



March 19, 1999

**ENGROSSED  
HOUSE BILL No. 1367**

DIGEST OF HB 1367 (Updated March 17, 1999 2:07 pm - DI 51)

**Citations Affected:** IC 32-8; noncode.

**Synopsis:** Mechanic's liens. Provides that the following provisions are void in a construction contract (other than in a contract for construction, alteration, or repair of a one or two family dwelling unit, related improvements, or certain utility property): (1) An agreement that persons performing labor or furnishing materials or machinery for construction on real estate waive rights to hold a lien on real estate or to a claim against a payment bond. (2) A provision making the contract  
(Continued next page)

**Effective:** July 1, 1999.

**Kuzman, Whetstone**

(SENATE SPONSORS — KENLEY, ALEXA)

January 12, 1999, read first time and referred to Committee on Judiciary.  
February 2, 1999, reported — Do Pass.  
February 16, 1999, read second time, amended, ordered engrossed.  
February 17, 1999, engrossed.  
February 18, 1999, read third time, passed. Yeas 96, nays 0.

**SENATE ACTION**

February 25, 1999, read first time and referred to Committee on Judiciary.  
March 18, 1999, amended, reported favorably — Do Pass.

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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) A provision that limits or conditions the right to file a lien to secure payment for improvements to real property on the obligor's receipt of payment from a third person. Expands the time in which a sworn statement of the person's intention to hold a mechanic's lien may be filed with a county recorder from 60 to 90 days (other than a lien for construction, alteration, or repair of a one or two family dwelling unit or related improvements). Gives a mortgage to alender priority over all other liens (except liens for construction, alteration, or repair of a one or two family dwelling unit, related improvements, or certain utility property) recorded after the date the mortgage was recorded to the extent of funds actually owed to the lender for the specific project to which lien rights relate.

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March 19, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

## ENGROSSED HOUSE BILL No. 1367

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 32-8-3-1 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) That contractors,  
3 subcontractors, mechanics, lessors leasing construction and other  
4 equipment and tools, whether or not an operator is also provided by the  
5 lessor, journeymen, laborers and all other persons performing labor or  
6 furnishing materials or machinery, including the leasing of equipment  
7 or tools used, for the erection, altering, repairing or removing any  
8 house, mill, manufactory, or other building, bridge, reservoir, systems  
9 of waterworks, or other structures, or for construction, altering,  
10 repairing, or removing any walk or sidewalk, whether such walk or  
11 sidewalk be on the land or bordering thereon, stile, well, drain,  
12 drainage ditch, sewer or cistern or any other earth-moving operation  
13 may have a lien separately or jointly upon the house, mill, manufactory  
14 or other building, bridge, reservoir, system of waterworks or other  
15 structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer or

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1 cistern or earth which they may have erected, altered, repaired, moved  
 2 or removed or for which they may have furnished materials or  
 3 machinery of any description, and, on the interest of the owner of the  
 4 lot or parcel of land on which it stands or with which it is connected to  
 5 the extent of the value of any labor done, material furnished, or either,  
 6 including any use of such leased equipment and tools, and all claims  
 7 for wages of mechanics and laborers employed in or about any shop,  
 8 mill, wareroom, storeroom, manufactory or structure, bridge, reservoir,  
 9 system of waterworks or other structure, sidewalk, walk, stile, well,  
 10 drain, drainage ditch or cistern or any other earth-moving operation  
 11 shall be a lien on all the machinery, tools, stock or material, work  
 12 finished or unfinished, located in or about such shop, mill, wareroom,  
 13 storeroom, manufactory or other building, bridge, reservoir, system of  
 14 waterworks, or other structure, sidewalk, walk, stile, well, drain,  
 15 drainage ditch, sewer, or cistern, or earth or used in the a business.  
 16 thereof; and should

17 **(b) If the person, firm, limited liability company, or corporation be**  
 18 **described in subsection (a) is in failing circumstances, the above**  
 19 **mentioned claims described in subsection (a) shall be preferred debts**  
 20 **whether a claim or notice of lien has been filed or not.**

