

# SENATE BILL No. 384

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 26-1-11.

**Synopsis:** Liens for agricultural supply dealers. Creates an agricultural supply dealer lien (lien). Establishes conditions concerning the creation of, the priority of, and enforcement of the lien.

**Effective:** July 1, 2018.

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January 8, 2018, read first time and referred to Committee on Civil Law.

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Second Regular Session 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.

# SENATE BILL No. 384



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 26-1-11 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2018]:  
4 **Chapter 11. Agricultural Supply Dealer Lien**  
5 **Sec. 1. The following definitions apply throughout this chapter:**  
6 (1) "Agricultural chemical" means a fertilizer or agricultural  
7 chemical that is applied to crops or land that is used for the  
8 raising of crops, including fertilizer material (as defined in  
9 IC 15-16-2-11) and a pesticide (as defined in IC 15-16-4-30).  
10 (2) "Agricultural purpose" means a purpose related to the  
11 production, harvest, marketing, or transportation of  
12 agricultural products by a person who cultivates, plants,  
13 propagates, or nurtures the agricultural products, including  
14 agricultural, horticultural, viticultural, and dairy products,  
15 livestock, wildlife, poultry, bees, forest products, fish and  
16 shellfish, and any other products raised or produced on  
17 farms.



- 1 (3) "Agricultural supply" means an agricultural chemical,  
2 seed, feed, or a petroleum product that is used for an  
3 agricultural purpose.
- 4 (4) "Agricultural supply dealer" or "dealer" means a person  
5 engaged in the retail sale of agricultural chemicals, seed, feed,  
6 or petroleum products used for an agricultural purpose.
- 7 (5) "Agricultural supply dealer lien" or "lien" means the  
8 agricultural supply dealer lien created in section 3 of this  
9 chapter.
- 10 (6) "Certified request" means a request delivered by certified  
11 mail or registered certified mail, in person if in writing and  
12 signed and dated by the respective parties, or in the manner  
13 provided by the Indiana rules of civil procedure for the  
14 personal service of original notice.
- 15 (7) "Farmer" means a person engaged in a business that has  
16 an agricultural purpose.
- 17 (8) "Feed" means a commercial feed, feed ingredient, mineral  
18 feed, drug, animal health product, or customer-formula feed  
19 that is used for the feeding of livestock, including commercial  
20 feed (as defined in IC 15-19-7-2).
- 21 (9) "Financial history" means the record of a person's current  
22 loans, the date of a person's loans, the amount of the loans, the  
23 person's payment record on the loans, current liens against  
24 the person's property, and the person's most recent financial  
25 statement.
- 26 (10) "Financial institution" means a bank, credit union,  
27 insurance company, mortgage banking company or savings  
28 and loan association, industrial loan company, production  
29 credit association, farmer's home administration, or similar  
30 institution that operates or has a place of business in Indiana.
- 31 (11) "Labor" means labor performed in the application,  
32 delivery, or preparation of an agricultural chemical, feed,  
33 petroleum product, or seed.
- 34 (12) "Letter of credit" means an engagement by a financial  
35 institution to honor drafts or other demands for payment.
- 36 (13) "Livestock" means an animal belonging to the bovine,  
37 caprine, equine, ovine, or porcine species, ostriches, rheas,  
38 emus, poultry, or fish or shellfish.
- 39 (14) "Petroleum product" means a motor fuel or special fuel  
40 that is used in the production of crops or livestock, including  
41 motor fuel (as defined in IC 6-6-4.1-1(i)).
- 42 (15) "Sale on a credit basis" means a transaction in which the



1 purchase price is due on a date after the date of the sale.

2 (16) "Seed" means agricultural seeds that are used in the  
3 production of crops, including agricultural seed (as defined in  
4 IC 15-15-1-2).

5 Sec. 2. (a) On the receipt of a certified request of an agricultural  
6 supply dealer, before or upon a sale on a credit basis of an  
7 agricultural supply to a farmer, a financial institution that has a  
8 security interest in collateral owned by the farmer or an  
9 outstanding loan to the farmer for an agricultural purpose shall  
10 issue within four (4) business days a memorandum that states  
11 whether or not the farmer has a sufficient net worth or line of  
12 credit to assure payment of the purchase price on the terms of the  
13 sale. The certified request submitted by the agricultural supply  
14 dealer must state the amount of the purchase and the terms of sale  
15 and must be accompanied by a waiver of confidentiality signed by  
16 the farmer and a fifteen dollar (\$15) fee. The waiver of  
17 confidentiality and the certified request may be combined and  
18 submitted as one (1) document. If the financial institution states in  
19 its memorandum that the farmer has a sufficient net worth or line  
20 of credit to assure payment of the purchase price, the  
21 memorandum is an irrevocable and unconditional letter of credit  
22 to the benefit of the agricultural supply dealer for a period of thirty  
23 (30) days following the date on which the final payment is due for  
24 the amount of the purchase price that remains unpaid. If the  
25 financial institution does not state in its memorandum that the  
26 farmer has a sufficient net worth or line of credit to assure  
27 payment of the purchase price, the financial institution shall  
28 transmit the relevant financial history that it holds on the person.  
29 This financial history must remain confidential among the  
30 financial institution, the agricultural supply dealer, and the farmer.

