

Adopted	Rejected
---------	----------

COMMITTEE REPORT

YES:	9
NO:	0

MR. SPEAKER:

*Your Committee on Financial Institutions, to which was referred Senate Bill 582, 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:*

- 1 Page 2, line 21, delete "Contact information relating to a defendant
- 2 in a" and insert "**The following information that is part of a**
- 3 **foreclosure action subject to IC 32-30-10.5:**
- 4 **(A) Contact information for a debtor, as described in**
- 5 **IC 32-30-10.5-8(d)(2)(B).**
- 6 **(B) Any document submitted to the court as part of the**
- 7 **debtor's loss mitigation package under**
- 8 **IC 32-30-10.5-10(a)(3)."**
- 9 Page 2, delete line 22.
- 10 Page 10, line 31, delete "develop a list of documents that a creditor
- 11 and debtor" and insert "**prescribe, in accordance with**
- 12 **IC 32-30-10.5-10(i), a list of documents that must be included as**
- 13 **part of a debtor's loss mitigation package in a foreclosure action**

1 **filed under IC 32-30-10.5 after June 30, 2011;"**

2 Page 10, delete lines 32 through 33.

3 Page 13, line 3, delete "civil penalties imposed and collected by a
4 court under" and insert "**any civil penalties imposed and collected by
5 a court for a violation of a court order in a foreclosure action
6 under IC 32-30-10.5.**"

7 Page 13, delete line 4.

8 Page 13, line 16, delete "and".

9 Page 13, between lines 16 and 17, begin a new line block indented
10 and insert:

11 **"(2) civil penalties imposed and collected under:**

12 **(A) IC 6-1.1-12-43(g)(2)(B); or**

13 **(B) IC 27-7-3-15.5(e); and**

14 **(3) any civil penalties imposed and collected by a court for a
15 violation of a court order in a foreclosure action under
16 IC 32-30-10.5;"**

17 Page 13, delete lines 17 through 18.

18 Page 13, delete lines 22 through 42, begin a new paragraph and
19 insert:

20 "SECTION 5. IC 32-30-10.5-1.2 IS ADDED TO THE INDIANA
21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
22 [EFFECTIVE UPON PASSAGE]: **Sec. 1.2. As used in this chapter,**
23 **"authority" refers to the Indiana housing and community
24 development authority created by IC 5-20-1-3.**

25 SECTION 6. IC 32-30-10.5-4.7 IS ADDED TO THE INDIANA
26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
27 [EFFECTIVE UPON PASSAGE]: **Sec. 4.7. As used in this chapter,**
28 **"loss mitigation package" means a set of documents, the
29 components of which:**

30 **(1) are specified by the authority under section 10(i) of this
31 chapter;**

32 **(2) provide information about a debtor's present and
33 projected future income, expenses, assets, and liabilities; and**

34 **(3) are necessary for a creditor to make underwriting
35 decisions or other determinations in connection with a
36 potential foreclosure prevention agreement with the debtor to
37 whom the documents apply.**

38 SECTION 7. IC 32-30-10.5-5, AS ADDED BY P.L.105-2009,

1 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JULY 1, 2011]: Sec. 5. As used in this chapter, "mortgage" means a
 3 loan ~~in which a first mortgage, or a land contract that constitutes a first~~
 4 ~~lien, is created or retained against land upon which there is a dwelling~~
 5 that is or will be used by the debtor primarily for personal, family, or
 6 household purposes **and that is secured by a mortgage that**
 7 **constitutes a first lien on a dwelling or on residential real estate**
 8 **upon which a dwelling is constructed or intended to be constructed.**
 9 **The term does not include a land contract or similar agreement in**
 10 **which the debtor does not possess a deed.**

11 SECTION 8. IC 32-30-10.5-8, AS AMENDED BY P.L.68-2010,
 12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 UPON PASSAGE]: Sec. 8. (a) This section applies to a foreclosure
 14 action that is filed after June 30, 2009. Except as provided in
 15 subsection (e) and section 10(g) of this chapter, not later than thirty
 16 (30) days before a creditor files an action for foreclosure, the creditor
 17 shall send to the debtor by certified mail a presuit notice on a form
 18 prescribed by the ~~Indiana housing and community development~~
 19 ~~authority. created by IC 5-20-1-3.~~ The notice required by this
 20 subsection must do the following:

