

Bill 32
Mr. Goudreau

BILL 32

2005

ANIMAL KEEPERS ACT

(Assented to , 2005)

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HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “animal” means cattle, horses, swine, sheep, bison, deer, elk, goats, mules and asses;

- (b) “animal keeper” means a person who receives payment for boarding, feeding or caring for an animal that is owned by another person;
- (c) “debt” means liability for
 - (i) the cost of boarding, feeding or caring for an animal, or
 - (ii) the cost of storing gear;
- (d) “gear” means
 - (i) tack and equipment used for riding, driving, showing or caring for animals, and
 - (ii) stock trailers, horse trailers, sleighs, buggies and carriages;
- (e) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (f) “owner of the animal or gear” means any person who has an interest in the animal or gear.

Lien on animals and gear

2(1) An animal keeper has a lien on an animal and gear for the debt incurred in relation to the animal and gear.

(2) In addition to all other remedies provided by law, an animal keeper may detain in the animal keeper’s custody and possession the animal and any gear in relation to the animal and may sell the animal or gear by public auction or in any other commercially reasonable manner.

(3) An animal keeper’s right to detain and sell an animal or gear has priority over and is not subject to any other existing lien, security interest as defined in the *Personal Property Security Act* or other charge or encumbrance of whatever nature or kind relating to that animal or gear.

(4) An animal keeper may waive any of the animal keeper’s rights under this Act in whole or in part by stating that waiver in writing and signing it.

Option to limit lien

3(1) When an animal keeper has a lien on more than one animal or gear belonging to the same owner, the animal keeper may choose to limit the lien to one or some of the animals or gear towards satisfaction of the debt incurred for all of the owner's animals or gear that are or were in the animal keeper's custody and possession.

(2) When the animal keeper chooses to limit the lien under subsection (1), the animal keeper may

- (a) release the remaining animals or gear, free and clear of the lien, to the owner of the animals or gear, or
- (b) if agreed to by the owner, retain custody and possession of the remaining animals or gear.

(3) When the animal keeper chooses to limit the lien under subsection (1), the animal keeper may sell the animal or those animals or gear under this Act and apply the proceeds of the sale to the debt incurred for all of the owner's animals or gear that are or were in the animal keeper's custody and possession.

(4) On the day the owner agrees that the animal keeper is to retain custody and possession of the remaining animals or gear under subsection (2)(b), the animal keeper acquires a new lien under section 2 with respect to those animals or gear.

Care of detained animals and gear

4 When an animal keeper detains an animal or gear under section 2, the animal keeper

- (a) must keep the animal or gear in the animal keeper's custody and possession, and
- (b) is responsible for the proper care of the animals in accordance with accepted industry standards.

Time the debt is incurred

5 The debt incurred by an owner of an animal or gear is incurred on the later of

- (a) the date boarding, feeding or caring for the animal or gear commences, and

- (b) if there is an agreement to pay, the date specified in that agreement.

Discharge of the debt

6(1) The owner of an animal or gear must discharge a debt within 14 days of the date on which the debt is incurred.

(2) If the owner fails to discharge the debt under subsection (1), the animal keeper may sell the animal or gear by public auction or in any other commercially reasonable manner on providing notice of the sale under sections 7 to 9.

Notice if owner known

7(1) If the owner of an animal or gear is known, the animal keeper must give at least 14 days' notice of the proposed sale of the animal or gear

- (a) to the owner by
 - (i) personal service,
 - (ii) registered mail sent to the address provided by the owner or the person who brought the animal or gear to the animal keeper, or
 - (iii) fax to the fax number provided by the owner or the person who brought the animal or gear to the animal keeper,
- and
- (b) if the animal is cattle or a horse, to the Minister.

(2) If a delegated authority is established under the *Livestock Identification and Brand Inspection Act*, the notice of sale under subsection (1)(b) must be provided to the delegated authority instead of the Minister.

Notice if owner not known

8(1) If the owner of an animal or gear is not known, the animal keeper must, at least 14 days before the proposed sale of the animal or gear,

- (a) publish a notice of the sale in a newspaper having general circulation in the place where the animal keeper's place of business is located, and
- (b) if the animal is cattle or a horse, provide notice of the sale to the Minister.

