

PROPOSED AMENDMENT

SB 261 # 2

DIGEST

Repeal. Repeals foreclosure mischief (the language is already in the bill).

- 1 Page 15, between lines 21 and 22, begin a new paragraph and insert:
2 "SECTION 17. IC 35-43-4-9 IS REPEALED [EFFECTIVE JULY
3 1, 2026]. Sec. 9: (a) This section applies only to real property in
4 foreclosure:
5 (b) The following definitions apply throughout this section:
6 (1) "Damages; permanently removes an object from; or defaces
7 real property" means to damage, permanently remove, or deface
8 one (1) or more of the following:
9 (A) Fixtures (as defined in IC 26-1-2.1-309) of the real
10 property.
11 (B) A component or subsystem of the heating, ventilation, or
12 air conditioning system of the real property.
13 (C) Wiring of the real property.
14 (D) Pipes, fittings, or another part of the plumbing system of
15 the real property.
16 (E) The structure, including the roof and foundation, of the
17 real property.
18 (F) The windows of the real property.
19 (G) The floors, ceilings, walls, or doors of the real property.
20 (H) The landscaping of the real property.
21 (I) An unattached structure, carport, patio, fence, or swimming
22 pool located on the real property.
23 (2) "Real property in foreclosure" means real property with
24 respect to which a foreclosure action has been filed or joined by
25 a person having a security interest in the property that is used to
26 secure:
27 (A) a mortgage;
28 (B) a land contract; or

- 1 ~~(C)~~ another agreement similar to a mortgage or a land contract.
2 The term does not include property that is the subject of a
3 foreclosure action brought by a person having any other type of
4 security interest in the property, including a mechanic's lien, a tax
5 lien, or a lien placed by a homeowners association, unless the
6 property is also the subject of a foreclosure action described in
7 clauses ~~(A)~~ through ~~(C)~~.
8 ~~(c)~~ A person who knowingly or intentionally damages; permanently
9 removes an object from; or defaces real property in foreclosure
10 commits foreclosure mischief, a Class B misdemeanor. However, the
11 offense is:
12 ~~(1)~~ a Class A misdemeanor if the pecuniary loss is at least seven
13 hundred fifty dollars (\$750) but less than fifty thousand dollars
14 (\$50,000); and
15 ~~(2)~~ a Level 6 felony if the pecuniary loss is at least fifty thousand
16 dollars (\$50,000).
17 ~~(d)~~ It is a defense to a prosecution under this section that the
18 damage, removal, or defacement was the result of repair, renovation,
19 replacement, or maintenance performed in good faith."
20 Re-number all SECTIONS consecutively.
 (Reference is to SB 261 as introduced.)