21 **(c) A provision or stipulation described by this subsection may**  
 22 **only be included in a construction contract for the construction,**  
 23 **alteration, or repair of the following:**

24 **(1) A Class 2 structure (as defined in IC 22-12-1-5) or an**  
 25 **improvement on the same real estate auxiliary to a Class 2**  
 26 **structure (as defined in IC 22-12-1-5).**

27 **(2) Property that is:**

28 **(A) owned, operated, managed, or controlled by a public**  
 29 **utility (as defined in IC 8-1-2-1), municipally owned utility**  
 30 **(as defined in IC 8-1-2-1), joint agency (as defined in**  
 31 **IC 8-1-2.2-2), rural electric membership corporation**  
 32 **formed under IC 8-1-13-4, or not-for-profit utility (as**  
 33 **defined in IC 8-1-2-125) regulated under IC 8; and**

34 **(B) intended to be used and useful for the production,**  
 35 **transmission, delivery, or furnishing of heat, light, water,**  
 36 **or power to the public.**

37 No provision or stipulation in the contract of the owner and principal  
 38 contractor that no lien shall attach to the real estate, building, structure  
 39 or any other improvement of the owner shall be valid against  
 40 subcontractors, mechanics, journeymen, laborers or persons performing  
 41 labor upon or furnishing materials or machinery for such property or  
 42 improvement of the owner, unless the contract containing such

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1 provision or stipulation shall be in writing, and shall contain specific  
 2 reference, by legal description of the real estate to be improved and  
 3 shall be acknowledged as provided in case of deeds and filed and  
 4 recorded in the recorder's office of the county in which such real estate,  
 5 building, structure or other improvement is situated not more than five  
 6 (5) days after the date of execution of such contract. The contract  
 7 herein provided for shall be without effect upon labor, material or  
 8 machinery supplied prior to the time of the filing with the recorder of  
 9 said contract. The recorder shall record such contract at length in the  
 10 order of time of its reception in books provided by him for that  
 11 purpose, and the recorder shall index the same in the name of the  
 12 contractor and in the name of the owner, in books kept for that purpose,  
 13 and said recorder shall receive therefor a fee such as is provided for the  
 14 recording of deeds and mortgages in his office.

15 (d) Any person, firm, partnership, limited liability company, or  
 16 corporation ~~who that~~ sells or furnishes on credit any material, labor or  
 17 machinery for the alteration or repair of any owner-occupied single or  
 18 double family dwelling or the appurtenances or additions ~~thereto, to~~  
 19 **the dwelling**, to any contractor, subcontractor, mechanic, or anyone  
 20 other than the occupying owner or ~~his the owner's~~ legal representative  
 21 shall furnish to the occupying owner of ~~said the~~ parcel of land where  
 22 the material, labor or machinery is delivered, a written notice of the  
 23 delivery or work and of the existence of lien rights, within thirty (30)  
 24 days from the date of first delivery or labor performed. The furnishing  
 25 of ~~such the~~ notice shall be a condition precedent to the right of  
 26 acquiring a lien upon ~~such the~~ lot or parcel of land or the improvement  
 27 ~~thereon.~~ **on the lot or parcel of land.**

28 (e) Any person, firm, partnership, limited liability company, or  
 29 corporation ~~who that~~ sells or furnishes on credit any material, labor or  
 30 machinery, for the original construction of a single or double family  
 31 dwelling for the intended occupancy of the owner upon whose real  
 32 estate the construction takes place to any contractor, subcontractor,  
 33 mechanic, or anyone other than the owner or ~~his the owner's~~ legal  
 34 representatives shall furnish the owner of the real estate as named in  
 35 the latest entry in the transfer books described in IC 6-1.1-5-4 of the  
 36 county auditor, or if IC 6-1.1-5-9 applies, the transfer books of the  
 37 township assessor with a written notice of the delivery or labor and the  
 38 existence of lien rights within sixty (60) days from the date of the first  
 39 delivery or labor performed and shall file a copy of the written notice  
 40 in the recorder's office of the county within sixty (60) days from the  
 41 date of the first delivery or labor performed. The furnishing of such  
 42 notice shall be a condition precedent to the right of acquiring a lien