(2) If a delegated authority is established under the *Livestock Identification and Brand Inspection Act*, the notice of sale under subsection (1)(b) must be provided to the delegated authority instead of the Minister.

Notice of sale

9 A notice of sale under section 7 or 8 must include the following:

- (a) the method of the proposed sale;
- (b) the date and time of the sale;
- (c) the address and name of the place where the animal or gear will be sold;
- (d) the name of the owner or the person who brought the animal or gear to the animal keeper, if known;
- (e) the amount for which a lien is claimed;
- (f) a description of the animal or gear;
- (g) the name of and contact information for the animal keeper.

Application of proceeds of sale

10(1) If an animal or gear is sold under section 6(2), the proceeds of sale must be paid in the following order:

- (a) to the animal keeper for expenses incurred in detaining, transporting, advertising and selling the animal or gear;
- (b) in satisfaction of the lien of the animal keeper.

(2) If a balance remains after the proceeds of sale have been paid under subsection (1), the balance of the proceeds of sale shall be paid

- (a) if only one person with an interest in the animal or gear that was sold claims the balance of the proceeds of sale within 7 days from the date of the sale, to that person, or
- (b) to the Minister
 - (i) if more than one person with an interest in the animal or gear that was sold claims the balance of the proceeds of sale within 7 days from the date of the sale, or
 - (ii) if no person with an interest in the animal or gear that was sold claims the balance of the proceeds of sale within 7 days from the date of the sale.

(3) Notwithstanding subsections (1) and (2), the proceeds of sale must be paid into court as directed by the court if an application is made under section 12.

Disposition of balance of proceeds of sale

11(1) If the balance of the proceeds of sale are paid to the Minister under section 10(2)(b), the Minister must

- (a) if more than one person claims the balance of the proceeds of sale under section 10(2)(b)(i), distribute the balance of the proceeds of sale as the Minister considers appropriate, or
- (b) if no person claims the balance of the proceeds of sale within 7 days of the date of the sale,
 - (i) retain the balance of the proceeds of sale, on behalf of any person with a right to make a claim, for one year from the date the Minister receives the balance of the proceeds of sale, and
 - (ii) on the expiration of the one-year period referred to in subclause (i), pay the balance of the proceeds of sale into the General Revenue Fund.

(2) On payment of the balance of the proceeds of sale into the General Revenue Fund under subsection (1)(b)(ii), any person's claim to that balance of the proceeds of sale is extinguished.

Application to court

12(1) Any person who has an interest in an animal or gear that has been detained or sold under this Act may apply to the Court of Queen's Bench for a determination of the rights of the parties, and the Court may make any order it considers necessary to give effect to those rights where any question arises with respect to any one or more of the following:

- (a) the amount of the lien or the right of any person to a lien;
- (b) the circumstances surrounding the sale;
- (c) the application of the proceeds of sale under section 10;
- (d) the disposition of the balance of the proceeds of sale under section 11;
- (e) any other matter arising out of the operation of this Act.

(2) When an application is made under subsection (1), all or part of the proceeds of sale may be paid into court and the lien is discharged against the animal or gear and becomes instead a charge on the amount paid into court with the same priority as if the lien continued.

(3) Subject to section 2(3), persons are entitled to the balance of the proceeds of sale according to their rights and priorities established under the *Personal Property Security Act* and other applicable legislation.

(4) An application made under subsection (1) must be made within one year and one week after the date of the sale of the animal or gear.

Transitional

13(1) In this section, "former Act" means the *Livery Stable Keepers Act*.

(2) A lien that is created under the former Act continues as if the former Act were not repealed, and the former Act continues to apply in respect of those liens.

Consequential amendment

14 The *Possessory Liens Act* is amended in section 14(b) by

**striking out “Livery Stable Keepers Act” and substituting
“Animal Keepers Act”.**

Repeal

15 The *Livery Stable Keepers Act*, RSA 2000 cL-14, is repealed.

Coming into force

16 This Act comes into force on Proclamation.

Explanatory Notes

14 Amends chapter P-19 of the Revised Statutes of Alberta 2000. Section 14(b) presently reads:

14 This Act

(b) in particular, does not apply to a lien given under the Innkeepers Act, the Livery Stable Keepers Act or the Warehousekeepers’ Liens Act.

15 Repeals chapter L-14 of the Revised Statutes of Alberta 2000.

16 Coming into force.