

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.

SENATE ENROLLED ACT No. 604

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-20-4-4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2019]: **Sec. 4. (a) A claim for an interest in land filed under this chapter is void if both of the following occur:**

- (1) The owner of the property subject to the claim or any person or corporation having an interest in the property, including a mortgagee or a lienholder, provides written notice to the claimant to file an action to enforce the claim.**
- (2) The claimant fails to file an action to enforce the claim in the county where the property is located not later than thirty (30) days after receiving the notice described in subdivision (1).**

However, this section does not prevent any other claim with respect to the land from being collected or enforced as other claims are collected or enforced by law.

(b) A person who has given notice under subsection (a)(1) by registered or certified mail to the claimant, at the address given by the claimant in the recorded notice of the claim, may file with the recorder of the county in which the property is located an affidavit of service of the notice under subsection (a)(1) to file an action to enforce the claim. The affidavit must state the following:

- (1) The facts of the notice under subsection (a)(1).**

SEA 604 — CC 1



(2) That more than thirty (30) days have passed since the notice under subsection (a)(1) was received by the claimant.

(3) That no action for enforcement of the claim is pending.

(4) That no unsatisfied judgment has been rendered on the claim.

(5) A reference to the recording information for the notice of claim recorded under sections 1 and 2 of this chapter.

(c) The recorder shall record the affidavit of service in the miscellaneous record book of the recorder's office, with a reference to the recorded notice of claim identified in the affidavit of service under subsection (b)(5). When the recorder records the affidavit of service with a reference to the notice of claim under this subsection, the land described in the claim is released from the claim.

SECTION 2. IC 32-28-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. (a) A lien is void if both of the following occur:

(1) The owner of property subject to a mechanic's lien or any person or corporation having an interest in the property, including a mortgagee or a lienholder, provides written notice to the owner or holder of the lien to file an action to foreclose the lien.

(2) The owner or holder of the lien fails to file an action to foreclose the lien in the county where the property is located not later than thirty (30) days after receiving the notice.

However, this section does not prevent the claim from being collected as other claims are collected by law.

(b) A person who gives notice under subsection (a)(1) by registered or certified mail to the lienholder at the address given in the recorded statement and notice of intention to hold a lien may file an affidavit of service of the notice to file an action to foreclose the lien with the recorder of the county in which the property is located. The affidavit must state the following:

(1) The facts of the notice.

(2) That more than thirty (30) days have passed since the notice was received by the lienholder.

(3) That no action for foreclosure of the lien is pending.

(4) That no unsatisfied judgment has been rendered on the lien.

(c) The recorder shall:

(1) record the affidavit of service in the miscellaneous record book of the recorder's office; and

(2) certify ~~on the face of~~ **by cross reference to** the record any lien that is fully released.



When the recorder records the affidavit and certifies **by cross reference** the record under this subsection, the real estate described in the lien is released from the lien.

SECTION 3. IC 32-28-4-2, AS AMENDED BY P.L.18-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) Except as provided in section 3 of this chapter, if the record of a mortgage or vendor's lien described in section 1 of this chapter does not show when the debt or the last installment of the debt secured by the mortgage or vendor's lien becomes due, the following apply:

(1) If the mortgage or vendor's lien was created before July 1, 2012, the mortgage or vendor's lien expires twenty (20) years after the date on which the mortgage or vendor's lien was executed unless an action to foreclose is brought not later than twenty (20) years after the date on which the mortgage or vendor's lien was executed.

(2) If the mortgage or vendor's lien was created after June 30, 2012, the mortgage or vendor's lien expires ten (10) years after the date on which the mortgage or vendor's lien was executed unless an action to foreclose is brought not later than ten (10) years after the date on which the mortgage or vendor's lien was executed.

(b) If:

(1) the record of a mortgage or vendor's lien described in section 1 of this chapter does not show when the debt or the last installment of the debt secured by the mortgage or vendor's lien becomes due;

(2) the date of execution has been omitted in the mortgage or vendor's lien; and

(3) the mortgage or vendor's lien was created before July 1, 2012; the mortgage or vendor's lien expires twenty (20) years after the date on which the mortgage or vendor's lien was recorded unless an action to foreclose is brought not later than twenty (20) years after the date on which the mortgage or vendor's lien was recorded.

