Reprinted
February 25, 2010

ENGROSSED
HOUSE BILL No. 1122

DIGEST OF HB 1122 (Updated February 24, 2010 3:59 pm - DI 106)

Citations Affected: IC 24-5.5; IC 32-29; IC 32-30; IC 36-7.

Synopsis: Abatement of vacant or abandoned structures. Combines two separate Indiana Code provisions concerning the presuit notice required in residential foreclosure proceedings into one section. Repeals one of the provisions being combined. Provides that the presuit notice must inform the debtor that if the creditor obtains a foreclosure judgment, the debtor has a right to do the following before a sheriff's sale is conducted: (1) Appeal a finding of abandonment by a court. (2) Redeem the real estate from the judgment. (3) Retain possession of the property, subject to certain conditions. Provides that an enforcement authority that has issued an abatement order for a vacant or abandoned structure may under certain conditions file a praecipe for the sale of the property with the clerk of the county after 180 days have elapsed from the date a foreclosure judgment and decree is filed, if the party that is entitled to enforce the judgment has not itself filed a praecipe.

Effective: July 1, 2010; January 1, 2011.

Riecken, Sullivan, Barnes, Burton

(SENATE SPONSORS — WYSS, BRODEN, TALLIAN, HOLDMAN, BREAUX, LANANE, TAYLOR)

January 7, 2010, read first time and referred to Committee on Financial Institutions.
January 25, 2010, amended, reported — Do Pass.
February 1, 2010, read second time, ordered engrossed. Engrossed.
February 2, 2010, read third time, passed. Yeas 88, nays 8.

SENATE ACTION

February 8, 2010, read first time and referred to Committee on Judiciary.
February 23, 2010, amended, reported favorably — Do Pass.
February 24, 2010, read second time, amended, ordered engrossed.

C o p y

Reprinted
February 25, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

C
o
p
y

ENGROSSED
HOUSE BILL No. 1122

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 24-5.5-1-1, AS AMENDED BY P.L.105-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. ~~Except for IC 24-5.5-3-1,~~ This article does not apply to the following:

(1) A person organized or chartered under the laws of this state, any other state, or the United States that relate to a bank, a trust company, a savings association, a savings bank, a credit union, or an industrial loan and investment company.

(2) The Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or a Federal Home Loan Bank.

(3) A department or agency of the United States or of Indiana.

(4) A person that is servicing or enforcing a loan that it owns.

(5) A person that is servicing a loan:

(A) for a person described in subdivisions (1) through (4); or

(B) insured by the Department of Housing and Urban Development or guaranteed by the Veterans Administration.

(6) An attorney licensed to practice law in Indiana who is representing a mortgagor.

SECTION 2. IC 32-29-7-3, AS AMENDED BY P.L.100-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) In a proceeding for the foreclosure of a mortgage executed on real estate, process may not issue for the execution of a judgment or decree of sale for a period of three (3) months after the filing of a complaint in the proceeding. However:

(1) the period is:

(A) twelve (12) months in a proceeding for the foreclosure of a mortgage executed before January 1, 1958; and

(B) six (6) months in a proceeding for the foreclosure of a mortgage executed after December 31, 1957, but before July 1, 1975; and

(2) if the court **or an enforcement authority (as defined in IC 36-7-9-2)** finds that the mortgaged real estate is residential real estate and has been abandoned, a judgment or decree of sale may be executed on the date the judgment of foreclosure or decree of sale is entered, regardless of the date the mortgage is executed.

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

(1) a praecipe is not filed with the clerk within one hundred eighty (180) days after the later of the dates on which:

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

(B) the judgment and decree is filed; and

(2) the sale is not:

(A) otherwise prohibited by law;

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

(C) subject to a written agreement that:

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

(ii) is executed by and between the owner of the

C o p y

mortgaged real estate and a party entitled to enforce the judgment and decree;

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

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

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

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

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

(1) a cost of the proceeding;

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

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

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

C o p y

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

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

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

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

(2) due at the time of filing of the praecipe;

under subsection (b).

SECTION 3. IC 32-30-10.5-8, AS ADDED BY P.L.105-2009, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 8. (a) This section applies to a foreclosure action that is filed after June 30, 2009. Except as provided in subsection (e) and section 10(g) of this chapter, not later than thirty (30) days before a creditor files an action for foreclosure, the creditor shall send to the debtor by certified mail a presuit notice on a form prescribed by the Indiana housing and community development authority created by IC 5-20-1-3. ~~In prescribing the form required by this section, the Indiana housing and community development authority shall include in the notice the statement set forth in IC 24-5.5-3-1. In addition,~~ The notice required by this subsection must **do the following:**

(1) Inform the debtor that:

(A) the debtor is in default; ~~and~~

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

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

(i) Appeal a finding of abandonment by a court under IC 32-29-7-3(a)(2).

