

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1048

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-29-7-3, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2022 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:

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 finds under IC 32-30-10.6 that the mortgaged real estate 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

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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 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. **The sale may be conducted electronically under subsection (d),** 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:
 - (A) sixty (60) days after the date on which a judgment and decree under IC 32-30-10.6-5; and
 - (B) one hundred twenty (120) days after the date on which a judgment and decree in all other cases;
 under seal of the court is 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) The county sheriff may conduct the public auction required under subsection (c) electronically. The electronic sale must



comply with the other requirements in this section. If the public auction is conducted electronically, the county sheriff may receive electronic payments and establish procedures necessary to secure the payments by the time of the sale. The auction provider may not add an additional cost for conducting the sale electronically.

~~(d)~~ **(e)** Before selling mortgaged property, the sheriff must advertise the sale by publication once each week for three (3) successive weeks:

- (1) with each publication of notice in a daily or weekly newspaper of general circulation in at least one (1) newspaper published and circulated in each county where the real estate is situated; or
- (2) with the first publication of notice in a newspaper described in subdivision (1) and the two (2) subsequent publications of notice:

(A) in accordance with IC 5-3-5; and

(B) on the official web site of each county where the real estate is located.

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.

~~(e)~~ **(f)** 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 ~~(d)~~: **(e)**. 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.

~~(f)~~ **(g)** 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.

~~(g)~~ **(h)** 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.

~~(h)~~ **(i)** Notices under subsections ~~(d)~~: **(e)**, **(f)**, **(g)**, and ~~(j)~~ **(k)** 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.

(j) The sheriff may charge an administrative fee of not more than ~~two~~ **three** hundred dollars (~~\$200~~) (**\$300**) 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).

(k) If a sale of mortgaged property scheduled under this section is canceled, the sheriff shall provide written notice of the cancellation to 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) for notice to one (1) owner and three dollars (\$3) for notice to each additional owner for service of written notice under this subsection. The fee:

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

The fee for service under this subsection shall be paid by the person who caused the sale to be canceled.

SECTION 2. IC 32-29-7-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 4.5. (a) This section does not apply to a party foreclosing on a mortgage executed on a tract offered for sale under this chapter.**

(b) This section applies to the following:

(1) A person who:

- (A) owns a fee interest, a life estate interest, or the equitable interest of a contract purchaser in an unsafe building or unsafe premises; and**
- (B) is subject to an order issued under IC 36-7-9-5(a)(2), IC 36-7-9-5(a)(3), IC 36-7-9-5(a)(4), or IC 36-7-9-5(a)(5) regarding which the conditions set forth in IC 36-7-9-10(a)(1) through IC 36-7-9-10(a)(4) exist.**

(2) A person who:

- (A) owns a fee interest, a life estate interest, or the equitable interest of a contract purchaser in an unsafe building or unsafe premises; and**



- (B) is subject to an order issued under IC 36-7-9-5(a), other than an order issued under IC 36-7-9-5(a)(2), IC 36-7-9-5(a)(3), IC 36-7-9-5(a)(4), or IC 36-7-9-5(a)(5), regarding which the conditions set forth in IC 36-7-9-10(b)(1) through IC 36-7-9-10(b)(4) exist.
- (3) A person who is the defendant in a court action brought under IC 36-7-9-18, IC 36-7-9-19, IC 36-7-9-20, IC 36-7-9-21, or IC 36-7-9-22 that has resulted in a judgment in favor of the plaintiff and the unsafe condition that caused the action to be brought has not been corrected.
- (4) A person who has any of the following relationships to a person, partnership, corporation, or legal entity described in subdivision (1), (2), (3), or (5):
- (A) A partner of a partnership.
 - (B) A member of a limited liability company.
 - (C) An officer, director, or majority stockholder of a corporation.
 - (D) The person who controls or directs the activities or has a majority ownership in a legal entity other than a partnership or corporation.
- (5) A person who owes:
- (A) delinquent taxes;
 - (B) special assessments;
 - (C) penalties;
 - (D) interest; or
 - (E) costs directly attributable to a prior tax sale;
- on a tract or an item of real property listed under IC 6-1.1-24-1.
- (6) A person who owns a fee interest, a life estate interest, or the equitable interest of a contract purchaser in a vacant or abandoned structure subject to an enforcement order under IC 32-30-6, IC 32-30-7, IC 32-30-8, or IC 36-7-9, or a court order under IC 36-7-37.
- (7) A person who is an agent of a person described in this subsection.
- (8) A person who:
- (A) is delinquent in the payment of any personal property taxes; or
 - (B) is subject to an existing personal property tax judgment;
- under IC 6-1.1-22-9.
- (c) A person subject to this section may not bid on or purchase



a tract offered for sale under section 4 of this chapter.

(d) A business entity may not bid on or purchase a tract offered for sale under section 4 of this chapter if:

(1) a person subject to this section:

(A) formed the business entity;

(B) joined with another person or party to form the business entity; or

(C) joined the business entity as a proprietor, incorporator, partner, shareholder, director, employee, or member; or

(2) a person subject to this section:

(A) becomes an agent, employee, or board member of the business entity; or

(B) is not an attorney at law and represents the business entity in a legal matter.

