

HOUSE BILL No. 1358

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-25-6-3; IC 32-28-14-7.

Synopsis: Condominium and homeowners association liens. Amends the statutes concerning condominium liens and homeowners association liens to provide that if the mortgagee of a first mortgage, or if any other purchaser, obtains title to: (1) a condominium unit; or (2) real estate in a subdivision; as applicable, as a result of foreclosure of the first mortgage, the acquirer of title is not liable for the share of the common expenses or assessments that are chargeable to the unit or real estate and that became due before the date the judgment of foreclosure is issued by the court, if the judgment of foreclosure is issued by the court after June 30, 2016. (Current law provides that the acquirer of title through foreclosure is not liable for the share of the common expenses or assessments that became due at any time before the acquisition of title by the acquirer.)

Effective: July 1, 2016.

Fine

January 12, 2016, read first time and referred to Committee on Judiciary.



Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1358

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

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

1 SECTION 1. IC 32-25-6-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) All sums
3 assessed by the association of co-owners but unpaid for the share of the
4 common expenses chargeable to any condominium unit constitute a
5 lien on the unit effective at the time of assessment. The lien has priority
6 over all other liens except:
7 (1) tax liens on the condominium unit in favor of any:
8 (A) assessing unit; or
9 (B) special district; and
10 (2) all sums unpaid on a first mortgage of record.
11 (b) A lien under subsection (a) may be filed and foreclosed by suit
12 by the manager or board of directors, acting on behalf of the
13 association of co-owners, under laws of Indiana governing mechanics'
14 and materialmen's liens. In any foreclosure under this subsection:
15 (1) the condominium unit owner shall pay a reasonable rental for
16 the unit, if payment of the rental is provided in the bylaws; and
17 (2) the plaintiff in the foreclosure is entitled to the appointment of



- 1 a receiver to collect the rental.
- 2 (c) The manager or board of directors, acting on behalf of the
3 association of co-owners, may, unless prohibited by the declaration:
4 (1) bid on the condominium unit at foreclosure sale; and
5 (2) acquire, hold, lease, mortgage, and convey the condominium
6 unit.
- 7 (d) Suit to recover a money judgment for unpaid common expenses
8 is maintainable without foreclosing or having the lien securing the
9 expenses.
- 10 (e) If the mortgagee of a first mortgage of record, or **if any** other
11 purchaser, ~~of a condominium unit~~ obtains title to ~~the~~ **a condominium**
12 unit as a result of foreclosure of the first mortgage, the acquirer of title,
13 or the acquirer's successors and assigns, is not liable for the share of the
14 common expenses or assessments by the association of co-owners **that**
15 **are** chargeable to the unit **and** that:
- 16 (1) became due before the acquisition of title to the unit by the
17 acquirer, **if the judgment of foreclosure is issued by the court**
18 **before July 1, 2016; or**
19 (2) **became due before the date the judgment of foreclosure is**
20 **issued by the court, if the judgment of foreclosure is issued by**
21 **the court after June 30, 2016.**
- 22 The unpaid share of common expenses or assessments **that became**
23 **due before the time set forth in subdivision (1) or (2), as applicable,**
24 is considered to be common expenses collectible from all of the
25 co-owners, including the acquirer or the acquirer's successors and
26 assigns.
- 27 SECTION 2. IC 32-28-14-7, AS ADDED BY P.L.135-2007,
28 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2016]: Sec. 7. (a) Except as provided in subsection (b), in a
30 voluntary conveyance, the grantee of real estate is jointly and severally
31 liable with the grantor for all unpaid assessments against the grantor for
32 the grantor's share of the common expenses incurred before the grant
33 or conveyance, without prejudice to the grantee's right to recover from
34 the grantor the amounts of common expenses paid by the grantee.
- 35 (b) The grantee:
- 36 (1) is entitled to a statement from the manager, board of directors,
37 or other governing authority of the homeowners association that
38 sets forth the amount of the unpaid assessments against the
39 grantor; and
40 (2) is not liable for, and the real estate conveyed is not subject to
41 a homeowners association lien for, any unpaid assessments
42 against the grantor unless the lien for unpaid assessments is



1 recorded under section 6 of this chapter before recording the deed
2 by which the grantee takes title.

3 (c) If the mortgagee of a first mortgage of record, or **if any** other
4 purchaser, ~~of real estate~~ obtains title to ~~the~~ real estate **subject to this**
5 **chapter** as a result of foreclosure of the first mortgage, the acquirer of
6 title or the acquirer's successors and assigns are not liable for the share
7 of the common expenses or assessments by the homeowners
8 association **that are** chargeable to the real estate **and** that:

9 (1) became due before the acquisition of title to ~~the~~ real estate by
10 the acquirer, **if the judgment of foreclosure is issued by the**
11 **court before July 1, 2016; or**

12 (2) **became due before the date the judgment of foreclosure is**
13 **issued by the court, if the judgment of foreclosure is issued by**
14 **the court after June 30, 2016.**

15 The unpaid share of common expenses or assessments **that became**
16 **due before the time set forth in subdivision (1) or (2), as applicable,**
17 is considered to be common expenses collectible from all of the owners
18 of real estate in the subdivision, including the acquirer or the acquirer's
19 successors and assigns.

