

## **IC 32-33-11**

### **Chapter 11. Transfer, Moving, and Storage Liens**

#### **IC 32-33-11-1**

##### **Services and property subject to lien**

Sec. 1. A transferman, a drayman, or any other person, firm, limited liability company, or corporation that is engaged in:

(1) packing for shipment or storage; or

(2) transferring, hauling, or conveying from place to place;

goods, merchandise, machines, machinery or other articles of value is entitled to a lien under this chapter for money paid for freight, storage or demurrage charges on the goods, merchandise, machines, machinery or other articles of value or for erecting machines, machinery, stacks or other equipment. The lien is imposed upon the goods, merchandise, machines, machinery, or other articles of value that are packed, hauled, transferred, conveyed, or erected, for charges for the hauling, packing, transferring, conveying, or erecting or for money paid for freight, storage, or demurrage on the goods, merchandise, machines, machinery, or other articles of value.

*As added by P.L.2-2002, SEC.18.*

#### **IC 32-33-11-2**

##### **Notice of intention to hold lien; requisites; filing**

Sec. 2. (a) A transferman, drayman, or any other person, firm, limited liability company, or corporation that is engaged in:

(1) packing for shipment or storage; or

(2) transferring, hauling, or conveying from place to place;

goods, merchandise, machinery, machines, or other articles of value and that wishes to acquire a lien on any of this property for money paid for freight, storage, or demurrage charges or for erecting machines, machinery, stacks, or other equipment, whether the claim is due or not, may, at any time within sixty (60) days after performing the labor or the payment of money described in section 1 of this chapter, file in the recorder's office of the county a notice of intention to hold a lien upon the property for the amount of the claim.

(b) The notice filed under subsection (a) must state the amount claimed and provide a substantial description of the property. The description of the property in a notice filed under subsection (a) must be sufficient to identify the property.

(c) The party ordering the work done or charges paid or advanced, shall, for the purpose of enforcing this lien, be considered prima facie the agent of all persons having or claiming any interest in the work done or charges paid or advanced but not a matter of record, if the person has knowledge of the performance of the services or the making of the expenditures.

(d) The lienor may keep possession of the goods during the pendency of the lien or an action on the lien unless otherwise ordered by the court.

*As added by P.L.2-2002, SEC.18.*

### **IC 32-33-11-3**

#### **Notice of intention to hold lien; recording; priority**

Sec. 3. (a) The recorder shall record the notice of intention to hold a lien filed under section 2(a) of this chapter, when presented, in the miscellaneous record book. The recorder shall receive fees in accordance with IC 36-2-7-10.

(b) All liens created in this manner:

(1) relate to the date the labor was begun or money advanced;  
and

(2) have priority over all liens suffered or created after that date.

*As added by P.L.2-2002, SEC.18.*

### **IC 32-33-11-4**

#### **Enforcement of lien**

Sec. 4. (a) A person that has a lien under this chapter may enforce the lien by filing the person's complaint in the circuit or superior court of the county in which the lien is filed, at any time within one (1) year after the notice is received for record under section 2(a) of this chapter by the recorder of the county.

(b) If the lien is not enforced within the time prescribed by this section, the lien is void. If the lien is enforced as provided in this chapter, the court rendering judgment shall order the sale to be made, and the officers making the sale shall sell the property without relief whatever from valuation or appraisal laws.

*As added by P.L.2-2002, SEC.18.*

### **IC 32-33-11-5**

#### **Attorney's fees**

Sec. 5. (a) In all suits brought for the enforcement of a lien under the provisions of this chapter, if the plaintiff or lienholder recovers a judgment in any sum, the plaintiff or lienholder may recover reasonable attorney's fees.

(b) Attorney's fees awarded under subsection (a) shall be entered by the court as a part of the judgment in the suit for the enforcement of the lien.

