

SENATE MOTION

MADAM PRESIDENT:

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

- 1 Page 5, delete lines 12 through 42.
- 2 Delete page 6.
- 3 Page 7, delete lines 12 through 24.
- 4 Page 7, line 29, reset in roman "or".
- 5 Page 7, line 31, strike "or".
- 6 Page 7, delete lines 32 through 34.
- 7 Page 7, line 37, delete "." and insert "; or
- 8 **(3) proceed to foreclose a mortgage (as defined in**
- 9 **IC 32-30-10.5-5) until the notice under IC 32-30-10.5-8(a) has**
- 10 **been sent, if required."**
- 11 Page 8, line 27, delete "a person" and insert "**the mortgagor in a**
- 12 **first lien mortgage transaction (as defined in IC 24-4.4-1-301(6))."**
- 13 Page 8, delete lines 28 through 29.
- 14 Page 8, line 41, delete "or".
- 15 Page 8, line 42, delete "." and insert "; or
- 16 **(H) any loss mitigation arrangement or debtor relief plan**
- 17 **established by federal law."**
- 18 Page 9, line 12, after "2009," insert "**except as provided in**
- 19 **subsection (d) and section 10(f) of this chapter, before a creditor**
- 20 **files an action for foreclosure,"**
- 21 Page 9, line 12, delete "if a debtor defaults in the".
- 22 Page 9, line 13, delete "performance of any condition contained in
- 23 the mortgage,".
- 24 Page 9, line 15, after "notice" insert "**in a form prescribed by the**
- 25 **Indiana housing and community development authority established**
- 26 **by IC 5-20-1-3"**.
- 27 Page 9, line 24, delete "If" and insert "**Except as provided in**
- 28 **subsection (d) and section 10(f) of this chapter, if"**.
- 29 Page 9, line 26, before "of" insert "**that informs the debtor"**.
- 30 Page 9, line 26, after "of" insert "**a"**.
- 31 Page 9, line 26, after "conference." insert "**The notice shall be**

1 served with the complaint and in a form prescribed by the Indiana
2 housing and community development authority established by
3 IC 5-20-1-3."

4 Page 9, line 30, delete "complaint" and insert "notice".

5 Page 9, between lines 30 and 31, begin a new paragraph and insert:

6 **"(d) A creditor is not required to send the notices described in**
7 **this section if:**

8 **(1) the loan is secured by a dwelling that is not the debtor's**
9 **primary residence;**

10 **(2) the loan has been the subject of a prior foreclosure**
11 **prevention plan;**

12 **(3) bankruptcy law prohibits the creditor from participating**
13 **in a settlement conference under this chapter with respect to**
14 **the loan; or**

15 **(4) the court finds that a settlement conference would be of**
16 **limited value based on the result of a prior loss mitigation**
17 **effort between the debtor and the creditor."**

18 Page 10, line 8, delete "Except as provided in subsection (d), in" and
19 insert "**In**".

20 Page 10, line 10, delete "complaint is" and insert "**notice required**
21 **by section 8(a) of this chapter was sent unless the mortgaged**
22 **property is vacant."**

23 Page 10, delete lines 11 through 36.

24 Page 10, line 39, delete "." and insert "**if the debtor contacts the**
25 **court to schedule a settlement conference as described in section**
26 **8(c) of this chapter."**

27 Page 11, line 32, delete "at the county courthouse" and insert "**by**
28 **telephone**".

29 Page 11, line 34, delete "not later than twenty (20) days after the"
30 and insert "**a stipulation to modify the date, time, and place of the**
31 **settlement conference."**

32 Page 11, delete lines 35 through 42.

33 Page 12, delete lines 1 through 5.

34 Page 12, line 8, delete "." and insert "**, and, for cause shown, the**
35 **court may order the creditor and the debtor to reconvene a**
36 **settlement conference at any time before judgment is entered."**

37 Page 12, line 9, delete "held at a".

38 Page 12, line 10, delete "county courthouse under subsection
39 (a)(6)".

40 Page 12, line 19, delete "bind the creditor in negotiating a
41 foreclosure" and insert "**conduct negotiations."**

42 Page 12, delete line 20.

43 Page 12, line 28, after "reached." insert "**At the election of the**
44 **creditor, the foreclosure shall be dismissed or stayed for as long as**
45 **the debtor complies with the terms of the foreclosure prevention**
46 **plan.**

47 **(f) If a foreclosure is dismissed and a default in the terms of the**

- 1 **foreclosure prevention plan later occurs, the creditor or its assigns**
- 2 **may bring a foreclosure action without being required to send the**
- 3 **notices described in section 8 of this chapter.**
- 4 **(g) Participation in a settlement conference under this section**
- 5 **satisfies any mediation or alternative dispute resolution**
- 6 **requirement established by court rule."**
- 7 Page 12, line 35, delete ":".
- 8 Page 12, line 36, delete "(1)".
- 9 Page 12, line 36, after "of" insert "**the availability of**".
- 10 Page 12, line 36, delete "described in" and insert "**under section**
- 11 **8(c) of this chapter."**
- 12 Page 12, run in lines 35 through 36.
- 13 Page 12, delete lines 37 through 42.
- 14 Page 13, delete line 1.
- 15 Re-number all SECTIONS consecutively.
(Reference is to SB 492 as printed February 13, 2009.)

Senator TALLIAN