- 21 (1) Inform the debtor that:
- 22 (A) the debtor is in default;
- 23 (B) the debtor is encouraged to obtain assistance from a
 24 mortgage foreclosure counselor; and
- 25 (C) if the creditor proceeds to file a foreclosure action and
 26 obtains a foreclosure judgment, the debtor has a right to do the
 27 following before a sheriff's sale is conducted:
- 28 (i) Appeal a finding of abandonment by a court under
 29 IC 32-29-7-3(a)(2).
- 30 (ii) Redeem the real estate from the judgment under
 31 IC 32-29-7-7.
- 32 (iii) Retain possession of the property under
 33 IC 32-29-7-11(b), subject to the conditions set forth in
 34 IC 32-29-7-11(b).
- 35 (2) Provide the contact information for the Indiana Foreclosure
 36 Prevention Network.
- 37 (3) Include the following statement printed in at least 14 point
 38 boldface type:

1 "NOTICE REQUIRED BY STATE LAW

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

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

- 10 (1) the address of the mortgaged property; or
 11 (2) the last known mailing address of the debtor if the creditor's
 12 records indicate that the mailing address of the debtor is other
 13 than the address of the mortgaged property.

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

19 (c) Except as provided in subsection (e) and section 10(g) of this
 20 chapter, if a creditor files an action to foreclose a mortgage, the creditor
 21 shall:

- 22 **(1) in the case of a foreclosure action filed after June 30, 2009,**
 23 **but before July 1, 2011,** include with the complaint served on the
 24 debtor, **on a form prescribed by the authority; and**
 25 **(2) subject to subsection (f), in the case of a foreclosure action**
 26 **filed after June 30, 2011, include on the first page of the**
 27 **summons that is served on the debtor in conjunction with the**
 28 **complaint;**

29 a notice that informs the debtor of the debtor's right to participate in a
 30 settlement conference, **subject to section 9(b) of this chapter.** ~~The~~
 31 ~~notice must be in a form prescribed by the Indiana housing and~~
 32 ~~community development authority created by IC 5-20-1-3.~~ The notice
 33 **under subdivision (1) or (2)** must inform the debtor that the debtor
 34 may schedule a settlement conference by notifying the court, not later
 35 than thirty (30) days after the ~~notice~~ **complaint** is served **on the**
 36 **debtor**, of the debtor's intent to participate in a settlement conference.

37 (d) ~~In a foreclosure action filed under IC 32-30-10-3 after June 30,~~
 38 ~~2009,~~ **If a creditor files an action to foreclose a mortgage, the**

1 creditor shall ~~attach to~~ **include with** the complaint filed with the court:

2 **(1) except as provided in subsection (e) and section 10(g) of**
 3 **this chapter, a copy of the notices sent to the debtor under**
 4 **subsections (a) and (c), if the foreclosure action is filed after**
 5 **June 30, 2009, but before July 1, 2011; or**

6 **(2) the following, if the foreclosure action is filed after June**
 7 **30, 2011:**

8 **(A) Except as provided in subsection (e) and section 10(g)**
 9 **of this chapter, a copy of the notice sent to the debtor**
 10 **under subsection (a).**

11 **(B) The following most recent contact information for the**
 12 **debtor that the creditor has on file:**

13 **(i) All telephone numbers and electronic mail addresses**
 14 **for the debtor.**

15 **(ii) Any mailing address described in subsection (b)(2).**

16 **The contact information provided under this clause is**
 17 **confidential under IC 5-14-3-4(a)(13).**