SECTION 3. IC 32-29-7-4.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4.6. The sheriff shall require each person who will be bidding at the sheriff's sale to sign a statement in a form substantially similar to the following:

"Indiana law prohibits a person who owes delinquent taxes, special assessments, penalties, interest, or costs directly attributable to real property under IC 6-1.1 from bidding on or purchasing property at a sheriff's sale. I hereby affirm under the penalties for perjury that I am not prohibited from bidding under IC 32-29-7-4.5 and that I do not owe delinquent taxes, special assessments, penalties, interest, costs directly attributable to real property under IC 6-1.1, amounts from a final adjudication in favor of a political subdivision, any civil penalties imposed for the violation of a building code or county ordinance, or any civil penalties imposed by a county health department. I also affirm that I am not purchasing property on behalf of or as an agent for a person who is prohibited from bidding under IC 32-29-7-4.5. I further acknowledge that a person who knowingly or intentionally provides false information on this affidavit commits perjury, a Level 6 felony."

SECTION 4. IC 32-29-7-4.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4.7. (a) This section does not apply to a party foreclosing on a mortgage executed on a tract offered for sale under this chapter.

(b) As used in this section, "foreign business association" means



a corporation, professional corporation, nonprofit corporation, limited liability company, partnership, or limited partnership that is organized under the laws of another state or country.

(c) A foreign business association that:

(1) has not obtained a certificate of authority from, or registered with, the secretary of state in accordance with the procedures described in IC 23, as applicable; or

(2) has obtained a certificate of authority from, or registered with, the secretary of state in accordance with the procedures described in IC 23, as applicable, but is not in good standing in Indiana as determined by the secretary of state;

may not purchase a tract offered for sale under section 4 of this chapter.

SECTION 5. IC 32-29-8-4, AS AMENDED BY P.L.13-2013, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. (a) As used in this section, "interested person", with respect to an action to foreclose a mortgage on an interest in real property in Indiana, means:

(1) the holder of the evidence of debt secured by the mortgage being foreclosed;

(2) a person:

(A) who purchases the property at a judicial sale after a judgment and decree of sale is entered in the action; and

(B) to whom a deed is executed and delivered by the sheriff under IC 32-29-7-10; or

(3) any person claiming by, through, or under a person described in subdivision (1) or (2).

(b) As used in this section, "omitted party", with respect to an action to foreclose a mortgage on an interest in real property in Indiana, means a person who:

(1) before the commencement of the action has acquired in the property an interest that:

(A) is junior or subordinate to the mortgage being foreclosed; and

(B) would otherwise be extinguished by the foreclosure; and

(2) is either:

(A) not named as a party defendant in the action or, if named as a party defendant, is not served with process; or

(B) not served with a notice of sale under ~~IC 32-29-7-3(d)~~ **IC 32-29-7-3(e)** after a judgment and decree of sale is entered in the action.

The term includes any person claiming by, through, or under a person



described in this subsection.

(c) At any time after a judgment and decree of sale is entered in an action to foreclose a mortgage on an interest in real property in Indiana, an interested person or an omitted party may bring a civil action to:

- (1) determine the extent of; and
- (2) terminate;

the interest of an omitted party in the property subject to the sale.

(d) Except as provided in subsection (e) and subject to subsections (f) and (g), upon the filing of an action described in subsection (c), the court shall determine the extent of the omitted party's interest in the property and issue a decree terminating that interest, subject to the right of the omitted party to redeem the property on terms as the court considers equitable under the circumstances after considering the factors set forth in subsection (f), if the omitted party would have had redemption rights:

- (1) before the sale under IC 32-29-7-7; or
- (2) after the sale, as described in IC 34-55-4-8(a)(2).

(e) If the omitted party proves that the omitted party has a right to receive proceeds actually paid at the judicial sale, the omitted party's interest in the property is not subject to termination by an action brought under this section unless the proceeds that the omitted party would have received at the judicial sale are paid to the omitted party.

(f) In an action brought under this section, if the court determines that the omitted party is entitled to redemption under subsection (d), the court shall consider the following in deciding the terms of the redemption:

- (1) Whether the omitted party:
 - (A) was given or had actual notice or knowledge of the foreclosure; and
 - (B) had opportunity to intervene in the foreclosure action or otherwise exercise any right to redeem the property.
- (2) Whether any interested person in good faith has made valuable improvements to the property and, if so, the value of all lasting improvements made to the property before the commencement of the action under this section.
- (3) The amount of any taxes and assessments, along with any related interest payments, related to the property and paid by an interested person or by any person under whose title to the property an interested person claims.

(g) If the court determines that the omitted party is entitled to redemption under subsection (d), and after considering the factors set forth in subsection (f), the court shall grant redemption rights to the



omitted party that the court considers equitable under the circumstances, subject to the following:

(1) The amount to be paid for redemption may not be less than the sale price resulting from the foreclosure of the interested person's senior lien, plus interest at the statutory judgment rate.

(2) The time allowed for payment of the redemption amount may not exceed ninety (90) days after the date of the court's decree under subsection (d).

(h) The senior lien upon which the foreclosure action was based is not extinguished by merger with the title to the property conveyed to a purchaser through a sheriff's deed executed and delivered under IC 32-29-7-10 until the interest of any omitted party has been terminated:

(1) through an action brought under this section; or

(2) by operation of law.

Until an omitted party's interest is terminated as described in this subsection, any owner of the property as a holder of a sheriff's deed executed and delivered under IC 32-29-7-10, or any person claiming by, through, or under such an owner, is the equitable owner of the senior lien upon which the foreclosure action was based and has all rights against an omitted party as existed before the judicial sale.

(i) An interested person may not terminate an omitted party's interest in real property that is the subject of a foreclosure action except through an action brought under this section. An interested person's rights under this section may not be denied because the interested person:

(1) had actual or constructive notice of the omitted party's interest in the property;

(2) was negligent in examining county records;

(3) was engaged in the business of lending; or

(4) obtained a title search or commitment or a title insurance policy.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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