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1 upon ~~such the~~ real estate or upon the improvement constructed ~~thereon~~  
 2 ~~on the real estate.~~

3 (f) ~~No~~ A lien for material or labor in original construction ~~shall may~~  
 4 ~~not~~ attach to real estate purchased by an innocent purchaser for value  
 5 without notice, ~~provided said if the~~ purchase is of a single or double  
 6 family dwelling for occupancy by the purchaser, unless notice of  
 7 intention to hold ~~such the~~ lien ~~be is~~ recorded as provided in this  
 8 chapter prior to the recording of the deed by which ~~such the~~ purchaser  
 9 takes title.

10 SECTION 2. IC 32-8-3-3 IS AMENDED TO READ AS FOLLOWS  
 11 [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) **Except as provided in**  
 12 **subsection (b), a person who wishes to acquire a lien upon any**  
 13 **property, whether the claim is due or not, shall file in the**  
 14 **recorder's office of the county at any time within ninety (90) days**  
 15 **after performing labor or furnishing materials or machinery**  
 16 **described in section 1 of this chapter a sworn statement in**  
 17 **duplicate of the person's intention to hold a lien upon the property**  
 18 **for the amount of the claim.**

19 (b) **This subsection applies to a person that performs labor or**  
 20 **furnishes materials or machinery described in section 1 of this**  
 21 **chapter related to a Class 2 structure (as defined in IC 22-12-1-5)**  
 22 **or an improvement on the same real estate auxiliary to a Class 2**  
 23 **structure (as defined in IC 22-12-1-5).** Any person who wishes to  
 24 acquire a lien upon any property, whether the claim is due or not, shall  
 25 file in the recorder's office of the county at any time within sixty (60)  
 26 days after performing labor or furnishing materials or machinery  
 27 described in section 1 of this chapter, a sworn statement in duplicate of  
 28 the person's intention to hold a lien upon the property for the amount  
 29 of the claim.

30 (c) The statement **under subsection (a) or (b)** must specifically set  
 31 forth:

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

41 The name of the owner and legal description of the lot or land will be  
 42 sufficient if they are substantially as set forth in the latest entry in the

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1 transfer books described in IC 6-1.1-5-4 of the county auditor or, if  
 2 IC 6-1.1-5-9 applies, the transfer books of the township assessor at the  
 3 time of filing of the notice of intention to hold a lien. The recorder shall  
 4 mail first class one (1) of the duplicates to the owner named in the  
 5 notice within three (3) business days after recordation and post records  
 6 as to the date of this action. The notice shall be addressed to the latest  
 7 address of the owner as specifically set out in the sworn statement of  
 8 the person intending to hold a lien upon the property. The recorder  
 9 shall be entitled to a fee of two dollars (\$2) to be collected from the lien  
 10 claimant for each notice that is mailed.

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

15 SECTION 3. IC 32-8-3-5 IS AMENDED TO READ AS FOLLOWS  
 16 [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) **As used in this section,**  
 17 **"lender" refers to:**

- 18 (1) **an individual;**
- 19 (2) **a supervised financial organization (as defined in**  
 20 **IC 24-4.5-1-301);**
- 21 (3) **an insurance company or a pension fund; or**
- 22 (4) **any other entity that has the authority to make loans.**

23 (b) The recorder shall record the notice, when presented, in the  
 24 miscellaneous record book, for which the recorder shall charge a fee in  
 25 accordance with IC 36-2-7-10. All liens so created shall relate to the  
 26 time when the mechanic or other person began to perform the labor or  
 27 furnish the materials or machinery. ~~and~~ **Except as provided in**  
 28 **subsection (c), all liens** shall have priority over ~~all~~ liens suffered or  
 29 created thereafter, except the liens of other mechanics and  
 30 materialmen, as to which there shall be no priority.