18 **Subject to section 9(b) of this chapter, in the case of a foreclosure**
 19 **action filed after June 30, 2011, upon the filing of the complaint by**
 20 **the creditor, the court shall send to the debtor, by United States**
 21 **mail and to the address of the mortgaged property, or to an**
 22 **address for the debtor provided by the creditor under subdivision**
 23 **(2)(B)(ii), if applicable, a notice that informs the debtor of the**
 24 **debtor's right to participate in a settlement conference. The court's**
 25 **notice must inform the debtor that the debtor may schedule a**
 26 **settlement conference by notifying the court of the debtor's intent**
 27 **to participate in a settlement conference. The court's notice must**
 28 **specify a date by which the debtor must request a settlement**
 29 **conference, which date must be the date that is thirty (30) days**
 30 **after the date of the creditor's service of the complaint on the**
 31 **debtor under subsection (c), as determined by the court from the**
 32 **service list included with the complaint filed with the court. The**
 33 **court may not delegate the duty to send the notice the court is**
 34 **required to provide under this subsection to the creditor or to any**
 35 **other person.**

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

38 **(1) the mortgage is secured by a dwelling that is not the debtor's**

- 1 primary residence;
- 2 (2) the mortgage has been the subject of a prior foreclosure
- 3 prevention agreement under this chapter and the debtor has
- 4 defaulted with respect to the terms of that foreclosure prevention
- 5 agreement; or
- 6 (3) bankruptcy law prohibits the creditor from participating in a
- 7 settlement conference under this chapter with respect to the
- 8 mortgage.

9 **(f) Not later than June 1, 2011, the authority, in consultation**

10 **with the division of state court administration, shall prescribe**

11 **language for the notice required under subsection (c)(2) to be**

12 **included on the first page of the summons that is served on the**

13 **debtor in a foreclosure action filed after June 30, 2011. The**

14 **language must convey the same information as the form prescribed**

15 **by the authority under subsection (c)(1) for foreclosure actions**

16 **filed after June 30, 2009, but before July 1, 2011. The authority**

17 **shall make the language prescribed under this subsection available**

18 **on the authority's Internet web site. A creditor complies with**

19 **subsection (c)(2) in a foreclosure action filed after June 30, 2011,**

20 **if the creditor includes on the first page of the summons served on**

21 **the debtor:**

- 22 (1) the language that is prescribed by the authority under this
- 23 subsection and made available on the authority's Internet web
- 24 site; or
- 25 (2) language that conveys the same information as the
- 26 language that is prescribed by the authority under this
- 27 subsection and made available on the authority's Internet web
- 28 site."

29 Delete pages 14 through 15.

30 Page 16, delete lines 1 through 3.

31 Page 16, line 21, delete "that is filed after June 30," and insert "**with**

32 **respect to which:**

- 33 **(A) the creditor has filed the complaint in the proceeding**
- 34 **after June 30, 2011; and**
- 35 **(B) the debtor has contacted the court under section 8(c) of**
- 36 **this chapter to schedule a settlement conference under this**
- 37 **chapter."**

38 Page 16, delete line 22.

- 1 Page 16, line 24, after "56," insert "**shall**".
- 2 Page 16, line 26, delete "10(c)" and insert "**10(b)**".
- 3 Page 16, line 29, delete "10(f)" and insert "**10(e)**".
- 4 Page 16, line 34, delete "10(f)" and insert "**10(e)**".
- 5 Page 16, line 38, delete "10(g)" and insert "**10(f)**".
- 6 Page 17, line 1, delete "defendant" and insert "**debtor**".
- 7 Page 17, line 2, delete "section 9 of".
- 8 Page 17, line 29, delete "10(f)" and insert "**10(e)**".
- 9 Page 18, delete lines 4 through 42, begin a new paragraph and
- 10 insert:
- 11 "SECTION 11. IC 32-30-10.5-9, AS ADDED BY P.L.105-2009,
- 12 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 13 UPON PASSAGE]: Sec. 9. (a) Except as provided in subsection (b)
- 14 **and subject to section 8.5 of this chapter**, after June 30, 2009, a court
- 15 may not issue a judgment of foreclosure under IC 32-30-10 on a
- 16 mortgage subject to this chapter unless all of the following apply:
- 17 (1) The creditor has given the notice required under section 8(c)
- 18 of this chapter.
- 19 (2) ~~The debtor either:~~ **One (1) of the following applies:**
- 20 (A) **The debtor** does not contact the court within the thirty
- 21 (30) day period described in section 8(c) of this chapter to
- 22 schedule a settlement conference under ~~section 8(c)~~ of this
- 23 chapter. ~~or~~
- 24 (B) **The debtor** contacts the court within the thirty (30) day
- 25 period described in section 8(c) of this chapter to schedule a
- 26 **settlement** conference under ~~section 8(c)~~ of this chapter and,
- 27 upon conclusion of the **settlement** conference, the parties are
- 28 unable to reach agreement on the terms of a foreclosure
- 29 prevention agreement.
- 30 (C) **In a foreclosure action filed after June 30, 2011, the**
- 31 **debtor:**
- 32 (i) **contacts the court within the thirty (30) day period**
- 33 **described in section 8(c) of this chapter to schedule a**
- 34 **settlement conference under this chapter; and**
- 35 (ii) **does not provide to the creditor and the court at least**
- 36 **one (1) of the documents required as part of the debtor's**
- 37 **loss mitigation package, as specified by the authority in**
- 38 **the listing developed under section 10(i) of this chapter**