*As added by P.L.2-2002, SEC.18.*

### **IC 32-33-11-6**

#### **Additional goods, merchandise, machines, or other articles of value subject to liens**

Sec. 6. (a) In addition to the lien provided for in section 1 of this chapter, a person, firm, limited liability company, or corporation that ships, transfers, hauls, or conveys goods, merchandise, machines, machinery, or other articles of value for another person is entitled to a lien:

(1) upon goods, merchandise, machines, machinery, or other

articles of value:

- (A) shipped;
- (B) transferred;
- (C) hauled; or
- (D) conveyed;

for the other person; and

(2) to cover charges that the other person owes the person, firm, limited liability company, or corporation for goods, merchandise, machines, machinery, or other articles of value previously:

- (A) shipped;
- (B) transferred;
- (C) hauled; or
- (D) conveyed;

by the person, firm, limited liability company, or corporation for the other person.

(b) To obtain a lien under this section, a person, firm, limited liability company, or corporation must do the following:

(1) Notify the other person in writing that if the other person fails to pay the person, firm, limited liability company, or corporation for shipping, transferring, hauling, or conveying goods, merchandise, machines, machinery, or other articles of value, the person, firm, limited liability company, or corporation may obtain a lien upon goods, merchandise, machines, machinery, or other articles of value subsequently:

- (A) shipped;
- (B) transferred;
- (C) hauled; or
- (D) conveyed;

by the person, firm, limited liability company, or corporation for the other person.

(2) File an intention to hold a lien with a county recorder as provided in section 2 of this chapter.

(c) A sale of property subject to a lien acquired under this section may not take place under section 4 of this chapter:

(1) for at least thirty-five (35) days after the date the person, firm, limited liability company, or corporation that has obtained the lien takes possession of the property; and

(2) unless the person, firm, limited liability company, or corporation that has obtained the lien notifies:

- (A) the person that had the property shipped, transferred, hauled, or conveyed;
- (B) the consignee of the property; and
- (C) a secured party that has a perfected security interest in the property;

of the date, time, and location of the sale at least ten (10) days before the date the sale occurs.

(d) A sale of property subject to a lien acquired under this section

may not be concluded if the largest amount bid for the property is not at least equal to the total amount of all outstanding obligations secured by perfected security interests in the property. The proceeds of the sale of property subject to a lien under this section shall be applied as follows:

- (1) First, to a secured party that has a perfected security interest in the property in an amount equal to the amount of the perfected security interest.
- (2) Second, to the discharge of the lien acquired under this section.
- (3) Third, to the legal owner of the property.

If the highest bid for the property does not at least equal the total amount of all outstanding obligations secured by a perfected security interest in the property, the person, firm, limited liability company, or corporation that obtained the lien on the property under this section shall release the property to the legal owner of the property if the legal owner pays the person, firm, limited liability company, or corporation the amount due for shipping, transferring, hauling, or conveying the property that does not include an amount charged for property that the person, firm, limited liability company, or corporation previously shipped, transferred, hauled, or conveyed.

(e) A person, firm, limited liability company, or corporation that obtains a lien under this section:

- (1) is liable to a secured party that has a security interest in property covered by the lien:
  - (A) if the person, firm, limited liability company, or corporation violates this section; and
  - (B) for damages and expenses, including reasonable attorney's fees, incurred by the secured party in enforcing the secured party's rights; and
- (2) is not liable to a consignee of property for damages that the consignee incurs because the person, firm, limited liability company, or corporation obtained a lien on the property under this section.

(f) A perfected security interest in property has priority over a lien obtained under this section.

(g) A lien may not be acquired under this section upon perishable goods.

*As added by P.L.2-2002, SEC.18.*

### **IC 32-33-11-7**

#### **Construction of law**

Sec. 7. This chapter may not be construed as repealing any other law in force on May 31, 1921, concerning liens or the foreclosure of liens. This chapter is intended to be supplemental to all laws in force on May 31, 1921, concerning liens and the foreclosure of liens.

*As added by P.L.2-2002, SEC.18.*