaging in the business of making title  
9 insurance, nor to any person, firm, partnership, corporation, limited  
10 liability company, or association acting as an authorized agent for a  
11 duly qualified title insurance company.

12 SECTION 2. IC 27-7-3-21 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. A company  
14 **described in section 3 of this chapter** that issues a title insurance policy  
15 shall perform or cause to be performed a title search for the real estate  
16 in conjunction with a mortgage secured by the real estate unless the  
17 mortgage meets all of the following requirements:

ES 295—LS 6433/DI 69+



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- 1 (1) The principal amount of the mortgage is not more than fifty
- 2 thousand dollars (\$50,000).
- 3 (2) The mortgage is subordinate to a prior mortgage where a title
- 4 search was conducted and a title policy was issued.
- 5 (3) The mortgage is not a reverse mortgage.
- 6 SECTION 3. IC 32-21-4-3 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) This section
- 8 applies when a deed:
- 9 (1) purports to contain an absolute conveyance of any estate in
- 10 land; and
- 11 (2) is made or intended to be made defeasible by:
- 12 (A) a deed of defeasance;
- 13 (B) a bond; or
- 14 (C) another instrument.
- 15 (b) The original conveyance is not defeated or affected against any
- 16 person other than ~~(1)~~ the maker of the defeasance, ~~(2)~~ the heirs or
- 17 devisees of the maker of the defeasance, or ~~(3)~~ persons having actual
- 18 notice of the defeasance unless the instrument of defeasance is:
- 19 **(1) a deed of defeasance or bond that is recorded in the**
- 20 **manner provided by law within ninety (90) days after the date**
- 21 **of the deed; or**
- 22 **(2) another instrument that:**
- 23 **(A) is in a form required by the deed;**
- 24 **(B) contains an accurate legal description of the estate in**
- 25 **land;**
- 26 **(C) is dated;**
- 27 **(D) has been acknowledged before a notary public;**
- 28 **(E) has been made for consideration; and**
- 29 **(F) is recorded in the manner provided by law within ninety**
- 30 **(90) days after the date of the deed.**

COPY



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 295, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 295 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 295, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

FOLEY, Chair

Committee Vote: yeas 10, nays 0.



HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 295 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-7-3-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. The provisions of this chapter, **except section 21 of this chapter**, shall not apply to any insurance company organized or desiring to organize under and pursuant to IC 27-1 nor to any person, firm, partnership, corporation, limited liability company, association, or company whose business is the making of abstracts of title to real estate and attaching their certificate thereto and not engaging in the business of making title insurance, nor to any person, firm, partnership, corporation, limited liability company, or association acting as an authorized agent for a duly qualified title insurance company.

SECTION 2. IC 27-7-3-21 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. A company described in section 3 of this chapter that issues a title insurance policy shall perform or cause to be performed a title search for the real estate in conjunction with a mortgage secured by the real estate unless the mortgage meets all of the following requirements:

- (1) The principal amount of the mortgage is not more than fifty thousand dollars (\$50,000).
- (2) The mortgage is subordinate to a prior mortgage where a title search was conducted and a title policy was issued.
- (3) The mortgage is not a reverse mortgage."

Renumber all SECTIONS consecutively.

(Reference is to ESB 295 as printed April 5, 2005.)

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