1 **and included with the court's notice under section**
 2 **10(a)(8) of this chapter, within the time specified in the**
 3 **court's notice under section 10(a)(3)(A) of this chapter.**

4 **(3) Except as provided in sections 8(e) and 10(g) of this**
 5 **chapter, at least sixty (60) days have elapsed since the date the**
 6 notice required by section 8(a) of this chapter was sent, unless the
 7 mortgaged property is abandoned.

8 (b) If the court finds that a settlement conference would be of
 9 limited value based on the result of a prior loss mitigation effort
 10 between the creditor and the debtor:

11 (1) a settlement conference is not required under this chapter; and
 12 (2) the conditions set forth in subsection (a) do not apply, and the
 13 foreclosure action may proceed as otherwise allowed by law.

14 SECTION 12. IC 32-30-10.5-10, AS ADDED BY P.L.105-2009,
 15 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 UPON PASSAGE]: Sec. 10. (a) Unless a settlement conference is not
 17 required under this chapter, the court shall issue a notice of a
 18 settlement conference if the debtor contacts the court to schedule a
 19 settlement conference as described in section 8(c) of this chapter. The
 20 court's notice of a settlement conference must do the following:

21 (1) Order the creditor and the debtor to conduct a settlement
 22 conference on or before a date and time specified in the notice,
 23 which date:

24 **(A) must not be earlier than twenty-five (25) days after the**
 25 date of the notice **under this section** or later than sixty (60)
 26 days after the date of the notice **under this section, in the case**
 27 **of a foreclosure action filed after June 30, 2009, but before**
 28 **July 1, 2011; and**

29 **(B) must not be earlier than forty (40) days after the date**
 30 **of the notice under this section or later than sixty (60) days**
 31 **after the date of the notice under this section, in the case of**
 32 **a foreclosure action filed after June 30, 2011;**

33 for the purpose of attempting to negotiate a foreclosure prevention
 34 agreement.

35 (2) Encourage the debtor to contact a mortgage foreclosure
 36 counselor before the date of the settlement conference. The notice
 37 must provide the contact information for the Indiana Foreclosure
 38 Prevention Network.

1 (3) Require the debtor to bring to the settlement conference the
2 following documents needed to engage in good faith negotiations
3 with the creditor. (A) Documentation of the debtor's present and
4 projected future income, expenses, assets, and liabilities;
5 including documentation of the debtor's employment history. (B)
6 Any other documentation or information that the court determines
7 is needed for the debtor to engage in good faith negotiations with
8 the creditor. The court shall identify any documents required
9 under this clause with enough specificity to allow the debtor to
10 obtain the documents before the scheduled settlement conference.
11 **do the following:**

12 **(A) In the case of a foreclosure action filed after June 30,**
13 **2011, provide, not later than a date specified in the order,**
14 **which date must be the date that is thirty (30) days before**
15 **the date of the settlement conference specified by the court**
16 **under subdivision (1), a copy of the debtor's loss mitigation**
17 **package to the following:**

18 **(i) The creditor's attorney, as identified by the creditor**
19 **in the complaint, at the address specified in the**
20 **complaint.**

