

## **IC 32-28-12**

### **Chapter 12. Corporate Employees' Liens**

#### **IC 32-28-12-0.2**

##### **Application of certain amendments to prior law**

Sec. 0.2. The amendments made to IC 32-8-24-2 (before its repeal, now codified at section 2 of this chapter) by P.L.235-1993:

- (1) apply to liens that are perfected before, on, or after April 22, 1993; and
- (2) do not apply to divest a right that vested before April 22, 1993.

*As added by P.L.220-2011, SEC.524.*

#### **IC 32-28-12-1**

##### **Work and labor; priority**

Sec. 1. (a) Except as provided in subsection (b), the employees of a corporation doing business in Indiana, whether organized under Indiana law or otherwise, may have and hold a first and prior lien upon:

- (1) the corporate property of the corporation; and
- (2) the earnings of the corporation;

for all work and labor done and performed by the employees for the corporation from the date of the employees' employment by the corporation. A lien under this section is prior to all liens created or acquired after the date of the employment of the employees by the corporation, except as otherwise provided in this chapter.

(b) An employee lien arising from the sale of real estate:

- (1) is limited to a lien on the real estate; and
- (2) is subject to section 3 of this chapter.

*As added by P.L.2-2002, SEC.13.*

#### **IC 32-28-12-2**

##### **Recording lien; priority**

Sec. 2. (a) This section does not apply to a lien acquired by any person for purchase money.

(b) Any employee wishing to acquire a lien under section 1 of this chapter upon the corporate property of any corporation or the corporation's earnings, whether the employee's claim is due or not, must file, in the recorder's office of the county where the corporation is located or doing business, notice of the employee's intention to hold a lien upon the corporation's property and earnings. The notice must state the following:

- (1) The amount of the employee's claim.
- (2) The date of the employee's employment.
- (3) The name of the corporation.

When a notice required by this section is presented for record, the county recorder shall record the notice in the record required by law for notice of mechanic's liens. The recorder shall charge a fee for

recording the notice in an amount specified in IC 36-2-7-10(b)(1) and IC 36-2-7-10(b)(2). The lien created shall relate to the time when the employee was employed by the corporation or to any subsequent date during the employee's employment, at the election of the employee. The lien has priority over all liens suffered or created after the time elected by the employee, except other employees' liens, over which the lien has no priority.

(c) If:

(1) a person other than an employee acquires a lien upon the corporate property of any corporation located or doing business in Indiana;

(2) the lien, for a period of sixty (60) days, either:

(A) remains a matter of record in the proper place specified in IC 26-1-9.1-501; or

(B) remains otherwise perfected under applicable law; and

(3) no notice of an employee's intention to hold a lien is filed by any employee of the corporation during that period;

the lien described in subdivision (1) has priority over the lien of an employee in the county where the corporation is located or doing business.

*As added by P.L.2-2002, SEC.13.*

### **IC 32-28-12-3**

#### **Real estate sale commission claims; filing notice; priority**

Sec. 3. (a) Notwithstanding section 2 of this chapter, an employee:

(1) whose claim is for a commission due upon the conveyance of real estate; and

(2) who wishes to acquire a lien on the real estate;

may file a notice in the recorder's office of the county in which the real estate is located of the employee's intention to hold a lien on the real estate.

(b) A notice filed under this section must:

(1) contain the same information required for a mechanic's lien;

(2) state that the claim is due upon the conveyance of the real estate; and

(3) be filed before the conveyance of the real estate by the corporation.

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

(1) record the notice in the record required by law for notice of mechanic's liens; and

(2) charge a fee in an amount specified in IC 36-2-7-10(b)(1) and IC 36-2-7-10(b)(2).

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

(1) the time when the employee was employed by the corporation; or

(2) any subsequent date during the employment, at the election of the employee;

and has priority over all liens suffered or created after the date, except

other employees' liens, over which there is no priority.  
*As added by P.L.2-2002, SEC.13.*

#### **IC 32-28-12-4**

##### **Complaint to enforce lien**

Sec. 4. (a) An employee having acquired a lien under this chapter may enforce the lien by filing a complaint in the circuit or superior court in the county where the lien was acquired at any time within six (6) months after the date of acquiring the lien, or if a credit is given, after the date of the credit.

(b) The court rendering judgment for the claim shall declare the claim a lien upon the corporation's property and order the property sold to pay and satisfy the judgment and costs, as other lands are sold on execution or decree, without relief from valuation or appraisal laws.

(c) In an action brought under this section, the court shall make orders as to the application of the earnings of the corporation that are just and equitable, whether or not the relief is asked for in the complaint.

*As added by P.L.2-2002, SEC.13.*

#### **IC 32-28-12-5**

##### **Parties; consolidation of actions; insufficient proceeds of sale**

Sec. 5. (a) In an action brought under this chapter, all persons whose liens are recorded under section 2 of this chapter may be made parties to the action. Issues shall be made up and trials had as in other cases.

(b) The court may, when several actions are pending by different claimants to enforce liens under this chapter, order that the cases be consolidated. If the proceeds of the sale of the corporation's property or the corporation's earnings are insufficient to pay and satisfy the claimants in full, the court shall order the claimants to be paid in proportion to the amount due each, and the sale shall be made without prejudice to the rights of any prior encumbrances, owner, or other persons not parties to the action.

*As added by P.L.2-2002, SEC.13.*

#### **IC 32-28-12-6**

##### **Undertaking of defendant**

Sec. 6. In a proceeding commenced under this chapter, a defendant may file a written undertaking, with surety to be approved by the court, in the exercise of sound discretion, to the effect that the defendant will pay the judgments that may be recovered, and costs. An undertaking under this section releases the defendant's property from the liens created under this chapter.

*As added by P.L.2-2002, SEC.13.*

#### **IC 32-28-12-7**

##### **Enforcement of mechanic's liens; application of law**

Sec. 7. In all cases not specially provided for in this chapter, the law, rules, practice, and pleadings in force in reference to the enforcement of mechanic's liens apply to suits commenced under this chapter.

*As added by P.L.2-2002, SEC.13.*