31 (c) **The mortgage of a lender has priority over all liens under**  
 32 **this chapter recorded after the date the mortgage was recorded to**  
 33 **the extent of the funds actually owed to the lender for the specific**  
 34 **project to which the lien rights relate. This subsection does not**  
 35 **apply to a lien that relates to a construction contract for the**  
 36 **development, construction, alteration, or repair of the following:**

- 37 (1) **A Class 2 structure (as defined in IC 22-12-1-5) or an**  
 38 **improvement on the same real estate auxiliary to a Class 2**  
 39 **structure (as defined in IC 22-12-1-5).**
- 40 (2) **Property that is:**
  - 41 (A) **owned, operated, managed, or controlled by a public**  
 42 **utility (as defined in IC 8-1-2-1), municipally owned utility**



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1 (as defined in IC 8-1-2-1), joint agency (as defined in  
 2 IC 8-1-2.2-2), rural electric membership corporation  
 3 formed under IC 8-1-13-4, or not-for-profit utility (as  
 4 defined in IC 8-1-2-125) regulated under IC 8; and

5 (B) intended to be used and useful for the production,  
 6 transmission, delivery, or furnishing of heat, light, water,  
 7 or power to the public.

8 SECTION 4. IC 32-8-3-16 IS ADDED TO THE INDIANA CODE  
 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 10 1, 1999]: **Sec. 16. (a) This section applies to a construction contract  
 11 for the construction, alteration, or repair of a building or structure  
 12 other than the following:**

13 (1) A Class 2 structure (as defined in IC 22-12-1-5) or an  
 14 improvement on the same real estate auxiliary to a Class 2  
 15 structure (as defined in IC 22-12-1-5).

16 (2) Property that is:

17 (A) owned, operated, managed, or controlled by a public  
 18 utility (as defined in IC 8-1-2-1), municipally owned utility  
 19 (as defined in IC 8-1-2-1), joint agency (as defined in  
 20 IC 8-1-2.2-2), rural electric membership corporation  
 21 formed under IC 8-1-13-4, or not-for-profit utility (as  
 22 defined in IC 8-1-2-125) regulated under IC 8; and

23 (B) intended to be used and useful for the production,  
 24 transmission, delivery, or furnishing of heat, light, water,  
 25 or power to the public.

26 (b) A provision in a contract for the improvement of real estate  
 27 in Indiana is void if the provision requires a person described in  
 28 section 1 of this chapter who furnishes labor, materials, or  
 29 machinery to waive a right to a lien against real estate or to a claim  
 30 against a payment bond before the person is paid for the labor or  
 31 materials furnished.

32 (c) A provision in a contract for the improvement of real estate  
 33 in Indiana under which one (1) or more persons agree not to file a  
 34 notice of intention to hold a lien is void.

35 SECTION 5. IC 32-8-3-17 IS ADDED TO THE INDIANA CODE  
 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 37 1, 1999]: **Sec. 17. A provision in a contract for the improvement of  
 38 real estate in Indiana is void if the provision makes the contract  
 39 subject to the laws of another state or that requires that any  
 40 litigation, arbitration, or other dispute resolution process on the  
 41 contract occur in another state.**

42 SECTION 6. IC 32-8-3-18 IS ADDED TO THE INDIANA CODE



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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 2 1, 1999]: **Sec. 18. (a) This section applies to a provider of labor,  
 3 materials, or equipment under a contract for the improvement of  
 4 real estate that conditions the right of the provider to receive  
 5 payment on the obligor's receipt of payment from a third person  
 6 with whom the provider does not have a contractual relationship.**

7 **(b) This section does not apply to a construction contract for the  
 8 construction, alteration, or repair of the following:**