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

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

Copy

IC 32-29-7-11(b).

(2) Provide the contact information for the Indiana Foreclosure Prevention Network.

(3) Include the following statement printed in at least 14 point boldface type:

"NOTICE REQUIRED BY STATE LAW

Mortgage foreclosure is a complex process. People may approach you about "saving" your home. You should be careful about any such promises. There are government agencies and nonprofit organizations you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you, please call the Indiana Foreclosure Prevention Network.".

(b) The notice required by subsection (a) shall be sent to:

(1) the address of the mortgaged property; or

(2) the last known mailing address of the debtor if the creditor's records indicate that the mailing address of the debtor is other than the address of the mortgaged property.

If the creditor provides evidence that the notice required by subsection (a) was sent by certified mail, return receipt requested, and as prescribed by this subsection, it is not necessary that the debtor accept receipt of the notice for an action to proceed as allowed under this chapter.

(c) Except as provided in subsection (e) and section 10(g) of this chapter, if a creditor files an action to foreclose a mortgage, the creditor shall include with the complaint served on the debtor a notice that informs the debtor of the debtor's right to participate in a settlement conference. The notice must be in a form prescribed by the Indiana housing and community development authority created by IC 5-20-1-3. The notice must inform the debtor that the debtor may schedule a settlement conference by notifying the court, not later than thirty (30) days after the notice is served, of the debtor's intent to participate in a settlement conference.

(d) In a foreclosure action filed under IC 32-30-10-3 after June 30, 2009, the creditor shall attach to the complaint filed with the court a copy of the notices sent to the debtor under subsections (a) and (c).

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

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

(2) the ~~loan~~ **mortgage** has been the subject of a prior foreclosure

C o p y

prevention agreement under this chapter and the debtor has defaulted with respect to the terms of that foreclosure prevention agreement; or

(3) bankruptcy law prohibits the creditor from participating in a settlement conference under this chapter with respect to the ~~loan.~~ **mortgage.**

SECTION 4. IC 36-7-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) When action required by an order is performed by the enforcement authority or by a contractor acting under section 11 of this chapter, each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time when the order requiring the work performed was ~~recorded~~ **issued** to the time that the work was completed is jointly and severally responsible for the following costs:

(1) The actual cost of the work performed by the enforcement authority or the bid price of work accomplished by the contractor under section 11 of this chapter.

(2) An amount that represents a reasonable forecast of the average processing expense that will be incurred by the enforcement authority in taking the technical, administrative, and legal actions concerning typical unsafe premises that are necessary under this chapter so that the action required by an order may be performed by a contractor under section 11 of this chapter. In calculating the amount of the average processing expense, the following costs may be considered:

(A) The cost of obtaining reliable information about the identity and location of persons who own a substantial property interest in the unsafe premises.

(B) The cost of notice of orders, notice of statements of rescission, notice of continued hearing, notice of statements that public bids are to be let or that the enforcement authority intends to accomplish the work, and notice that a hearing may be held on the amounts indicated in the record, in accordance with section 25 of this chapter.

(C) Salaries for employees.

(D) The cost of supplies, equipment, and office space.

(b) The board or commission having control over the department shall determine the amount of the average processing expense at the public hearing, after notice has been given in the same manner as is required for other official action of the board or commission. In determining the average processing expense, the board or commission

C o p y

may fix the amount at a full dollar amount that is an even multiple of ten (10).

SECTION 5. IC 24-5.5-3 IS REPEALED [EFFECTIVE JULY 1, 2010].

C o p y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1122, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 24-5.5-1-1, AS AMENDED BY P.L.105-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. ~~Except for IC 24-5.5-3-1,~~ This article does not apply to the following:

(1) A person organized or chartered under the laws of this state, any other state, or the United States that relate to a bank, a trust company, a savings association, a savings bank, a credit union, or an industrial loan and investment company.

(2) The Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or a Federal Home Loan Bank.

(3) A department or agency of the United States or of Indiana.

(4) A person that is servicing or enforcing a loan that it owns.

(5) A person that is servicing a loan:

(A) for a person described in subdivisions (1) through (4); or

(B) insured by the Department of Housing and Urban Development or guaranteed by the Veterans Administration.

(6) An attorney licensed to practice law in Indiana who is representing a mortgagor.

SECTION 2. IC 32-29-7-3, AS AMENDED BY P.L.100-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) In a proceeding for the foreclosure of a mortgage executed on real estate, process may not issue for the execution of a judgment or decree of sale for a period of three (3) months after the filing of a complaint in the proceeding. However:

(1) the period is:

(A) twelve (12) months in a proceeding for the foreclosure of a mortgage executed before January 1, 1958; and

(B) six (6) months in a proceeding for the foreclosure of a mortgage executed after December 31, 1957, but before July 1, 1975; and

(2) if the court **or an enforcement authority (as defined in IC 36-7-9-2)** finds that the mortgaged real estate is residential real estate and has been abandoned, a judgment or decree of sale may be executed on the date the judgment of foreclosure or

C o p y

decree of sale is entered, regardless of the date the mortgage is executed.

