

## **IC 32-28-4**

### **Chapter 4. Foreclosure and Expiration of a Mortgage or Vendor's Lien**

#### **IC 32-28-4-1**

##### **Limitation of actions**

Sec. 1. (a) A mortgage or vendor's lien upon real estate expires ten (10) years after the last installment of the debt secured by the mortgage or vendor's lien becomes due, as shown by the record of the mortgage or vendor's lien unless an action to foreclose is brought not later than ten (10) years after the last installment of the debt secured by the mortgage or vendor's lien becomes due, as shown by the record of the mortgage or vendor's lien.

(b) An action may not be brought in the courts of Indiana to foreclose a mortgage or enforce a vendor's lien reserved by a person to secure the payment of an obligation secured by the mortgage or vendor's lien if the last installment of the debt secured by the mortgage or vendor's lien, as shown by the record of the mortgage or vendor's lien, has been due more than ten (10) years.

*As added by P.L.2-2002, SEC.13. Amended by P.L.130-2012, SEC.1; P.L.18-2013, SEC.1.*

#### **IC 32-28-4-2**

##### **Record silent as to due date of debt; date of execution omitted; expiration of lien; certification of satisfaction**

Sec. 2. (a) Except as provided in section 3 of this chapter, if the record of a mortgage or vendor's lien described in section 1 of this chapter does not show when the debt or the last installment of the debt secured by the mortgage or vendor's lien becomes due, the following apply:

(1) If the mortgage or vendor's lien was created before July 1, 2012, the mortgage or vendor's lien expires twenty (20) years after the date on which the mortgage or vendor's lien was executed unless an action to foreclose is brought not later than twenty (20) years after the date on which the mortgage or vendor's lien was executed.

(2) If the mortgage or vendor's lien was created after June 30, 2012, the mortgage or vendor's lien expires ten (10) years after the date on which the mortgage or vendor's lien was executed unless an action to foreclose is brought not later than ten (10) years after the date on which the mortgage or vendor's lien was executed.

(b) If:

(1) the record of a mortgage or vendor's lien described in section 1 of this chapter does not show when the debt or the last installment of the debt secured by the mortgage or vendor's lien becomes due;

(2) the date of execution has been omitted in the mortgage or vendor's lien; and

(3) the mortgage or vendor's lien was created before July 1,

2012;

the mortgage or vendor's lien expires twenty (20) years after the date on which the mortgage or vendor's lien was recorded unless an action to foreclose is brought not later than twenty (20) years after the date on which the mortgage or vendor's lien was recorded.

(c) If:

(1) the record of a mortgage or vendor's lien described in section 1 of this chapter does not show when the debt or the last installment of the debt secured by the mortgage or vendor's lien becomes due;

(2) the date of execution has been omitted in the mortgage or vendor's lien; and

(3) the mortgage or vendor's lien was created after June 30, 2012;

the mortgage or vendor's lien expires ten (10) years after the date on which the mortgage or vendor's lien was recorded unless an action to foreclose is brought not later than ten (10) years after the date on which the mortgage or vendor's lien was recorded.

(d) Upon the request of the owner of record of real estate encumbered by a mortgage or vendor's lien that has expired under this section, the recorder of the county in which the real estate is situated shall certify on the record that the mortgage or vendor's lien is fully paid and satisfied by lapse of time, and the real estate is released from the mortgage or vendor's lien.

*As added by P.L. 2-2002, SEC. 13. Amended by P.L. 130-2012, SEC. 2; P.L. 18-2013, SEC. 2.*

### **IC 32-28-4-3**

#### **Record silent as to when debt due; affidavit stating when debt is due; time for filing; effect of filing on lien duration and limitation of actions**

Sec. 3. (a) If the record of a mortgage or vendor's lien to which this chapter applies does not show the time when the debt or the last installment of the debt secured by the mortgage or vendor's lien becomes due:

(1) the original mortgagee;

(2) the owner of the mortgage; or

(3) the owner of a vendor's lien;

may file an affidavit with the recorder of the county where the mortgage or vendor's lien is recorded, stating when the debt becomes due.

(b) An affidavit must be filed under this section not later than the following:

(1) If the mortgage or vendor's lien was created before July 1, 2012, not later than twenty (20) years after:

(A) the date on which the mortgage or vendor's lien was executed; or

(B) if the mortgage or vendor's lien does not contain the date on which the mortgage or vendor's lien was executed, the date on which the mortgage or vendor's lien was recorded.

(2) If the mortgage or vendor's lien was created after June 30, 2012, ten (10) years after the date of execution of the mortgage or vendor's lien, or, if the mortgage or vendor's lien contains no date of execution, not later than ten (10) years from the date the mortgage or vendor's lien was recorded.

Upon the filing of the affidavit, the recorder shall note in the record of the mortgage or vendor's lien that an affidavit has been filed, showing the location where the affidavit is recorded.

(c) The filing of an affidavit under subsection (a) has the same effect with respect to the duration of the mortgage or vendor's lien described in the affidavit and with respect to the time within which an action may be brought to foreclose the mortgage or vendor's lien as though the time of maturity of the debt or the last installment of the debt secured by the mortgage or vendor's lien had been stated in the mortgage or vendor's lien when recorded. The affidavit is prima facie evidence of the truth of the averments contained in the affidavit.

(d) A mortgage or vendor's lien on the real estate described in the affidavit expires as follows:

(1) If the mortgage or vendor's lien was created before July 1, 2012, twenty (20) years after the date on which the debt or the last installment of the debt secured by the mortgage or vendor's lien becomes due, as shown by the affidavit.

(2) If the mortgage or vendor's lien was created after June 30, 2012, ten (10) years after the time when the debt or the last installment of the debt secured by the mortgage or vendor's lien becomes due, as shown by the affidavit.

Upon the expiration of a mortgage or vendor's lien as described in this section and at the request of the real estate owner, the recorder of the county in which the affidavit is recorded shall certify on the record of the mortgage or vendor's lien that the mortgage or vendor's lien is fully paid and satisfied by lapse of time and that the real estate is released from the mortgage or vendor's lien.

(e) The recorder shall charge a fee for filing the affidavit in accordance with the fee schedule established in IC 36-2-7-10.

*As added by P.L.2-2002, SEC.13. Amended by P.L.130-2012, SEC.3; P.L.18-2013, SEC.3.*