



February 18, 2019

HOUSE BILL No. 1055

DIGEST OF HB 1055 (Updated February 18, 2019 12:05 pm - DI 123)

Citations Affected: IC 32-28; noncode.

Synopsis: 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 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. Urges the legislative council to assign to the appropriate interim study committee (committee) the topic of judgment liens. Provides that if the topic of judgment liens is assigned to the appropriate committee, the following topics will be addressed by the committee: (1) The feasibility of developing, preparing, and implementing, before January 1, 2021, a plan, protocol, or Internet based system concerning judgments and pending cases. (2) The feasibility of providing, before January 1, 2021, all necessary training and education to clerks of court regarding any plan, protocol, or Internet based system concerning judgments or pending cases. (3) Any other issue or topic relevant to the development and implementation of any plan, protocol, or Internet based system concerning judgments or pending cases. Makes conforming amendments.

Effective: Upon passage; July 1, 2019.

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January 3, 2019, read first time and referred to Committee on Judiciary.
February 18, 2019, amended, reported — Do Pass.

HB 1055—LS 6600/DI 128



February 18, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1055

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

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 2019]. ~~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 1055—LS 6600/DI 128



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, 2019]: **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.

14 SECTION 3. [EFFECTIVE UPON PASSAGE] (a) As used in this
 15 SECTION, "legislative council" refers to the legislative council
 16 established by IC 2-5-1.1-1.

17 (b) The legislative council is urged to assign to the appropriate
 18 interim study committee during the 2019 legislative interim the
 19 topic of judgment liens. If the topic of judgment liens is assigned to
 20 an interim study committee during the 2019 legislative interim, the
 21 appropriate study committee shall consider the following issues
 22 and topics:

23 (1) The feasibility of developing, preparing, and
 24 implementing, before January 1, 2021, a plan, protocol, or
 25 Internet based system that:

26 (A) allows the:

27 (i) judicial technology oversight committee; or

28 (ii) office of judicial administration;

29 and a clerk of court to electronically send, receive, or
 30 exchange information concerning judgments and pending
 31 cases;

32 (B) allows a member of the public to search for
 33 information concerning judgments and pending cases;

34 (C) provides the judgment docket information described
 35 under IC 33-32-3-2 to a person making use of the plan,
 36 protocol, or Internet based system described in this
 37 subdivision; and

38 (D) allows a person to search for information concerning
 39 a judgment or pending case:

40 (i) by the name of any party related to the case;

41 (ii) through use of a partial name match involving the
 42 party's first name, last name, or a complex name;



- 1 (iii) through use of a partial name match involving an
- 2 entity's name or an entity's complex name; and
- 3 (iv) through exclusive use of the plan, protocol, or
- 4 Internet based system described in this subdivision.
- 5 (2) The feasibility of providing, before January 1, 2021, all
- 6 necessary training and education concerning the availability
- 7 of the plan, protocol, or Internet based system described in
- 8 subdivision (1) to the clerks of court.
- 9 (3) Any other issue or topic relevant to the development and
- 10 implementation of the plan, protocol, or Internet based
- 11 system described in subdivision (1).
- 12 (c) If the topics described in subsection (b) are assigned to an
- 13 interim study committee, the interim study committee shall issue
- 14 a final report to the legislative council containing the interim study
- 15 committee's findings and recommendations, including any
- 16 recommended legislation, in an electronic format under IC 5-14-6,
- 17 not later than November 1, 2019.
- 18 (d) This SECTION expires December 31, 2019.
- 19 SECTION 4. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1055, 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:

Delete amendment AM105501 adopted by the house judiciary committee on January 7, 2019.

Delete amendment AM105502 adopted by the house judiciary committee on January 7, 2019.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1055 as introduced and as amended by the house judiciary committee on January 7, 2019.)

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Committee Vote: yeas 10, nays 0.