31 (b) If within four (4) business days of receipt of a certified  
32 request:

33 (1) a financial institution fails to issue a memorandum upon  
34 the request of an agricultural supply dealer and the request  
35 from the agricultural supply dealer was proper under  
36 subsection (a);

37 (2) the memorandum from the financial institution is  
38 incomplete; or

39 (3) the memorandum from the financial institution states that  
40 the farmer does not have a sufficient net worth or line of  
41 credit to assure payment of the purchase price;

42 the agricultural supply dealer may decide to make the sale and



1 secure the lien provided in section 3 of this chapter.

2 (c) In an action to enforce a lien secured under section 3 of this  
 3 chapter against the interest of a financial institution secured to the  
 4 same collateral as that of the lien, it is an affirmative defense to a  
 5 financial institution and complete proof of the superior priority of  
 6 the financial institution's lien that the financial institution:

7 (1) did not receive a certified request and a waiver signed by  
 8 the farmer; or

9 (2) received the request and a waiver signed by the farmer  
 10 and provided the full and complete relevant financial history  
 11 that it held on the farmer making the purchase from the  
 12 agricultural supply dealer on which the lien is based and that  
 13 financial history reasonably indicated that the farmer did not  
 14 have a sufficient net worth or line of credit to assure payment  
 15 of the purchase price.

16 **Sec. 3. An agricultural supply dealer who provides an**  
 17 **agricultural supply to a farmer has an agricultural lien as provided**  
 18 **in IC 26-1-9.1-102(a)(5). The agricultural supply dealer is a**  
 19 **secured party, and the farmer is a debtor for purposes of**  
 20 **IC 26-1-9.1. The amount of the lien is the amount owed to the**  
 21 **agricultural supply dealer for the retail cost of the agricultural**  
 22 **supply, including labor provided. The lien applies to all of the**  
 23 **following:**

24 (1) Crops that are produced upon the land to which the  
 25 agricultural chemical was applied, produced from the seed  
 26 provided, or produced using the petroleum product provided.  
 27 The lien does not apply to any crops produced on the land  
 28 more than four hundred ninety (490) days after the date the  
 29 farmer purchased the agricultural supply.

30 (2) Livestock consuming the feed. However, the lien does not  
 31 apply to the part of the livestock of a farmer who has paid all  
 32 amounts due from the farmer for the retail cost, including  
 33 labor, of the feed.

34 **Sec. 4. (a) Except as provided in this section, a financing**  
 35 **statement filed to perfect an agricultural supply dealer lien is**  
 36 **governed by IC 26-1-9.1-501 through IC 26-1-9.1-527, in the same**  
 37 **manner as any other financing statement.**

38 (b) The agricultural supply dealer lien becomes effective at the  
 39 time that the farmer purchases the agricultural supply.

40 (c) To perfect the agricultural supply dealer lien, the  
 41 agricultural supply dealer must file a financing statement in the  
 42 office of the secretary of state as provided in IC 26-1-9.1-310 within



1 thirty-one (31) days after the date that the farmer purchases the  
2 agricultural supply. The financing statement must meet the  
3 requirements of IC 26-1-9.1-502(a) and include all applicable  
4 information described in IC 26-1-9.1-516. Filing a financing  
5 statement as provided in this subsection satisfies all requirements  
6 for perfection of an agricultural lien as provided in IC 26-1-9.1.

7 Sec. 5. Except as provided in this section, an agricultural supply  
8 dealer lien that is effective or perfected as provided in section 4 of  
9 this chapter is subject to the rules of priority as provided in  
10 IC 26-1-9.1-322. For an agricultural supply dealer lien that is  
11 perfected under section 4 of this chapter, all of the following apply:

12 (1) The lien has priority over a lien or security interest that  
13 applies subsequent to the time that the agricultural supply  
14 dealer lien is perfected.

15 (2) Except as provided in section 2(c) of this chapter, the lien  
16 has equal priority to a lien or security interest that is  
17 perfected prior to the time that the agricultural supply dealer  
18 lien is perfected. However, a landlord's lien under  
19 IC 32-31-1-19 that is perfected has priority over a conflicting  
20 agricultural supply dealer lien.

21 (3) A lien in livestock feed has priority over an earlier  
22 perfected lien or security interest to the extent of the  
23 difference between the acquisition price of the livestock and  
24 the fair market value of the livestock at the time the lien  
25 attaches or the sale price of the livestock, whichever is  
26 greater.

27 Sec. 6. An agricultural supply dealer may enforce an  
28 agricultural supply dealer lien in the manner provided for  
29 agricultural liens under IC 26-1-9.1-601 through IC 26-1-9.1-628.

