

HOUSE BILL No. 1166

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-29-7-3.

Synopsis: Notice of foreclosure sales. Eliminates the requirement that a sheriff post notice of a foreclosure sale in at least three public places in each township where the real estate is located.

Effective: July 1, 2008.

Herrell, Ulmer

January 10, 2008, read first time and referred to Committee on Government and Regulatory Reform.

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Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

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HOUSE BILL No. 1166



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.240-2005,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: 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 that the mortgaged real estate is residential
14 real estate and has been abandoned, a judgment or decree of sale
15 may be executed on the date the judgment of foreclosure or
16 decree of sale is entered, regardless of the date the mortgage is
17 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.

9 (c) Upon receiving a certified judgment under subsection (b), the
 10 sheriff shall, subject to section 4 of this chapter, sell the mortgaged
 11 premises or as much of the mortgaged premises as necessary to satisfy
 12 the judgment, interest, and costs at public auction at the office of the
 13 sheriff or at another location that is reasonably likely to attract higher
 14 competitive bids. The sheriff shall schedule the date and time of the
 15 sheriff's sale for a time certain between the hours of 10 a.m. and 4 p.m.
 16 on any day of the week except Sunday.

17 (d) Before selling mortgaged property, the sheriff must advertise the
 18 sale by publication once each week for three (3) successive weeks in
 19 a daily or weekly newspaper of general circulation. The sheriff shall
 20 publish the advertisement in at least one (1) newspaper published and
 21 circulated in each county where the real estate is situated. The first
 22 publication shall be made at least thirty (30) days before the date of
 23 sale. At the time of placing the first advertisement by publication, the
 24 sheriff shall also serve a copy of the written or printed notice of sale
 25 upon each owner of the real estate. Service of the written notice shall
 26 be made as provided in the Indiana Rules of Trial Procedure governing
 27 service of process upon a person. The sheriff shall charge a fee of ten
 28 dollars (\$10) to one (1) owner and three dollars (\$3) to each additional
 29 owner for service of written notice under this subsection. The fee is:

- 30 (1) a cost of the proceeding;
 31 (2) to be collected as other costs of the proceeding are collected;
 32 and
 33 (3) to be deposited in the county general fund for appropriation
 34 for operating expenses of the sheriff's department.

35 (e) The sheriff also shall post written or printed notices of the sale
 36 in ~~at least three (3) public places in each township in which the real~~
 37 ~~estate is situated and~~ at the door of the courthouse of each county in
 38 which the real estate is located.

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

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1 (g) Notices under subsections (d) and (e) must contain a statement,
2 for informational purposes only, of the location of each property by
3 street address, if any, or other common description of the property other
4 than legal description. A misstatement in the informational statement
5 under this subsection does not invalidate an otherwise valid sale.
6 (h) The sheriff may charge an administrative fee of not more than
7 two hundred dollars (\$200) with respect to a proceeding referred to in
8 subsection (b) for actual costs directly attributable to the administration
9 of the sale under subsection (c). The fee is:
10 (1) payable by the person seeking to enforce the judgment and
11 decree; and
12 (2) due at the time of filing of the praecipe;
13 under subsection (b).

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