

BILL

No. 25 of 1921.

An Act respecting Liens on Goods and Chattels.

(Assented to , 1921.)

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

1. Every person shall have a particular lien upon a chattel upon which he has expended his money, labour or skill at the request of the owner thereof, thereby enhancing its value, for the payment of his debt.

2. Every warehouseman shall have a particular lien upon the property stored with him, for his proper charges, including carrier charges, when the carrier deposits the property with the warehouseman, subject to the payment of such charges.

3. Every wharfinger shall have a particular lien on the goods entrusted to his keeping for his lawful charges.

4. Every bailee, whether gratuitous or for reward, shall have a particular lien on the goods and chattels bailed to him by the owner thereof for any charges which may be due him under the terms of the contract of bailment, and in addition, or in the event of there being nothing due him under the terms of the contract of bailment, shall have a particular lien on such goods for his reasonable charges for caring for the said goods after the time fixed in the contract of bailment for the termination thereof has expired or if there be no time fixed by the said contract, or if there be no contract of bailment, after the expiration of the time specified in a notice given by the bailee to the bailor to take possession of the same:

Provided always that a judge may dispense with the giving of such notice by the bailee if the bailor's address or whereabouts be unknown.

(2) For the purposes of this section the expression "bailee" shall include a livery stable keeper, a boarding stable keeper and a sales stable keeper in all cases where the bailor is not indebted to the bailee for the value or price of any food, care, attendance or accommodation furnished for any animal or any effects, and shall also

include a hotel keeper, boarding-house keeper or lodging-house keeper in all cases where the bailor is not indebted to the bailee for board and lodging.

5. Actual or constructive and continued possession of the property which is the subject matter of the debt is essential to the existence of the lien.

6. Every lien shall be coextensive with the property on which the lien-holder has expended his money, labour or skill, but no lien shall arise on account of a general balance due from the owner thereof to the lien-holder.

7. The right to a lien under this Act may be waived by an express agreement in writing, based on legal consideration, made between the parties at the time the contract out of which the lien arises was made or at any time thereafter.

8. Any person entitled to a lien on any property under this Act may detain the same in his possession until the amount of his debt has been paid, and in the event of the contract out of which the lien arises, making provision for storage charges, may make lawful storage charges for the period the property is so detained.

9. If the debt and storage charges, if any, be unpaid at the expiration of three months from the time when the relation of creditor and debtor arose with respect to the alteration or repair or the bailment of the property, or if the goods and chattels are not taken by the bailor at or before the expiration of the time specified for taking the same in the contract of bailment, or at or before the expiration of the time specified in the notice referred to in section 4, the lien-holder may serve a notice on his debtor by registered post or personal service, specifying a reasonable time and place for payment of the debt, the amount owing and the property detained and advising that in default of payment an application will be made to a judge on a date, hour and place to be named therein for leave to sell such goods and chattels:

Provided always that the date fixed for the application to a judge shall not be less than thirty days from the date of mailing or service of the said notice.

(2) If the amount claimed be not paid to the bailee, the bailee may apply on the date, hour and place specified in the notice to a judge informally for a sale of the said goods and chattels and the judge may and he is hereby empowered to make such order as to him seems just with respect to the sale and the manner of conducting the same.

(3) Unless a judge otherwise directs, it shall not be necessary to take out an order for sale, but the judge may note informal directions for the sale on the notice or on any affidavit that may be used.

(4) In the event of a dispute arising between the bailor and bailee as to the amount due, or in the absence of the bailor the judge may and he is hereby empowered to fix the amount due in a summary way or he may direct an action to be brought.

10. The proceeds of the sale shall be applied, first in payment of the expenses of the sale, and then in payment of the lien-holder's debt, and the balance, if any, shall be paid to the person entitled thereto on application being made by him therefor, and in case application therefor be not made forthwith, the officer conducting the sale shall immediately pay the same to the Provincial Treasurer to be kept by him for such owner for one year, after which time, if such owner has not previously claimed the amount so kept, the same shall form part of the general revenue found of the province.

(2) The Provincial Treasurer may entertain any application verified by such affidavit or affidavits as he may require on the part of a mortgagee of the goods and chattels so sold or on the part of an execution creditor of the owner of the said goods and chattels and may in his discretion make an order for the payment of all or a portion of the said monies to such mortgagees or execution creditors according to the priorities thereof; or the Provincial Treasurer may informally refer the facts to a judge of the Supreme Court or a District Court, and the judge may direct interpleader proceedings to be taken where there is more than one claimant, or in any case, may, on the production of such evidence as he may deem necessary, make such order as to him seems just; provided always that creditors shall be paid according to the priorities thereof, and such order shall be sufficient authority for the Provincial Treasurer to pay any moneys in his possession according to the tenor of the said order.

11. Nothing in this Act contained shall modify or repeal the law respecting general liens.

12. Section 34 of *The Mechanics' Lien Act* is hereby repealed.

No. 25.

FOURTH SESSION
FOURTH LEGISLATURE
11 GEORGE V
1921

BILL

An Act respecting Liens on Goods and
Chattels.

Received and read the

First time.....

Second time

Third time

HON. J. R. BOYLE.

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