21 **(ii) The court, at an address specified by the court.**

22 **In setting forth the requirement described in this clause,**
23 **the court shall reference the listing that must be included**
24 **as an attachment to the notice under subdivision (8), and**
25 **shall direct the debtor to consult the attachment in**
26 **compiling the debtor's loss mitigation package.**

27 **(B) Bring the following to the settlement conference:**

28 **(i) In the case of a foreclosure action filed after June 30,**
29 **2009, but before July 1, 2011, documents needed to**
30 **engage in good faith negotiations with the creditor,**
31 **including documentation of the debtor's present and**
32 **projected future income, expenses, assets, and liabilities**
33 **(including documentation of the debtor's employment**
34 **history), and any other documentation or information**
35 **that the court determines is needed for the debtor to**
36 **engage in good faith negotiations with the creditor. The**
37 **court shall identify any documents required under this**
38 **item with enough specificity to allow the debtor to obtain**

1 the documents before the scheduled settlement
2 conference.

3 (ii) In the case of a foreclosure action filed after June 30,
4 2011, the debtor's loss mitigation package.

5 Any document submitted to the court under this subdivision
6 as part of the debtor's loss mitigation package is confidential
7 under IC 5-14-3-4(a)(13).

8 (4) Require the creditor to do the following:

9 (A) In the case of a foreclosure action filed after June 30,
10 2011, send to the debtor, by certified mail and not later
11 than a date specified in the order, which date must be the
12 date that is thirty (30) days before the date of the
13 settlement conference specified by the court under
14 subdivision (1), the following transaction history for the
15 mortgage:

16 (i) A payment record substantiating the default, such as
17 a payment history.

18 (ii) An itemization of all amounts claimed by the creditor
19 as being owed on the mortgage, such as an account
20 payoff statement.

21 If the creditor provides evidence that the transaction
22 history required by this clause was sent by certified mail,
23 return receipt requested, it is not necessary that the debtor
24 accept receipt of the transaction history for an action to
25 proceed as allowed under this chapter.

26 (B) Bring the following to the settlement conference: the
27 following transaction history for the mortgage:

28 ~~(A)~~ (i) A copy of the original note and mortgage.

29 ~~(B)~~ (ii) A payment record substantiating the default, **such as**
30 **a payment history.**

31 ~~(C)~~ (iii) An itemization of all amounts claimed by the
32 creditor as being owed on the mortgage, **such as an account**
33 **payoff statement.**

34 ~~(D)~~ (iv) Any other documentation that the court determines
35 is needed.

36 (5) Inform the parties that:

37 (A) each party has the right to be represented by an attorney or
38 assisted by a mortgage foreclosure counselor at the settlement

1 conference; and

2 (B) **subject to subsection (b)**, an attorney or a mortgage
3 foreclosure counselor may participate in the settlement
4 conference in person or by telephone.

5 (6) Inform the parties that the settlement conference will be
6 conducted at the county courthouse, or at another place
7 designated by the court, on the date and time specified in the
8 notice under subdivision (1) unless the parties submit to the court
9 a stipulation to:

10 (A) modify the date, time, and place of the settlement
11 conference; or

12 (B) hold the settlement conference by telephone at a date and
13 time agreed to by the parties.

14 **(7) In the case of a foreclosure action filed after June 30, 2011,**
15 **inform the parties of the following:**

16 **(A) That if the parties stipulate under subdivision (6) to**
17 **modify the date of the settlement conference:**

18 **(i) the debtor must provide the debtor's loss mitigation**
19 **package to the creditor and to the court, as described in**
20 **subdivision (3), at least thirty (30) days before the**
21 **settlement conference date, as modified by the parties;**
22 **and**

23 **(ii) the creditor must send to the debtor, by certified**
24 **mail, the transaction history described in subdivision**
25 **(4)(A) at least thirty (30) days before the settlement**
26 **conference date, as modified by the parties.**

27 **(B) That if the parties stipulate under ~~clause (B)~~ subdivision**
28 **(6)(B) to conduct the settlement conference by telephone, the**
29 **parties shall ensure the availability of any technology needed**
30 **to allow simultaneous participation in the settlement**
31 **conference by all participants.**

