
HOUSE BILL No. 1514

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-28-15.

Synopsis: Abandoned structure liens. Provides that a person who repairs, cleans up, or maintains a neighboring abandoned structure is entitled to a lien on the property, not to exceed the lesser of: (1) the fair market value of the work performed; or (2) \$10,000. Establishes a procedure for creating, filing, and enforcing the lien. Provides that the lien has priority over the lien of a lender and over later recorded liens, and specifies that the lien expires if not enforced within one year.

Effective: July 1, 2011.

Smith V

January 20, 2011, read first time and referred to Committee on Judiciary.

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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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1514



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 32-28-15 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2011]:
- 4 **Chapter 15. Lien for Repair, Cleanup, or Maintenance of**
- 5 **Neighboring Abandoned Property**
- 6 **Sec. 1. This chapter applies only to a Class 2 structure.**
- 7 **Sec. 2. As used in this chapter, "abandoned structure" has the**
- 8 **meaning set forth in IC 36-7-36-1.**
- 9 **Sec. 3. As used in this chapter, "neighboring abandoned**
- 10 **structure" means an abandoned structure that is located not more**
- 11 **than three hundred (300) feet from property owned or occupied by**
- 12 **a person asserting a lien under this chapter.**
- 13 **Sec. 4. A person who repairs, cleans up, or maintains a**
- 14 **neighboring abandoned structure is entitled to a neighboring**
- 15 **abandoned structure lien on the structure and the real property on**
- 16 **which the structure is located, as set forth in this chapter.**
- 17 **Sec. 5. A lien under this chapter may not exceed the lesser of the**



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following:

- (1) The fair market value of the work performed and materials used.
- (2) Ten thousand dollars (\$10,000).

Sec. 6. (a) To assert a lien under this chapter, a person must, not more than ten (10) days before commencing the repair, cleanup, or maintenance of a neighboring abandoned structure, send written notice to the owner of the neighboring abandoned structure asserting the person's intention to repair, clean up, or maintain the neighboring abandoned structure.

(b) Written notice under this section must be mailed to the latest address of the owner of the property as shown on the property tax records of the county in which the property is located.

(c) Unless the owner of the neighboring abandoned structure begins repair, cleanup, or maintenance of the neighboring abandoned structure not later than ten (10) days after the owner receives the notice described in subsection (a), a person described in subsection (a) is required to send only one (1) written notice under subsection (a) per calendar year.

Sec. 7. (a) A person who wishes to acquire a lien on a neighboring abandoned structure under this section must file in duplicate a sworn statement and notice of the person's intention to hold a lien on the neighboring abandoned structure for the amount of the claim:

- (1) in the recorder's office of the county in which the neighboring abandoned structure is located; and
- (2) not later than sixty (60) days after performing repair, cleanup, or maintenance on the neighboring abandoned structure as described in this chapter.

The statement and notice of intention to hold a lien may be verified and filed on behalf of a client by an attorney licensed to practice law in Indiana.

(b) A statement and notice of intention to hold a lien filed under this section must specifically set forth:

- (1) the amount claimed;
- (2) the name and address of the claimant;
- (3) the:
 - (A) name; and
 - (B) latest address, as shown on the property tax records of the county;
- of the owner of the neighboring abandoned structure;
- (4) the street and address, if any, of the neighboring

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- 1 abandoned property; and
- 2 (5) a copy of the written notice mailed to the owner under
- 3 section 6 of this chapter.
- 4 (c) The recorder shall:
- 5 (1) mail, first class, one (1) copy of the statement and notice of
- 6 intention to hold a lien to the owner of the neighboring
- 7 abandoned structure named in the statement and notice not
- 8 later than three (3) business days after recordation;
- 9 (2) post records as to the date of the mailing; and
- 10 (3) collect a fee of two dollars (\$2) from the lien claimant for
- 11 each statement and notice that is mailed.

12 The statement and notice must be addressed to the latest address
 13 of the owner of the neighboring abandoned structure as specifically
 14 set out in the sworn statement and notice of the person intending
 15 to hold a lien upon the neighboring abandoned structure.

16 (d) The recorder shall record the statement and notice of
 17 intention to hold a lien in the miscellaneous record book. The
 18 recorder shall charge a fee for recording the statement and notice
 19 in accordance with IC 36-2-7-10. When the statement and notice of
 20 intention to hold a lien is recorded, the lien is created. The
 21 recorded lien relates back to the date the person began to perform
 22 the repair, cleanup, or maintenance. A lien created under this
 23 chapter has priority over:

- 24 (1) a lien created after it; and
- 25 (2) the mortgage of a lender.

26 Sec. 8. A lien under this chapter does not attach to real estate
 27 purchased by an innocent purchaser for value without notice
 28 unless the lien is recorded under section 7 of this chapter before the
 29 deed by which the purchaser takes title is recorded.

30 Sec. 9. (a) A person may enforce a lien created under this
 31 chapter by filing a complaint in the circuit or superior court of the
 32 county where the neighboring abandoned structure that is the
 33 subject of the lien is situated. The complaint must be filed not later
 34 than one (1) year after the date the statement and notice of
 35 intention to hold a lien is recorded under section 7 of this chapter.

36 (b) If a lien created under this chapter is not enforced within the
 37 time set forth in subsection (a), the lien is void.

38 (c) If a lien created under this chapter is foreclosed, the court
 39 rendering judgment shall order the property to be sold subject to
 40 the lien. The officers making the sale shall sell the property without
 41 any relief from valuation or appraisal laws.

42 Sec. 10. (a) A person whose lien is recorded under this chapter

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may be a party to an action to enforce the lien.

(b) The court may, by judgment, direct a sale of the land and building for the satisfaction of the liens and costs. The sale does not prejudice the rights of:

- (1) a prior encumbrance; or
- (2) an owner or other person who is not a party to the action.

(c) If several actions are brought by different claimants with regard to the same neighboring abandoned structure and are pending at the same time, the court may order the actions to be consolidated.

Sec. 11. If the proceeds of the sale of property subject to a lien under this chapter are insufficient to pay all the claimants, the court shall order the claimants to be paid in proportion to the amount due each claimant.

Sec. 12. (a) A lien created under this chapter is void if both of the following occur:

- (1) The owner of the property subject to the 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.

(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 the record any lien that is fully released.

When the recorder records the affidavit and certifies the record

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1 under this subsection, the property described in the lien is released
 2 from the lien.
 3 Sec. 13. (a) In an action to foreclose a lien created under this
 4 chapter:
 5 (1) the defendant or owner of the property subject to the lien;
 6 or
 7 (2) any person having an interest in the property subject to
 8 the lien, including a mortgagee or other lienholder;
 9 may file in the action a written undertaking with surety to be
 10 approved by the court.
 11 (b) An undertaking filed under this section must provide that
 12 the person filing the undertaking will pay any judgment that may
 13 be recovered in the action to foreclose the lien, including costs and
 14 attorney's fees allowed by the court, if the claim on which the
 15 judgment is based is found by the court to have been a lien on the
 16 property at the time the action was filed.
 17 (c) If an undertaking described in subsection (b) is filed and
 18 approved by the court:
 19 (1) the court shall enter an order releasing the property from
 20 the lien; and
 21 (2) the property shall be discharged from the lien.
 22 Sec. 14. In an action to enforce a lien under this chapter, a
 23 plaintiff or lienholder who recovers a judgment in any sum is
 24 entitled to recover reasonable attorney's fees. The court shall enter
 25 the attorney's fees as a part of the judgment.

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