



January 16, 2018

HOUSE BILL No. 1021

DIGEST OF HB 1021 (Updated January 16, 2018 12:31 pm - DI 123)

Citations Affected: IC 32-28.

Synopsis: Mechanic's liens. Permits a person to discharge a mechanic's lien by filing an indemnification or payment bond with the recorder's office in an amount equal to at least 150% of the lien. Requires the surety responsible for issuing an indemnification or payment bond to: (1) be authorized to do business in Indiana; and (2) be rated at least "A-" by at least one (1) nationally recognized investment rating service. Specifies certain requirements concerning the recording of an indemnification or payment bond. Repeals the current statute concerning the filing of an undertaking to discharge a lien.

Effective: July 1, 2018.

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January 3, 2018, read first time and referred to Committee on Judiciary.
January 16, 2018, amended, reported — Do Pass.

HB 1021—LS 6359/DI 106



January 16, 2018

Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1021

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

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

- 1 SECTION 1. IC 32-28-3-11 IS REPEALED [EFFECTIVE JULY 1,
2 2018]. ~~Sec. 11. (a) In an action to foreclose a lien:~~
3 ~~(1) the defendant or owner of the property subject to the lien; or~~
4 ~~(2) any person having an interest in the property subject to the~~
5 ~~lien, including a mortgagee or other lienholder;~~
6 ~~may file in the action a written undertaking with surety to be approved~~
7 ~~by the court.~~
8 ~~(b) An undertaking filed under this section must provide that the~~
9 ~~person filing it will pay any judgment that may be recovered in the~~
10 ~~action to foreclose the lien, including costs and attorney's fees allowed~~
11 ~~by the court, if the claim on which the judgment is founded is found by~~
12 ~~the court to have been a lien on the property at the time the action was~~
13 ~~filed.~~
14 ~~(c) If an undertaking is filed and approved by the court:~~
15 ~~(1) the court shall enter an order releasing the property from the~~
16 ~~lien; and~~
17 ~~(2) the property shall be discharged from the lien.~~

HB 1021—LS 6359/DI 106



1 SECTION 2. IC 32-28-3-11.3 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2018]: **Sec. 11.3. (a) This section applies to a**
4 **lien described in this chapter.**

5 (b) As used in this section, "lien claimant" means a person that
6 has filed a lien or notice of intent to file a lien.

7 (c) If a person has filed a lien or notice of intent to file a lien, any
8 other person may file a bond to indemnify against the lien. The
9 indemnification bond must be filed in duplicate in the recorder's
10 office of the county in which the lien or notice of intent to file a lien
11 was filed.

12 (d) An indemnification bond filed under subsection (c) must
13 include the following:

14 (1) A cross reference to the original lien filed by the lien
15 claimant.

16 (2) The last known address of the lien claimant.

17 (e) If a contractor or subcontractor has provided a payment
18 bond for the benefit of a potential lien claimant, two (2) copies of
19 the payment bond may be filed in the recorder's office of the
20 county in which the lien or notice of intent to file a lien was filed in
21 place of the indemnification bond described in subsection (c).

22 (f) The indemnification or payment bond must:

23 (1) be at least equal to one hundred fifty percent (150%) of
24 the lien;

25 (2) be issued by a surety company authorized to do business
26 in Indiana and rated at least "A-" by at least one (1)
27 nationally recognized investment rating service; and

28 (3) provide for the satisfaction of any judgment that may
29 otherwise be recovered in an action to foreclose the lien
30 entered in favor of the lien claimant if the claim on which the
31 judgment is founded is found to have been a lien on property
32 in accordance with this chapter.

33 (g) A bond filed or deposited under subsection (c) or (e)
34 discharges the liability of a person served by a lien claimant under
35 section 9 of this chapter.

36 (h) The recorder shall record an indemnification or payment
37 bond filed under this section in the same manner as the release of
38 a lien is recorded and return the original to the person filing the
39 bond. The recorder shall charge the filing fee prescribed by
40 IC 36-2-7-10.

41 (i) The recorder shall:

42 (1) mail, first class, one (1) duplicate or copy of the



1 **indemnification or payment bond to each lien claimant not**
2 **later than three (3) business days after recordation;**
3 **(2) post records as to the date of the mailing; and**
4 **(3) collect a fee of two dollars (\$2) from the person filing the**
5 **indemnification or payment bond for each copy of the**
6 **indemnification or payment bond that is mailed.**
7 **The duplicate or copy of the indemnification or payment bond shall**
8 **be addressed to the latest address of each lien claimant, as**
9 **identified in records maintained by the recorder.**
10 **(j) The filing of an indemnification or payment bond under this**
11 **section operates as a complete discharge of the lien.**
12 **(k) The lien claimant may make the bond obligor a party to an**
13 **action to enforce the lien claimant's claim.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1021, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 5, delete "clamant" and insert "**claimant**".

Page 2, line 11, after "filed." begin a new paragraph and insert:

"(d) An indemnification bond filed under subsection (c) must include the following:

(1) A cross reference to the original lien filed by the lien claimant.

(2) The last known address of the lien claimant."

Page 2, line 12, delete "(d)" and insert "(e)".

Page 2, line 17, delete "(e)" and insert "(f)".

Page 2, line 21, delete "Indiana;" and insert "**Indiana and rated at least "A-" by at least one (1) nationally recognized investment rating service;**".

Page 2, line 27, delete "(f)" and insert "(g)".

Page 2, line 27, delete "(d)" and insert "(e)".

Page 2, line 30, delete "(g)" and insert "(h)".

Page 2, line 35, delete "(h)" and insert "(i)".

Page 3, line 4, delete "(i)" and insert "(j)".

Page 3, line 6, delete "(j)" and insert "(k)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1021 as introduced.)

STEUERWALD

Committee Vote: yeas 12, nays 1.