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

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

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

(1) a cost of the proceeding;

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

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

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

(f) If the sheriff is unable to procure the publication of a notice within the county, the sheriff may dispense with publication. The sheriff shall state that the sheriff was not able to procure the

C o p y

publication and explain the reason why publication was not possible.

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

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

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

(2) due at the time of filing of the praecipe;

under subsection (b).".

Page 2, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 3. IC 32-30-10.5-8, AS ADDED BY P.L.105-2009, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) This section applies to a foreclosure action that is filed after June 30, 2009. Except as provided in subsection (e) and section 10(g) of this chapter, not later than thirty (30) days before a creditor files an action for foreclosure, the creditor shall send to the debtor by certified mail a presuit notice on a form prescribed by the Indiana housing and community development authority created by IC 5-20-1-3. ~~In prescribing the form required by this section, the Indiana housing and community development authority shall include in the notice the statement set forth in IC 24-5.5-3-1. In addition,~~ The notice required by this subsection must **do the following:**

(1) Inform the debtor that:

(A) the debtor is in default; ~~and~~

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

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

(i) Appeal a finding of abandonment by a court or an enforcement authority under IC 32-29-7-3(a)(2).

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

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

(2) Provide the contact information for the Indiana Foreclosure

C o p y

Prevention Network.

(3) Include the following statement printed in at least 14 point boldface type:

"NOTICE REQUIRED BY STATE LAW

Mortgage foreclosure is a complex process. People may approach you about "saving" your home. You should be careful about any such promises. There are government agencies and nonprofit organizations you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you, please call the Indiana housing and community development authority.".

(b) The notice required by subsection (a) shall be sent to:

(1) the address of the mortgaged property; or

(2) the last known mailing address of the debtor if the creditor's records indicate that the mailing address of the debtor is other than the address of the mortgaged property.

If the creditor provides evidence that the notice required by subsection (a) was sent by certified mail, return receipt requested, and as prescribed by this subsection, it is not necessary that the debtor accept receipt of the notice for an action to proceed as allowed under this chapter.

(c) Except as provided in subsection (e) and section 10(g) of this chapter, if a creditor files an action to foreclose a mortgage, the creditor shall include with the complaint served on the debtor a notice that informs the debtor of the debtor's right to participate in a settlement conference. The notice must be in a form prescribed by the Indiana housing and community development authority created by IC 5-20-1-3. The notice must inform the debtor that the debtor may schedule a settlement conference by notifying the court, not later than thirty (30) days after the notice is served, of the debtor's intent to participate in a settlement conference.

(d) In a foreclosure action filed under IC 32-30-10-3 after June 30, 2009, the creditor shall attach to the complaint filed with the court a copy of the notices sent to the debtor under subsections (a) and (c).

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

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

(2) the ~~loan~~ **mortgage** has been the subject of a prior foreclosure prevention agreement under this chapter and the debtor has defaulted with respect to the terms of that foreclosure prevention

C o p y

agreement; or

(3) bankruptcy law prohibits the creditor from participating in a settlement conference under this chapter with respect to the ~~loan.~~ **mortgage.**

SECTION 4. IC 36-7-9-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 3.5. (a) An enforcement authority may administer and enforce this chapter in conjunction with any enforcement or civil action under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-1-6, IC 36-7-10.1, or IC 36-7-36.**

(b) Under all enforcement and civil actions designated under subsection (a), the enforcement authority is entitled to recover court costs and attorney's fees.".

Page 4, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 8. IC 36-7-36-8, AS ADDED BY P.L.88-2009, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) An enforcement authority may administer and enforce this chapter in conjunction with any enforcement or civil action under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-1-6, **IC 36-7-10.1,** or IC 36-7-9.

(b) Under all enforcement and civil actions designated under subsection (a), the enforcement authority is entitled to recover court costs and attorney's fees.".

Page 4, line 16, delete ":" and insert "**perform any action described in any of the following, with respect to the vacant structure or abandoned structure:**".

Page 4, strike lines 17 through 18.

Page 4, line 19, strike "structure and the premises upon which it is located;".

Page 4, strike lines 20 through 23.

Page 4, line 24, strike "the vacant structure or abandoned structure exists;".

Page 4, line 24, delete "and".

Page 4, delete lines 25 through 31, begin a new line block indented and insert:

"**(1) IC 36-7-9-5(a)(2).**

(2) IC 36-7-9-5(a)(3).