9 **(1) A Class 2 structure (as defined in IC 22-12-1-5) or an  
 10 improvement on the same real estate auxiliary to a Class 2  
 11 structure (as defined in IC 22-12-1-5).**

12 **(2) Property that is:**

13 **(A) owned, operated, managed, or controlled by a public  
 14 utility (as defined in IC 8-1-2-1), municipally owned utility  
 15 (as defined in IC 8-1-2-1), joint agency (as defined in  
 16 IC 8-1-2.2-2), rural electric membership corporation  
 17 formed under IC 8-1-13-4, or not-for-profit utility (as  
 18 defined in IC 8-1-2-125) regulated under IC 8; and**

19 **(B) intended to be used and useful for the production,  
 20 transmission, delivery, or furnishing of heat, light, water,  
 21 or power to the public.**

22 **(c) An obligor's receipt of payment from a third person shall not  
 23 be a condition precedent to, or in any way limit, or be a defense to  
 24 the provider's right to record or foreclose a lien against the real  
 25 estate that was improved by the provider's labor, material, or  
 26 equipment.**

27 **SECTION 7. [EFFECTIVE JULY 1, 1999] This act applies only to  
 28 contracts and subcontracts entered into after June 30, 1999.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1367, 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.

VILLALPANDO, Chair

Committee Vote: yeas 13, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1367 be amended to read as follows:

Page 4, between lines 1 and 2, begin a new line block indented and insert: **"(1) an individual;"**.

Page 4, line 2, delete "(1)" and insert "(2)".

Page 4, line 3, delete "or".

Page 4, line 4, delete "(2)" and insert "(3)".

Page 4, line 4 before "a" delete "," and insert "or".

Page 4, line 4, delete ", or any other entity" and insert "; or".

Page 4, delete line 5, begin a new line block indented and insert:

**"(4) any other entity that has the authority to make loans."**

Page 4, line 10, delete "," and insert ".".

Page 4, line 10, strike "and" and insert **"Except as provided in subsection (c), all liens"**.

Page 4, line 10, strike "all".

Page 4, line 12, delete ", and except the" and insert ".".

Page 4, delete lines 13 through 17, begin a new paragraph and insert:

**"(c) The mortgage of a lender has priority over all liens under this chapter recorded after the date the mortgage was recorded to the extent of the funds actually owed to the lender for the specific project to which the lien rights relate. This subsection does not apply to a lien that relates to a construction contract for the development, construction, alteration, or repair of a family dwelling unit or units intended for long term residential occupancy by a person or persons, such as single family residences, duplexes, condominiums, and apartment buildings."**

Page 4, delete lines 31 through 41, begin a new paragraph and insert:

**"(c) A provision in a contract for the improvement of real estate in Indiana is void if the provision requires a person described in section 1 of this chapter who furnishes labor, materials, or machinery to waive a right to a lien or to a claim against a payment bond before the person is paid for the labor or materials furnished."**

SECTION 4. IC 32-8-3-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 17. A provision in a contract for the improvement of real estate in Indiana is void if the provision makes the contract subject to the laws of another state or that requires that any litigation, arbitration, or other dispute resolution process on the contract occur in another state.**

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SECTION 5. IC 32-8-3-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 18. (a) This section applies to a provider of labor, materials, or equipment under a contract for the improvement of real estate that conditions the right of the provider to receive payment on the obligor's receipt of payment from a third person with whom the provider does not have a contractual relationship.**

**(b) This section does not apply to a construction contract for the construction, alteration, or repair of a family dwelling unit or units intended for long term residential occupancy by a person or persons, such as single family residences, duplexes, condominiums, and apartment buildings.**

**(c) An obligor's receipt of payment from a third person shall not be a condition precedent to, or in any way limit, or be a defense to the provider's right to record or foreclose a lien against the real estate that was improved by the provider's labor, material, or equipment."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1367 as printed February 3, 1999.)

