

One Minute Memo[®]



Indiana Mortgage Law Update - Important Time Sensitive Information For Holders of Indiana Mortgage Loans

History

Under existing law, a mortgage lien in Indiana expires ten (10) years after the maturity date reflected in the mortgage. However, if the mortgage does not state a maturity date, the mortgage expires twenty (20) years following the earlier of the date of execution or date of recordation of the mortgage.

The Legislation

In March 2012, Indiana Governor Mitch Daniels signed into law Indiana Senate Enrolled Act No. 298 (the "Act") which amended Indiana Code §§32-28-4-1 through 32-28-4-3 (the "Code"), effective July 1, 2012. The Act shortens the duration of a lien on a recorded mortgage to ten (10) years when the mortgage fails to state the maturity date of the secured obligation. To access the Act in its entirety, click [here](#).

Impact on the Lending Community

The Act does not affect any existing mortgages which expressly state a maturity date. However, the Act is retroactive, affecting all existing mortgages which do not expressly state a maturity date. Accordingly, if the maturity date is not included in a mortgage, as of July 1, 2012, the mortgage will expire ten (10) years after the date of execution, or, if the date of execution is not included in the mortgage, ten (10) years after the date of recordation of the mortgage.

Even though the Act is retroactive, the Code provides a "fix" whereby an affidavit can be filed in the county of recordation, stating when the debt becomes due. Unless such curative action is taken, all mortgages which do not expressly state a maturity date will expire by operation of law, on the later of July 1, 2012 or ten (10) years after execution (or recordation, if the execution date is not stated in the mortgage), leaving lenders without a mortgage lien.

Next Steps

Lenders should immediately (1) review their portfolios, and (2) take curative action by filing affidavits for any mortgage that does not specify the maturity date of the secured obligation. Such affidavits must be filed prior to the later of (i) July 1, 2012 or (ii) the date which is ten (10) years after the date of execution of the mortgage (or, if the mortgage does not specify a date of execution, the date which is ten (10) years from the date of recordation). In the future, all Indiana mortgages should expressly state the maturity date of the secured obligation.

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