(3) IC 36-7-9-5(a)(4).

(4) IC 36-7-9-5(a)(8), with respect to the exterior of the vacant structure or abandoned structure.".

Page 5, line 27, after "indicates" insert ":

(A)".

C o p y

Page 5, line 29, after "property;" insert "**or**

(B) the owner or the foreclosure judgment holder has taken the actions described in IC 36-7-9-5(a)(8), with respect to the exterior of the vacant structure or abandoned structure, if the vacant structure or abandoned structure will be sealed for a period of more than ninety (90) days;".

Page 5, line 42, after "chapter" insert ";".

Page 5, line 42, delete "and any".

Page 6, delete line 1.

Page 6, line 2, delete "9(a)(3) of this chapter;".

Page 5, run in line 42, through page 6, line 2.

Page 6, line 40, delete "If" and insert "**Except as provided in subsection (h), if**".

Page 8, between lines 7 and 8, begin a new paragraph and insert:

"**(h) Subsection (d) does not apply if a sheriff's sale is canceled because:**

(1) the owner of the vacant structure or abandoned structure has filed for bankruptcy, or the sale of the vacant structure or abandoned structure is otherwise prohibited by federal bankruptcy law;

(2) the sale of the vacant structure or abandoned structure is prohibited by a moratorium on foreclosure actions or proceedings imposed by a federal or state law, regulation, rule, or order; or

(3) the foreclosure judgment holder and the owner of the vacant structure or abandoned structure have entered into a written agreement that:

(A) provides for the refinancing, restructuring, or workout of the owner's indebtedness under the mortgage that was the subject of the foreclosure action; and

(B) is filed with the clerk of the court in which the judgment and decree is filed.

SECTION 11. IC 24-5.5-3 IS REPEALED [EFFECTIVE JULY 1, 2010].".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1122 as introduced.)

BARDON, Chair

Committee Vote: yeas 7, nays 0.

C o p y

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1122, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 17, delete "or an enforcement authority (as defined in".

Page 2, line 18, delete "IC 36-7-9-2)".

Page 2, line 30, after "court." insert "**However, if:**

(1) a praecipe is not filed with the clerk within one hundred eighty (180) days after the later of the dates on which:

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

(B) the judgment and decree is filed; and

(2) the sale is not:

(A) otherwise prohibited by law;

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

(C) subject to a written agreement that:

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

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

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

Page 2, line 37, delete "for" and insert "for:

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

(2)".

Page 3, delete lines 35 through 42.

Page 4, delete lines 1 through 23.

Page 5, line 1, delete "or an".

Page 5, line 2, delete "enforcement authority".

Page 5, line 19, delete "housing and community" and insert "**Foreclosure Prevention Network.".**".

Page 5, delete line 20.

Page 6, delete lines 13 through 42, begin a new paragraph and

C o p y

insert:

"SECTION 4. IC 36-7-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) When action required by an order is performed by the enforcement authority or by a contractor acting under section 11 of this chapter, each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time when the order requiring the work performed was ~~recorded~~ **issued** to the time that the work was completed is jointly and severally responsible for the following costs:

(1) The actual cost of the work performed by the enforcement authority or the bid price of work accomplished by the contractor under section 11 of this chapter.

(2) An amount that represents a reasonable forecast of the average processing expense that will be incurred by the enforcement authority in taking the technical, administrative, and legal actions concerning typical unsafe premises that are necessary under this chapter so that the action required by an order may be performed by a contractor under section 11 of this chapter. In calculating the amount of the average processing expense, the following costs may be considered:

(A) The cost of obtaining reliable information about the identity and location of persons who own a substantial property interest in the unsafe premises.

(B) The cost of notice of orders, notice of statements of rescission, notice of continued hearing, notice of statements that public bids are to be let or that the enforcement authority intends to accomplish the work, and notice that a hearing may be held on the amounts indicated in the record, in accordance with section 25 of this chapter.

(C) Salaries for employees.

(D) The cost of supplies, equipment, and office space.

(b) The board or commission having control over the department shall determine the amount of the average processing expense at the public hearing, after notice has been given in the same manner as is required for other official action of the board or commission. In determining the average processing expense, the board or commission may fix the amount at a full dollar amount that is an even multiple of ten (10).".

Delete pages 7 through 12.

Page 13, delete lines 1 through 2.

C o p y

Page 13, delete line 5.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1122 as printed January 25, 2010.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 1.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1122 be amended to read as follows:

Page 2, line 17, after "court" insert "**or an enforcement authority (as defined in IC 36-7-9-2)**".

Page 4, line 19, delete "JULY 1, 2010" and insert "JANUARY 1, 2011".

(Reference is to EHB 1122 as printed February 23, 2010.)

TALLIAN

C o p y