

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 492 be amended to read as follows:

- 1 Page 3, line 18, delete "IC 32-30-10.5-9(a)," and insert
- 2 "**IC 32-30-10.5-8(a)**".
- 3 Page 10, between lines 25 and 26, begin a new paragraph and insert:
- 4 "SECTION 11. IC 32-29-7-3, AS AMENDED BY P.L.100-2008,
- 5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 6 JULY 1, 2009]: Sec. 3. (a) In a proceeding for the foreclosure of a
- 7 mortgage executed on real estate, process may not issue for the
- 8 execution of a judgment or decree of sale for a period of three (3)
- 9 months after the filing of a complaint in the proceeding. However:
- 10 (1) the period is:
- 11 (A) twelve (12) months in a proceeding for the foreclosure of
- 12 a mortgage executed before January 1, 1958; and
- 13 (B) six (6) months in a proceeding for the foreclosure of a
- 14 mortgage executed after December 31, 1957, but before July
- 15 1, 1975; and
- 16 (2) **subject to subsection (i)**, if the court finds that the mortgaged
- 17 real estate is residential real estate and has been abandoned, a
- 18 judgment or decree of sale may be executed on the date the
- 19 judgment of foreclosure or decree of sale is entered, regardless of
- 20 the date the mortgage is executed.
- 21 (b) A judgment and decree in a proceeding to foreclose a mortgage
- 22 that is entered by a court having jurisdiction may be filed with the clerk
- 23 in any county as provided in IC 33-32-3-2. After the period set forth in
- 24 subsection (a) expires, a person who may enforce the judgment and

1 decree may file a praecipe with the clerk in any county where the
2 judgment and decree is filed, and the clerk shall promptly issue and
3 certify to the sheriff of that county a copy of the judgment and decree
4 under the seal of the court.

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

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

26 (1) a cost of the proceeding;

27 (2) to be collected as other costs of the proceeding are collected;
28 and

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

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

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

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

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

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

3 (2) due at the time of filing of the praecipe;
4 under subsection (b).

5 **(i) This subsection applies to a foreclosure action that is filed**
6 **under IC 32-30-10 after June 30, 2009. If:**

7 **(1) a judgment and decree in a proceeding to foreclose a**
8 **mortgage is entered by a court having jurisdiction;**

9 **(2) a person who may enforce the judgment and decree has**
10 **not filed a praecipe under subsection (b) with the county clerk**
11 **not later than one hundred eighty (180) days after the entry**
12 **of the judgment by the court;**

13 **(3) the legislative body of any:**

14 **(A) municipality in which the property is located; or**

15 **(B) county in which the property is located, if the property**
16 **is not located in a municipality;**

17 **files a petition requesting a sheriff's sale with the clerk of the**
18 **county in which the judgment and decree is filed; and**

19 **(4) the court, after receiving a petition described in**
20 **subdivision (3), finds that the mortgaged real estate is**
21 **residential real estate and has been abandoned;**

22 **the clerk of the county in which the judgment and decree is filed**
23 **shall promptly issue and certify to the sheriff of that county a copy**
24 **of the judgment and decree under the seal of the court. Upon**
25 **receiving a copy of the judgment and decree under this subsection,**
26 **the sheriff shall proceed to sell the mortgaged premises as set forth**
27 **in this section. If, after a sheriff's sale is conducted under this**
28 **section, any part of the judgment, interest, or costs remain**
29 **unsatisfied, the judgment holder may not pursue any deficiency**
30 **judgment against the debtor."**

31 Page 11, line 13, delete "IC 32-30-10.5-9(a)" and insert
32 "**IC 32-30-10.5-8(a)**".

33 Page 13, delete lines 8 through 10.

34 Page 13, line 11, delete "9." and insert "**8.**".

35 Page 13, line 13, delete "11(g)" and insert "**10(g)**".

36 Page 13, line 33, delete "11(h)" and insert "**10(h)**".

37 Page 14, line 20, delete "10." and insert "**9.**".

38 Page 14, line 24, delete "9(c)" and insert "**8(c)**".

39 Page 14, line 27, delete "9(c)" and insert "**8(c)**".

40 Page 14, line 28, delete "9(c)" and insert "**8(c)**".

41 Page 14, line 31, delete "9(c)" and insert "**8(c)**".

42 Page 14, line 32, delete "9(c)" and insert "**8(c)**".

43 Page 14, line 37, delete "9(a)" and insert "**8(a)**".

44 Page 14, line 39, delete "11." and insert "**10.**".

45 Page 14, line 42, delete "9(c)" and insert "**8(c)**".

46 Page 17, line 14, delete "9" and insert "**8**".

- 1 Page 17, line 19, delete "12." and insert "**11.**".
- 2 Page 17, line 27, delete "9(c)" and insert "**8(c)**".
- 3 Renumber all SECTIONS consecutively.
(Reference is to ESB 492 as printed April 10, 2009.)

Representative Bardon