

HOUSE BILL No. 1303

DIGEST OF HB 1303 (Updated February 2, 1998 8:14 pm - DI 87)

Citations Affected: Noncode.

Synopsis: Construction contracts. Provides that the following provisions in a contract for the improvement of real estate in Indiana, other than a residential construction contract, are void: (1) An agreement that subcontractors, mechanics, journeymen, laborers, or persons performing labor upon, or furnishing materials or machinery for, construction on real estate waive rights to hold a lien or to a claim against a payment bond. (2) Making the contract subject to the laws of another state or requiring that any litigation, arbitration, or other dispute resolution process on the contract occur in another state. (3) Making a payment to a general contractor from a person who does not have a contractual agreement with a subcontractor or supplier a condition precedent to a general contractor's payment to the subcontractor or supplier. Requires a county recorder to mail a copy of a person's notice of intention to acquire a lien on property filed with the
(Continued next page)

Effective: July 1, 1998.

Kuzman, Becker

January 13, 1998, read first time and referred to Committee on Judiciary.
January 27, 1998, amended, reported — Do Pass.
February 2, 1998, read second time, amended, ordered engrossed.

HB 1303—LS 7269/DI 87



C
O
P
Y

Digest Continued

county recorder to: (1) the property owner named in the notice; and (2) each mortgagee with a mortgage recorded on the property that is the subject of the lien. Makes conforming amendments. Establishes the mechanic's lien study committee to study issues related to mechanic's liens.

C
o
p
y



Reprinted
February 3, 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. 1303

A BILL FOR AN ACT concerning mechanic's liens.

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

- 1 SECTION 1. [EFFECTIVE UPON PASSAGE] (a) **As used in this**
2 **SECTION, "committee" refers to the mechanic's lien study**
3 **committee established by subsection (b).**
4 (b) **The mechanic's lien study committee is established.**
5 (c) **The committee shall study issues related to mechanic's**
6 **liens.**
7 (d) **The committee may study other topics assigned by the**
8 **legislative council or as directed by the committee's chairman.**
9 (e) **The committee is under the jurisdiction of the legislative**
10 **council and shall operate under the direction of the legislative**
11 **council.**
12 (f) **Before November 1, 1998, the committee shall issue a final**
13 **report stating the committee's findings, conclusions, and**
14 **recommendations. The committee shall issue other reports as**
15 **directed by the legislative council.**
16 (g) **The committee consists of the following twelve (12)**

HB 1303—LS 7269/DI 87



C
O
P
Y

1 members:

2 (1) Four (4) members of the house of representatives,
3 appointed by the speaker of the house of representatives. Not
4 more than two (2) members appointed under this subdivision
5 may be affiliated with the same political party.

6 (2) Four (4) members of the senate, appointed by the
7 president pro tempore of the senate. Not more than two (2)
8 members appointed under this subdivision may be affiliated
9 with the same political party.

10 (3) Four (4) members appointed by the governor as follows:

11 (A) One (1) member representing the Associated
12 General Contractors of Indiana.

13 (B) One (1) member representing the Indiana
14 Subcontractors Association.

15 (C) One (1) member representing the building trades.

16 (D) One (1) member representing the Indiana Bankers
17 Association.

18 The appointing authorities shall make appointments before July 1,
19 1998.

20 (h) At the time the committee members are appointed, the
21 speaker of the house of representatives shall name one (1) of the
22 legislative members as chairman.

23 (i) A member of the committee may be removed at any time by
24 the appointing authority who appointed the member.

25 (j) The term of a legislative member expires immediately upon
26 the election of the general assembly following the member's
27 appointment. A vacancy occurs if a legislative member leaves office
28 for any reason.

29 (k) The appointing authority shall fill a vacancy on the
30 committee by appointing a member for the unexpired term.

31 (l) The committee shall meet at the call of the chairman or at
32 other times the committee determines.

33 (m) Notice of the time, place, and agenda of committee
34 meetings shall be given in the same manner as meetings of interim
35 study committees established by the legislative council.

36 (n) The affirmative vote of a majority of the members
37 appointed to the committee are required for the committee to take
38 action on any measure, including final reports.

39 (o) Each member of the committee is entitled to receive the
40 same per diem, mileage, and travel allowances paid to individuals
41 serving as legislative and lay members, respectively, on interim
42 study committees established by the legislative council.



C
O
P
Y

1 (p) The legislative services agency shall provide staff and
2 administrative support for the committee.

3 (q) The legislative council shall establish a budget for the
4 committee. Subject to prior authorization of the legislative council,
5 the expenses incurred by the committee in performing the
6 committee's duties shall be paid from the funds appropriated to the
7 legislative council.

8 (r) This SECTION expires December 31, 1998.

9 SECTION 2. An emergency is declared for this act.

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1303, 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:

Page 3, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 2. IC 32-8-3-3, AS AMENDED BY P.L.145-1994, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. (a) Any person who wishes to acquire a lien upon any property, whether the claim is due or not, shall file in the recorder's office of the county at any time within sixty (60) days after performing labor or furnishing materials or machinery described in section 1 of this chapter, a sworn statement ~~in duplicate~~ of the person's intention to hold a lien upon the property for the amount of the claim. **The person shall file with the recorder one (1) copy of the statement and one (1) copy for each person who receives notice under subsection (b).** The statement must specifically set forth:

- (1) the amount claimed;
- (2) the name and address of the claimant and the name of the owner;
- (3) the latest address of the owner as shown on the property tax records of the county; and
- (4) the legal description, street and number, if any, of the lot or land on which the house, mill, manufactory or other buildings, bridge, reservoir, system of waterworks or other structure may stand or be connected with or to which it may be removed.

The name of the owner and legal description of the lot or land will be sufficient if they are substantially as set forth in the latest entry in the transfer books described in IC 6-1.1-5-4 of the county auditor or, if IC 6-1.1-5-9 applies, the transfer books of the township assessor at the time of filing of the notice of intention to hold a lien.

(b) The recorder shall mail first class:

- (1) one (1) ~~of the duplicates~~ **copy of the notice** to the owner named in the notice; **and**
- (2) **one (1) copy of the notice to each mortgagee with a mortgage recorded:**
 - (A) **on the property that is the subject of the lien; and**
 - (B) **not less than sixty (60) days before the date the notice of intention to hold a lien is filed;**

within three (3) business days after recordation and post records as to the date of this action. The notice **under subsection (b)(1)** shall be

HB 1303—LS 7269/DI 87



C
O
P
Y

addressed to the latest address of the owner as specifically set out in the sworn statement of the person intending to hold a lien upon the property. The recorder shall be entitled to a fee of two dollars (\$2) to be collected from the lien claimant for each notice that is mailed.

(c) The failure of a mortgagee to receive notice under subsection (b)(2) may not otherwise invalidate the notice of intention to hold a lien by any person other than the mortgagee.

~~(b)~~ (d) The statement required by subsection (a) may be verified and filed on behalf of a client by an attorney registered with the clerk of the supreme court as an attorney in good standing under the requirements of the supreme court."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to House Bill 1303 as introduced.)

VILLALPANDO, Chair

Committee Vote: yeas 8, nays 5.

C
O
P
Y



HOUSE MOTION

Mr. Speaker: I move that House Bill 1303 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT concerning mechanic's liens.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

(Reference is to House Bill 1303 as printed January 28, 1998.)

KUZMAN

C
o
p
y