32 **(8) In the case of a foreclosure action filed after June 30, 2011,**
33 **include as an attachment the loss mitigation package listing**
34 **prescribed by the authority under subsection (i).**

35 (b) An attorney for the creditor shall attend the settlement
36 conference, and an authorized representative of the creditor shall be
37 available by telephone during the settlement conference. In addition,
38 the court may require any person that is a party to the foreclosure

1 action to appear at or participate in a settlement conference held under
 2 this ~~section~~, **chapter**, and, for cause shown, the court may order the
 3 creditor and the debtor to reconvene a settlement conference at any
 4 time before judgment is entered. **Any:**

5 **(1) costs to a creditor associated with a settlement conference**
 6 **under this chapter; or**

7 **(2) civil penalty imposed on a creditor by the court in**
 8 **connection with a violation of a court order issued in the case;**
 9 **may not be charged to or collected from the debtor, either directly**
 10 **or indirectly.**

11 (c) At the court's discretion, a settlement conference may or may not
 12 be attended by a judicial officer.

13 (d) The creditor shall ensure that any person representing the
 14 creditor:

15 (1) at a settlement conference scheduled under ~~subsection (a)~~;
 16 **this section; or**

17 (2) in any negotiations with the debtor designed to reach
 18 agreement on the terms of a foreclosure prevention agreement;
 19 has authority to represent the creditor in negotiating a foreclosure
 20 prevention agreement with the debtor.

21 (e) If, as a result of a settlement conference held under this ~~section~~;
 22 **chapter**, the debtor and the creditor agree to enter into a foreclosure
 23 prevention agreement, the agreement shall be reduced to writing and
 24 signed by both parties, and each party shall retain a copy of the signed
 25 agreement. Not later than seven (7) business days after the signing of
 26 the foreclosure prevention agreement, the creditor shall file with the
 27 court a copy of the signed agreement. At the election of the creditor,
 28 the foreclosure shall be dismissed or stayed for as long as the debtor
 29 complies with the terms of the foreclosure prevention agreement.

30 (f) If, as a result of a settlement conference held under this ~~section~~;
 31 **chapter**, the debtor and the creditor are unable to agree on the terms of
 32 a foreclosure prevention agreement:

33 (1) the creditor shall, not later than seven (7) business days after
 34 the conclusion of the settlement conference, file with the court a
 35 notice indicating that the settlement conference held under this
 36 ~~section~~ **chapter** has concluded and a foreclosure prevention
 37 agreement was not reached; and

38 (2) the foreclosure action filed by the creditor may proceed as

1 otherwise allowed by law, **subject to the court's right under**
 2 **subsection (b) to order the creditor and the debtor to**
 3 **reconvene a settlement conference at any time before**
 4 **judgment is entered.**

5 (g) If:

6 (1) a foreclosure is dismissed by the creditor under subsection (e)
 7 after a foreclosure prevention agreement is reached; and

8 (2) a default in the terms of the foreclosure prevention agreement
 9 later occurs;

10 the creditor or its assigns may bring a foreclosure action ~~under~~
 11 ~~FC 32-30-10-3~~ **with respect to the mortgage that is the subject of the**
 12 **foreclosure prevention agreement** without sending the notices
 13 described in section 8 of this chapter.

14 (h) Participation in a settlement conference under this ~~section~~
 15 **chapter** satisfies any mediation or alternative dispute resolution
 16 requirement established by court rule.

17 **(i) Not later than June 1, 2011, the authority shall prescribe a**
 18 **list of documents that must be included as part of a debtor's loss**
 19 **mitigation package in a foreclosure action filed after June 30, 2011.**
 20 **In prescribing the list of documents required by this subsection, the**
 21 **authority:**

22 (1) shall require those documents that:

23 (A) provide information about a debtor's present and
 24 projected future income, expenses, assets, and liabilities;
 25 and

26 (B) are necessary for a creditor to make underwriting
 27 decisions or other determinations in connection with a
 28 potential foreclosure prevention agreement with the debtor
 29 to whom the documents apply; and

30 (2) may amend the list:

31 (A) in response to changes in any federal loan modification
 32 programs; or

33 (B) as otherwise determined to be necessary by the
 34 authority.

