



January 12, 2005

HOUSE BILL No. 1130

DIGEST OF HB 1130 (Updated January 11, 2005 9:31 am - DI 107)

Citations Affected: IC 32-30.

Synopsis: Legal actions involving state liens. Establishes procedures for legal actions that involve state liens or other encumbrances on real property when the state elects not to respond.

Effective: July 1, 2005.

Foley, Thomas, Kuzman

January 6, 2005, read first time and referred to Committee on Judiciary.
January 11, 2005, amended, reported — Do Pass.

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HB 1130—LS 6900/DI 106+



January 12, 2005

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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HOUSE BILL No. 1130

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 32-30-10.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2005]:

4 **Chapter 10.5. Actions Involving State Liens**

5 **Sec. 1. If:**

6 (1) the state has a lien or another encumbrance on real
7 property; and

8 (2) an action is brought concerning a lien or another
9 encumbrance on the real property that has greater priority
10 than the state's lien or encumbrance, including an action:

11 (A) involving foreclosure of the prior lien or encumbrance;

12 or

13 (B) that otherwise affects the lien or encumbrance of the
14 state;

15 the lien or encumbrance of the state and the priority of the state's
16 lien or encumbrance may be considered in the action and decided
17 by the court.

HB 1130—LS 6900/DI 106+



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Sec. 2. (a) In an action described in section 1(2) of this chapter, notice that contains the following shall be sent to the state:

- (1) The names of the parties.**
- (2) A description of the lien or encumbrance of the state.**
- (3) The date by which the state must answer. However, the time in which the state is required to answer must be the same as the time allowed for defendants who receive personal service in Indiana to file answers.**
- (4) If the lien or encumbrance is for an inheritance tax, the following, if known:**
 - (A) The name of the decedent.**
 - (B) The date of the individual's death.**
 - (C) The state and county in which the individual resided on the date of death.**
 - (D) The names and addresses of:**
 - (i) the decedent's personal representatives; or**
 - (ii) if personal representatives have not been appointed, the decedent's heirs at law.**
- (5) If the lien or encumbrance involves:**
 - (A) unpaid corporate taxes; or**
 - (B) interest, costs, or penalties imposed on unpaid corporate taxes;**

the name of the corporation that is required to pay the corporate taxes.
- (b) The plaintiff, the plaintiff's attorney, or the court clerk shall issue the notice.**
- (c) If the lien or encumbrance of the state is for:**
 - (1) a tax payable to the state or for any other right or claim of the state, the notice shall be served on the attorney general; and**
 - (2) a recognizance entered into or a criminal conviction entered in a county in Indiana, the notice shall be served on the prosecuting attorney of the county in which the recognizance was entered into or the criminal conviction was entered.**
- (d) The notice must be accompanied by a copy of the complaint.**

Sec. 3. (a) The state is not required to answer the notice described in section 2 of this chapter or the complaint attached to the notice.

(b) If the state fails to answer a notice described in section 2 of this chapter or the complaint attached to the notice, the failure may not be considered:

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1 (1) a waiver of any rights of recourse against the debtor that
 2 the state may have at law; or
 3 (2) grounds for a default judgment against the state.
 4 (c) If the state fails to answer a notice described in section 2 of
 5 this chapter or the complaint attached to the notice, the state's lien
 6 or encumbrance shall be extinguished unless a court explicitly
 7 recognizes the state's lien or encumbrance under section 4(b)(2) of
 8 this chapter. However, the extinguishment of the state's lien or
 9 encumbrance under this subsection does not affect the state's right
 10 of recourse against the debtor.
 11 Sec. 4. (a) If the state answers a notice described in section 2 of
 12 this chapter or otherwise appears before the court in the case:
 13 (1) the action shall proceed as in other cases; and
 14 (2) a judgment in the case binds the state, and the lien or other
 15 encumbrance of the state may be released in the same manner
 16 as if the judgment had been entered against an individual.
 17 (b) If the state does not answer the notice described in section 2
 18 of this chapter or the complaint attached to the notice or does not
 19 otherwise appear before the court in the case:
 20 (1) the action shall proceed as in other cases; and
 21 (2) the lien or other encumbrance of the state identified in the
 22 complaint may be:
 23 (A) explicitly recognized in its proper priority in any order
 24 of the court that affects the lien or other encumbrance of
 25 the state; and
 26 (B) paid out of any surplus remaining after liens or other
 27 encumbrances that are superior to the lien or
 28 encumbrance of the state are paid.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1130, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 10, delete "including:" and insert "**including**".

Page 1, line 11, delete "(A)".

Page 1, run in lines 10 through 11.

Page 1, delete lines 12 through 15, begin a new line double block indented and insert:

"(A) involving foreclosure of the prior lien or encumbrance; or

(B) that otherwise affects the lien or encumbrance of the state;"

Page 1, delete lines 16 through 17.

Page 2, delete line 1.

Page 3, delete lines 35 through 41.

Delete page 4.

and when so amended that said bill do pass.

(Reference is to HB 1130 as introduced.)

THOMAS, Chair

Committee Vote: yeas 12, nays 0.

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