

STATEMENT OF PURPOSE

RS28597 / H0257

The purpose of this proposed legislation is to clarify the conditions under which the five (5) year statute of limitations period on mortgage foreclosures commences—particularly when the due date of mortgage-secured debts have been accelerated by the lender. Current law provides that an action for judicial foreclosure of a mortgage must be commenced within five (5) years from the “Maturity Date” of the obligation secured by a mortgage. If an explicit “Maturity Date” is not stated in the obligation, the legislation deems the date the lender accrues the right to foreclosure the date on which the statute of limitations commences. In instances where an obligation includes a “Maturity Date”, but also grants the lender a contractual right to accelerate the debt upon borrower default—the effective “Maturity Date” becomes unclear.

The legislation's ambiguous use of the term “maturity date” has confused lenders, borrowers and the Courts—costing involved parties and Idaho's taxpayers valuable time and resources litigating. The proposed language clarifies that the statute of limitations period commences on the "Due Date", which is defined as the date the entire financial obligation becomes due in full. As clearly stated in the legislative history, this rule is regardless of whether there is a stated "Maturity Date" in the mortgage documents. This proposed amended IC 5-214A language respects lenders' right to accelerate debts in response to borrower default and protects borrowers from negligent lenders who may attempt to pursue foreclosure after the statute of limitations period has run out.

FISCAL NOTE

This bill is not reasonably projected to increase or decrease existing or future appropriations nor to increase or decrease revenues by the state or any unit of local government. The bill clarifies existing law and does not require any change in appropriations or revenue.

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DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).