

January 22, 1998

HOUSE BILL No. 1276

DIGEST OF HB1276 (Updated January 21, 1998 2:12 pm - DI 96)

Citations Affected: IC 32-8-24.

Synopsis: Employee liens on employer business assets. Allows an employee to place a lien on an employer's property for all work and labor done and performed by the employee for the employer. (Current law allows an employee to place a lien on a corporation's corporate assets for all work and labor done and performed by the employee for the corporation.)

Effective: July 1, 1998.

Liggett

January 13, 1998, read first time and referred to Committee on Labor and Employment.
January 21, 1998, reported — Do Pass.

HB 1276—LS 7264/DI 93



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January 22, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

HOUSE BILL No. 1276

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 32-8-24-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) Except as
3 provided in subsection (b), the employees of any ~~corporation~~ **employer**
4 doing business in Indiana, whether organized under the laws of this
5 state or otherwise, are entitled to have and hold a first and prior lien
6 upon:
7 (1) the ~~corporate~~ property of the ~~corporation~~; **employer**; and
8 (2) the earnings of the ~~corporation~~; **employer**;
9 for all work and labor done and performed by the employees for the
10 ~~corporation~~; **employer** from the date of the employees' employment by
11 the ~~corporation~~; **employer**. A lien under this section shall lie prior to
12 any and all liens created or acquired subsequent to the date of the
13 employment of the employees by the ~~corporation~~; **employer**, except as
14 otherwise provided in this chapter.
15 (b) An employee lien arising from the sale of real estate:
16 (1) is limited to a lien on the real estate; and
17 (2) must be brought under section 2.3 of this chapter.

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1 SECTION 2. IC 32-8-24-2 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) Any employee
 3 wishing to acquire such lien upon the ~~corporate~~ property of any
 4 ~~corporation~~, **employer**, or the earnings thereof, whether the employee's
 5 claim be due or not, shall file in the recorder's office of the county
 6 where such ~~corporation~~ **employer** is located or doing business, notice
 7 of the employee's intention to hold a lien upon such property and
 8 earnings aforesaid, for the amount of the employee's claim, setting forth
 9 the date of such employment, the name of the ~~corporation~~ **employer**
 10 and the amount of such claim, and it shall be the duty of the recorder
 11 of any county, when such notice is presented for record, to record the
 12 same in the record required by law for notice of mechanics' liens, for
 13 which the recorder shall charge a fee in an amount specified in
 14 IC 36-2-7-10(b)(1) and IC 36-2-7-10(b)(2). The lien so created shall
 15 relate to the time when such employee was employed by ~~such~~
 16 ~~corporation~~, **the employer**, or to any subsequent date during such
 17 employment, at the election of such employee, and shall have priority
 18 over all liens suffered or created thereafter, except other employees'
 19 liens, over which there shall be no such priority.

20 (b) Where:

- 21 (1) any person, other than an employee, shall acquire a lien upon
 22 the ~~corporate~~ property of any ~~corporation~~ **employer** located or
 23 doing business in this state;
 24 (2) such lien for a period of sixty (60) days either:
 25 (A) remains a matter of record in the proper place specified in
 26 IC 26-1-9-401; or
 27 (B) remains otherwise perfected under applicable law; and
 28 (3) no notice of an employee's intention to hold a lien shall have
 29 been filed by any employee of such ~~corporation~~ **employer** during
 30 that period;

31 then and in that case such lien so created shall have priority over the
 32 lien of such employee in the county where such ~~corporation~~ **employer**
 33 is located or doing business, and not otherwise.

34 (c) This section shall not apply to any lien acquired by any person
 35 for purchase money.

36 SECTION 3. IC 32-8-24-2.3 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2.3. (a)
 38 Notwithstanding section 2 of this chapter, an employee:

- 39 (1) whose claim is for a commission due upon the conveyance of
 40 real estate; and
 41 (2) who wishes to acquire a lien on the real estate;
 42 may file a notice in the recorder's office of the county in which the real



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1 estate is located of the employee's intention to hold a lien on the real
2 estate.

3 (b) A notice filed under this section must:

- 4 (1) contain the same information required for a mechanic's lien;
5 (2) state that the claim is due upon the conveyance of the real
6 estate; and
7 (3) be filed before the conveyance of the real estate by the
8 ~~corporation~~ **employer**.

9 (c) The recorder of any county shall, when notice is presented for
10 recording under this section:

- 11 (1) record the notice in the record required by law for notice of
12 mechanics' liens; and
13 (2) charge a fee in an amount specified in IC 36-2-7-10(b)(1) and
14 IC 36-2-7-10(b)(2).

15 (d) The lien created under this section must relate to:

- 16 (1) the time when the employee was employed by the ~~corporation~~;
17 **employer**; or
18 (2) any subsequent date during the employment, at the election of
19 the employee;

20 and has priority over all liens suffered or created after the date, except
21 other employees' liens, over which there is no priority.

22 SECTION 4. IC 32-8-24-3 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. Any employee
24 having acquired such lien may enforce the same by filing his complaint
25 therefor in the circuit or superior court in any county where such lien
26 was acquired, at any time within six (6) months from the date of
27 acquiring such lien, or if a credit be given, from the date of such credit,
28 and the court rendering judgment for such claim shall declare the same
29 a lien upon such property and order the same sold to pay and satisfy
30 such judgment and costs, as other lands are sold on execution or
31 decree, without relief from valuation or appraisal laws, and in such
32 action the court shall make such orders as to the application of the
33 earnings of such ~~corporations~~; **employers**, if any there be, as shall be
34 just and equitable, whether the same be asked for in the complaint or
35 not.

36 SECTION 5. IC 32-8-24-4 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. In such actions all
38 persons whose liens are recorded, as provided in section 2 of this
39 chapter, may be made parties to such action, and issues shall be made
40 up and trials had as in other cases; and the court may, when several
41 actions are pending by different claimants to enforce such liens, order
42 that such cases be consolidated, and if the proceeds of the sale of such

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1 property, or the earnings of such ~~corporation~~ **employer** be insufficient
2 to pay and satisfy the claimants in full, the court shall order them to be
3 paid in proportion to the amount due each, and such sale shall be made
4 without prejudice to the rights of any prior encumbrances, owner or
5 other person not parties to the action.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1276, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LIGGETT, Chair

Committee Vote: yeas 11, nays 2.

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