(c) If:

(1) the record of a mortgage or vendor's lien described in section 1 of this chapter does not show when the debt or the last installment of the debt secured by the mortgage or vendor's lien becomes due;

(2) the date of execution has been omitted in the mortgage or vendor's lien; and

(3) the mortgage or vendor's lien was created after June 30, 2012;



the mortgage or vendor's lien expires ten (10) years after the date on which the mortgage or vendor's lien was recorded unless an action to foreclose is brought not later than ten (10) years after the date on which the mortgage or vendor's lien was recorded.

(d) Upon the request of the owner of record of real estate encumbered by a mortgage or vendor's lien that has expired under this section, the recorder of the county in which the real estate is situated shall certify **on by cross reference to** the record that the mortgage or vendor's lien is fully paid and satisfied by lapse of time, and the real estate is released from the mortgage or vendor's lien.

SECTION 4. IC 32-28-4-3, AS AMENDED BY P.L.18-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) If the record of a mortgage or vendor's lien to which this chapter applies does not show the time when the debt or the last installment of the debt secured by the mortgage or vendor's lien becomes due:

- (1) the original mortgagee;
- (2) the owner of the mortgage; or
- (3) the owner of a vendor's lien;

may file an affidavit with the recorder of the county where the mortgage or vendor's lien is recorded, stating when the debt becomes due.

(b) An affidavit must be filed under this section not later than the following:

- (1) If the mortgage or vendor's lien was created before July 1, 2012, not later than twenty (20) years after:
 - (A) the date on which the mortgage or vendor's lien was executed; or
 - (B) if the mortgage or vendor's lien does not contain the date on which the mortgage or vendor's lien was executed, the date on which the mortgage or vendor's lien was recorded.

- (2) If the mortgage or vendor's lien was created after June 30, 2012, ten (10) years after the date of execution of the mortgage or vendor's lien, or, if the mortgage or vendor's lien contains no date of execution, not later than ten (10) years from the date the mortgage or vendor's lien was recorded.

Upon the filing of the affidavit, the recorder shall note in the record of the mortgage or vendor's lien that an affidavit has been filed, showing the location where the affidavit is recorded.

(c) The filing of an affidavit under subsection (a) has the same effect with respect to the duration of the mortgage or vendor's lien described in the affidavit and with respect to the time within which an action may



be brought to foreclose the mortgage or vendor's lien as though the time of maturity of the debt or the last installment of the debt secured by the mortgage or vendor's lien had been stated in the mortgage or vendor's lien when recorded. The affidavit is prima facie evidence of the truth of the averments contained in the affidavit.

(d) A mortgage or vendor's lien on the real estate described in the affidavit expires as follows:

(1) If the mortgage or vendor's lien was created before July 1, 2012, twenty (20) years after the date on which the debt or the last installment of the debt secured by the mortgage or vendor's lien becomes due, as shown by the affidavit.

(2) If the mortgage or vendor's lien was created after June 30, 2012, ten (10) years after the time when the debt or the last installment of the debt secured by the mortgage or vendor's lien becomes due, as shown by the affidavit.

Upon the expiration of a mortgage or vendor's lien as described in this section and at the request of the real estate owner, the recorder of the county in which the affidavit is recorded shall certify ~~on~~ **by cross reference** to the record of the mortgage or vendor's lien that the mortgage or vendor's lien is fully paid and satisfied by lapse of time and that the real estate is released from the mortgage or vendor's lien.

(e) The recorder shall charge a fee for filing the affidavit in accordance with the fee schedule established in IC 36-2-7-10.

SECTION 5. IC 32-28-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. If a person who owns or has an interest in real estate encumbered by a mechanic's lien **prepares and** files the affidavit described in section 1(c) of this chapter, the recorder of the county in which the encumbered real estate is situated shall immediately record the affidavit and certify ~~on~~ **by cross reference** to the record of the lien that the mechanic's lien is fully satisfied and that the real estate described in the mechanic's lien is released from the lien. The fee of the recorder for the filing and recording of the affidavit shall be an amount prescribed by law and shall be paid by the person filing the affidavit.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 604 — CC 1

