

HOUSE BILL No. 1296

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-28-15; IC 34-30-26-5.

Synopsis: Lien for repairs to abandoned property. Provides that a tax sale certificate holder who enters the premises of certain vacant or abandoned real property to perform the action of: (1) securing the real property; (2) removing trash or debris from the grounds of the real property; (3) mowing the grounds of the real property; or (4) removing or painting over graffiti on the real property; has a lien on the real property equal to the amount of the reasonable value of labor performed and materials used to perform the action.

Effective: July 1, 2017.

Pryor, Speedy, Frizzell

January 10, 2017, read first time and referred to Committee on Judiciary.



First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1296

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

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

1 SECTION 1. IC 32-28-15 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]:
4 **Chapter 15. Good Samaritan Liens for Tax Sale Certificate**
5 **Holders**
6 **Sec. 1. A tax sale certificate holder under IC 6-1.1-24 who:**
7 (1) **secures real property;**
8 (2) **removes trash or debris from the grounds of real**
9 **property;**
10 (3) **mows the grounds of real property; or**
11 (4) **removes or paints over graffiti on real property;**
12 **as permitted under IC 34-30-26-5(a)(2), may have a lien as set forth**
13 **in this chapter equal to the amount of the reasonable value of the**
14 **labor performed, if performed by a third party, and the materials**
15 **used to perform the act.**
16 **Sec. 2. (a) A person who wishes to acquire a lien upon property,**
17 **whether the claim is due or not, must file in duplicate a sworn**



1 statement and notice of the intention to hold a lien upon the
2 property for the amount of the claim:

3 (1) in the recorder's office of the county where the property
4 is located; and

5 (2) not later than one (1) year after obtaining the tax sale
6 certificate.

7 (b) An attorney in good standing admitted to the practice of law
8 in Indiana may verify and file the statement and notice of intention
9 to hold a lien on behalf of a claimant.

10 (c) A sworn statement and notice of intention to hold a lien filed
11 under this section must set forth:

12 (1) the amount claimed;

13 (2) the name and address of the claimant;

14 (3) the owner's:

15 (A) name; and

16 (B) latest address as shown on the property tax records of
17 the county; and

18 (4) the:

19 (A) parcel number; and

20 (B) street address, if any;

21 of the lot or land on which the house or other structure
22 stands.

23 (d) The claimant shall attach to the sworn statement all
24 documents to support the amount claimed, including:

25 (1) invoices and receipts for materials purchased; or

26 (2) labor performed by a third party.

27 (e) Within three (3) business days of recording the lien with the
28 recorder, the claimant shall mail, first class, one (1) of the
29 duplicates of the sworn statement and notice of intention to hold a
30 lien to the owner named in the statement.

31 (f) The statement and notice sent in subsection (e) shall be
32 addressed to the latest address of the owner as specifically set out
33 in the sworn statement and notice of the person intending to hold
34 a lien upon the property.

35 **Sec. 3. (a)** Upon receipt of a sworn statement and notice of
36 intention to hold a lien, the recorder shall record the sworn
37 statement and notice of intention to hold a lien in the miscellaneous
38 record book.

39 (b) The recorder shall charge a fee for recording the statement
40 and notice of intention to hold a lien in accordance with
41 IC 36-2-7-10.

42 (c) A lien is created when the sworn statement and notice of



1 **intention to hold a lien is recorded.**

2 **(d) The recorded lien relates back to the date the tax sale**
 3 **certificate holder first performed the labor or furnished the**
 4 **materials to make the improvements on the property described in**
 5 **IC 34-30-26-5(a)(2).**

6 **Sec. 4. (a) A person may enforce a lien under this chapter by**
 7 **filing a complaint in the circuit or superior court of the county**
 8 **where the property that is the subject of the lien is situated.**

9 **(b) The complaint must be filed not later than one (1) year after**
 10 **the date the statement and notice of intention to hold a lien was**
 11 **recorded under section 2 of this chapter.**

12 **Sec. 5. A lien under this chapter is void if the lien is not enforced**
 13 **within the time limit set forth in section 4(b) of this chapter.**

14 **Sec. 6. A lien under this chapter may be enforced only if the**
 15 **property is redeemed by the owner identified in section 2(c)(3) of**
 16 **this chapter.**

17 **Sec. 7. (a) In an action to enforce a lien under this chapter, a**
 18 **plaintiff or lienholder who recovers a judgment in any sum is**
 19 **entitled to recover reasonable attorney's fees.**

20 **(b) The court shall enter the attorney's fees as part of the**
 21 **judgment.**

22 **Sec. 8. The amount of a lien and any attorney's fees under this**
 23 **chapter may not exceed one thousand dollars (\$1,000).**

24 SECTION 2. IC 34-30-26-5, AS AMENDED BY P.L.203-2013,
 25 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2017]: Sec. 5. (a) Except as provided in subsection (d), a
 27 person who is not the owner of real property or who is a creditor, and
 28 who suspects that the property may be vacant or abandoned, may enter
 29 upon the premises of the real property to do the following:

30 (1) Without entering any structure located on the real property,
 31 visually inspect the real property to determine whether the real
 32 property may be vacant or abandoned.

33 (2) Perform any of the following actions:

34 (A) Secure the real property.

35 (B) Remove trash or debris from the grounds of the real
 36 property.

37 (C) Landscape, maintain, or mow the grounds of the real
 38 property.

39 (D) Remove or paint over graffiti on the real property.

40 (b) A person who:

41 (1) enters upon the premises of real property to visually inspect
 42 the property, as permitted under subsection (a)(1); and



- 1 (2) after inspecting the real property, determines that the real
2 property may be vacant or abandoned;
3 may notify the appropriate enforcement authority of the suspected
4 vacant or abandoned status of the property and request that the
5 enforcement authority inspect the property to determine whether the
6 property is in fact vacant or abandoned.
- 7 (c) A person that enters upon the premises of real property as
8 permitted under this section:
- 9 (1) is immune from civil liability for an act or omission related to
10 the entry or to any action described in subsection (a)(2), unless
11 the act or omission constitutes gross negligence or willful,
12 wanton, or intentional misconduct; and
13 (2) shall be held harmless from and against all claims of civil or
14 criminal trespass.
- 15 (d) In the case of real property that is subject to a mortgage, the
16 creditor in the mortgage transaction may not enter upon the premises
17 of the real property under subsection (a) if entry is barred by an
18 automatic stay issued by a bankruptcy court.
- 19 **(e) A tax sale certificate holder or an applicant for a tax deed**
20 **who mows the grounds of the real property is entitled to a lien**
21 **under IC 32-28-15.**

