

HOUSE BILL No. 1054

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-8-40.

Synopsis: Marina operator's lien. Provides that a marina operator has a lien upon a boat in the marina operator's possession for any amount owed the marina operator by the boat's owner for mooring or storing the boat at the marina. Provides that the marina operator may sell the boat at auction after the marina operator provides notice. Provides that the marina operator must forward any auction proceeds that exceed the amount of the lien and the reasonable costs of the sale to the boat owner and any prior lien holders.

Effective: July 1, 1998.

Villalpando, Fesko

January 6, 1998, read first time and referred to Committee on Financial Institutions.



Introduced

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

HOUSE BILL No. 1054

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 32-8-40 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1998]:

4 **Chapter 40. Marina Operator's Lien**
5 **Sec. 1. (a) A person, firm, corporation, limited liability**
6 **company, municipality, or other unit of government that is**
7 **engaged in the business of operating a marina and providing**
8 **marina services, including slip rental as well as wet and dry storage**
9 **of boats, has a possessory lien upon a boat:**
10 **(1) moored; or**
11 **(2) otherwise stored;**
12 **at the marina facility for any amount due the marina operator**
13 **from the owner of the boat for renting a slip or for the wet or dry**
14 **storage of the boat.**
15 **(b) A marina operator may retain possession of a boat under**
16 **this section until the money owed to the marina operator is paid in**
17 **full.**

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1 **Sec. 2. Before a marina operator may enforce a lien described**
 2 **in section 1 of this chapter, the marina operator must provide**
 3 **written notice to the owner of the boat. The written notice must:**

4 **(1) be:**

5 **(A) personally delivered to the owner of the boat; or**

6 **(B) sent by certified mail to the last known address of the**
 7 **owner of the boat;**

8 **(2) state that:**

9 **(A) a lien is claimed for the money owed the marina**
 10 **operator for the services provided by the marina operator;**
 11 **and**

12 **(B) the marina operator intends to retain possession of the**
 13 **boat until the money owed is paid in full; and**

14 **(3) include a demand for payment.**

15 **Sec. 3. (a) If the owner of a boat has not paid a marina operator**
 16 **the money owed the marina operator not later than sixty (60) days**
 17 **after the date notice is provided to the owner of the boat under**
 18 **section 2 of this chapter, the marina operator may sell the boat at**
 19 **auction if the:**

20 **(1) boat is still in the marina operator's possession; and**

21 **(2) marina operator provides a written notice by certified**
 22 **mail, return receipt requested, to the owner of the boat and**
 23 **any person who has a perfected security interest in the boat**
 24 **that includes the following information:**

25 **(A) The marina operator's intention to sell the boat at**
 26 **auction not earlier than thirty (30) days after receiving the**
 27 **boat owner's return receipt of the written notice.**

28 **(B) A description of the boat to be sold at auction.**

29 **(C) The time and place of the sale of the boat.**

30 **(D) An itemized statement of the amount due the marina**
 31 **operator.**

32 **(b) If an owner of a boat receives a written notice under**
 33 **subsection (a) and the owner of the boat informs the marina**
 34 **operator in writing of the owner's objection to the amount due the**
 35 **marina operator, the owner of the boat may bring an action to**
 36 **foreclose the marina operator's possessory lien.**

37 **(c) If the:**

38 **(1) marina operator does not receive a return receipt within**
 39 **thirty (30) days after mailing the written notice under**
 40 **subsection (a); or**

41 **(2) United States Postal Service returns the written notice to**
 42 **the marina operator as being undeliverable;**



1 the marina operator may publish notice of the marina operator's
2 intention to sell the boat at auction in a newspaper of general
3 circulation in the county where the marina operator is holding the
4 boat. The notice must include a description of the boat and the
5 name of the boat owner.

6 Sec. 4. If a boat is sold under this chapter for an amount of
7 money that is greater than the amount of a marina operator's lien
8 plus all reasonable expenses of the sale, including reasonable
9 attorney's fees, the amount that exceeds the amount of the marina
10 operator's lien plus all reasonable expenses shall be paid to the
11 owner of the boat and any prior lien holders.