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred House Bill 1367, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 23, delete "a family dwelling unit or units intended for" and insert "**the following**:"

**(1) A Class 2 structure (as defined in IC 22-12-1-5) or an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5).**

**(2) Property that is:**

**(A) owned, operated, managed, or controlled by a public utility (as defined in IC 8-1-2-1), municipally owned utility (as defined in IC 8-1-2-1), joint agency (as defined in IC 8-1-2.2-2), rural electric membership corporation formed under IC 8-1-13-4, or not-for-profit utility (as defined in IC 8-1-2-125) regulated under IC 8; and**

**(B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water, or power to the public."**

Page 2, delete lines 24 through 25.

Page 2, line 26, delete "buildings."

Page 3, between lines 40 and 41, begin a new paragraph and insert:

**"SECTION 2. IC 32-8-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Except as provided in subsection (b), a 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 ninety (90) 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.**

**(b) This subsection applies to a person that performs labor or furnishes materials or machinery described in section 1 of this chapter related to a Class 2 structure (as defined in IC 22-12-1-5) or an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5). 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**



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of the claim.

(c) The statement **under subsection (a) or (b)** 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. The recorder shall mail first class one (1) of the duplicates to the owner named in the notice within three (3) business days after recordation and post records as to the date of this action. The notice shall be 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.

~~(b)~~ (d) The statement required by subsection (a) **or (b)** 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."

Page 4, line 20, delete "a family" and insert "**the following:**

**(1) A Class 2 structure (as defined in IC 22-12-1-5) or an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5).**

**(2) Property that is:**

**(A) owned, operated, managed, or controlled by a public utility (as defined in IC 8-1-2-1), municipally owned utility (as defined in IC 8-1-2-1), joint agency (as defined in IC 8-1-2.2-2), rural electric membership corporation formed under IC 8-1-13-4, or not-for-profit utility (as defined in IC 8-1-2-125) regulated under IC 8; and**

**(B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water, or power to the public."**



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Page 4, delete lines 21 through 23.

Page 4, line 26, after "applies to" insert "**a construction contract for the construction, alteration, or repair of a building or structure other than**".

Page 4, delete lines 27 through 36, begin a new line block indented and insert:

**"(1) A Class 2 structure (as defined in IC 22-12-1-5) or an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5).**

**(2) Property that is:**

**(A) owned, operated, managed, or controlled by a public utility (as defined in IC 8-1-2-1), municipally owned utility (as defined in IC 8-1-2-1), joint agency (as defined in IC 8-1-2.2-2), rural electric membership corporation formed under IC 8-1-13-4, or not-for-profit utility (as defined in IC 8-1-2-125) regulated under IC 8; and**

**(B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water, or power to the public."**

Page 4, line 37, delete "(c)" and insert "(b)".

Page 4, line 40, after "lien" insert "**against real estate**".

Page 4, between lines 41 and 42, begin a new paragraph and insert:

**"(c) A provision in a contract for the improvement of real estate in Indiana under which one (1) or more persons agree not to file a notice of intention to hold a lien is void."**

Page 5, line 15, delete "a family dwelling unit or units" and insert "**the following:**

**(1) A Class 2 structure (as defined in IC 22-12-1-5) or an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5).**

**(2) Property that is:**

**(A) owned, operated, managed, or controlled by a public utility (as defined in IC 8-1-2-1), municipally owned utility (as defined in IC 8-1-2-1), joint agency (as defined in IC 8-1-2.2-2), rural electric membership corporation formed under IC 8-1-13-4, or not-for-profit utility (as defined in IC 8-1-2-125) regulated under IC 8; and**

**(B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water, or power to the public."**

Page 5, delete lines 16 through 18.

Page 5, line 25, delete "or renewed".



C  
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Renumber all SECTIONS consecutively.  
and when so amended that said bill do pass.

(Reference is to House Bill 1367 as reprinted February 17, 1999.)

BRAY, Chairperson

Committee Vote: yeas 8, nays 1.

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y