35 **The authority shall make the list prescribed under this subsection**
 36 **available on the authority's Internet web site. The division of state**
 37 **court administration shall make the list prescribed under this**
 38 **subsection available on the Internet web site maintained by the**

1 state's judicial branch. If the authority determines that an
 2 amendment to the list is necessary under subdivision (2), the
 3 authority shall notify the division of state court administration of
 4 the amendment as soon as practicable before the amendment takes
 5 effect and shall update the list on the authority's Internet web site
 6 not later than the effective date of the amendment. Upon receiving
 7 notice of an amendment to the list from the authority, the division
 8 of state court administration shall update the list on the Internet
 9 web site maintained by the state's judicial branch not later than the
 10 effective date of the amendment."

11 Delete pages 19 through 20.

12 Page 21, delete lines 1 through 36.

13 Page 25, line 22, delete "the court" and insert "**a court for a**
 14 **violation of a court order in a foreclosure action under**
 15 **IC 32-30-10.5.**"

16 Page 25, delete line 23, begin a new paragraph and insert:

17 "SECTION 15. IC 34-30-26 IS ADDED TO THE INDIANA CODE
 18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2011]:

20 **Chapter 26. Real Property Suspected to Be Vacant or**
 21 **Abandoned**

22 **Sec. 1. (a) As used in this chapter, "creditor" means a person:**

23 **(1) that regularly engages in Indiana in the extension of**
 24 **mortgages that are subject to a credit service charge or loan**
 25 **finance charge, as applicable, or are payable by written**
 26 **agreement in more than four (4) installments (not including**
 27 **a down payment); and**

28 **(2) to whom the obligation arising from a mortgage is initially**
 29 **payable, either on the face of the note or contract, or by**
 30 **agreement if there is not a note or contract.**

31 **(b) The term includes the following:**

32 **(1) A mortgage servicer.**

33 **(2) An agent of a creditor.**

34 **Sec. 2. As used in this chapter, "enforcement authority" has the**
 35 **meaning set forth in IC 36-7-9-2.**

36 **Sec. 3. As used in this chapter, "owner", with respect to real**
 37 **property, has the meaning set forth in IC 36-7-36-4.**

38 **Sec. 4. For purposes of this chapter, real property is "vacant or**

1 **abandoned" if it qualifies, or would potentially qualify, as either:**

2 **(1) a vacant structure under IC 36-7-36-6; or**

3 **(2) an abandoned structure under IC 36-7-36-1.**

4 **Sec. 5. (a) Except as provided in subsection (d), a person who is**
 5 **not the owner of real property, and who suspects that the property**
 6 **may be vacant or abandoned, may enter upon the premises of the**
 7 **real property to do the following:**

8 **(1) Without entering any structure located on the real**
 9 **property, visually inspect the real property to determine**
 10 **whether the real property may be vacant or abandoned.**

11 **(2) Perform any of the following actions:**

12 **(A) Secure the real property.**

13 **(B) Remove trash or debris from the grounds of the real**
 14 **property.**

15 **(C) Landscape, maintain, or mow the grounds of the real**
 16 **property.**

17 **(b) A person who:**

18 **(1) enters upon the premises of real property to visually**
 19 **inspect the property, as permitted under subsection (a)(1);**
 20 **and**

21 **(2) after inspecting the real property, determines that the real**
 22 **property may be vacant or abandoned;**

23 **may notify the appropriate enforcement authority of the suspected**
 24 **vacant or abandoned status of the property and request that the**
 25 **enforcement authority inspect the property to determine whether**
 26 **the property is in fact vacant or abandoned.**

27 **(c) A person that enters upon the premises of real property as**
 28 **permitted under this section:**

29 **(1) is immune from civil liability for an act or omission related**
 30 **to the entry or to any action described in subsection (a)(2),**
 31 **unless the act or omission constitutes gross negligence or**
 32 **willful, wanton, or intentional misconduct; and**

33 **(2) shall be held harmless from and against all claims of civil**
 34 **or criminal trespass.**

35 **(d) In the case of real property that is subject to a mortgage, the**
 36 **creditor in the mortgage transaction may not enter upon the**
 37 **premises of the real property under subsection (a) if entry is**
 38 **barred by an automatic stay issued by a bankruptcy court.**

1 **Sec. 6. For purposes of this chapter, a tax sale certificate holder**
 2 **or an applicant for a tax deed who performs an act described in**
 3 **section 5 of this chapter with respect to the real property for which**
 4 **the person holds the tax sale certificate or has applied for the tax**
 5 **deed, is not considered to be the owner of that real property if:**

6 **(1) the only connection the person has to the property is the**
 7 **tax sale certificate or the fact that the person has applied for**
 8 **a tax deed; and**

9 **(2) the only consideration the person receives for the act is the**
 10 **possibility of receiving a tax deed to the property in the**
 11 **future.**

12 **SECTION 16. [EFFECTIVE UPON PASSAGE] (a) As used in this**
 13 **chapter, "committee" refers to:**

14 **(1) the commission on courts established by IC 33-23-10-1; or**

15 **(2) another study committee to which the legislative council**
 16 **assigns the topics of study described in subsection (b).**

17 **(b) The general assembly urges the legislative council to assign**
 18 **the following topics of study to the commission on courts or to**
 19 **another appropriate study committee:**

20 **(1) Short sale procedures in real estate transactions in**
 21 **Indiana.**

22 **(2) The experiences of other states that have:**

23 **(A) enacted the Uniform Nonjudicial Foreclosure Act**
 24 **adopted by the National Conference of Commissioners on**
 25 **Uniform State Laws; or**

26 **(B) otherwise adopted a nonjudicial mortgage foreclosure**
 27 **process.**

28 **(3) The feasibility of Indiana adopting a nonjudicial mortgage**
 29 **foreclosure process, including any efforts needed to transition**
 30 **from the existing judicial foreclosure process to a nonjudicial**
 31 **foreclosure process.**

32 **(4) Any other topic relating to:**

33 **(A) short sale procedures; or**

34 **(B) nonjudicial foreclosures;**

35 **assigned by the legislative council, or as directed by the**
 36 **committee chair.**

37 **(c) If the topics described in subsection (b)(2) through (b)(4) are**
 38 **assigned to a committee under subsection (b), the committee may**

1 recommend for introduction in the general assembly proposed
2 legislation to establish a nonjudicial foreclosure process in Indiana.

3 (d) If the topics described in subsection (b) are assigned to a
4 committee under subsection (b), the committee may consult with
5 or solicit testimony from the following in conducting the study
6 described in subsection (b):

7 (1) The office of the attorney general, the department of
8 financial institutions, the Indiana housing and community
9 development authority, the chief justice of the Indiana
10 supreme court, the division of state court administration, any
11 judicial officer or other court personnel of a circuit or
12 superior court, or any officer or employee of the executive or
13 judicial branch.

14 (2) Creditors in mortgage transactions and attorneys who
15 represent creditors in mortgage foreclosure actions.

16 (3) Debtors in mortgage transactions and attorneys who
17 represent debtors in mortgage foreclosure actions.

18 (4) Real estate brokers and salespersons licensed under
19 IC 25-34.1.

20 (5) Consumer advocates or consumer advocacy organizations.

21 (6) Mortgage foreclosure counselors.

22 (7) Academics.

23 (8) Officials from other states.

24 (9) Any other person whom the committee chair determines
25 to have appropriate expertise.

26 (e) If the topics described in subsection (b) are assigned under
27 subsection (b) to a committee other than the commission on courts,
28 the committee shall, not later than November 1, 2011, issue a final
29 report to the legislative council concerning the findings and
30 recommendations of the committee on the topics described in
31 subsection (b). If the topics described in subsection (b) are assigned
32 under subsection (b) to the commission on the courts, the
33 commission shall include its findings and recommendations
34 concerning the topics described in subsection (b) in its report to the
35 general assembly under IC 33-23-10-7(5) that is due not later than

- 1 **November 1, 2011.**
- 2 **(f) This SECTION expires December 31, 2011."**
- 3 Renumber all SECTIONS consecutively.
 (Reference is to SB 582 as reprinted February 16, 2011.)

and when so amended that said bill do pass.

Representative Burton