



Province of Alberta

POSSESSORY LIENS ACT

Revised Statutes of Alberta 2000
Chapter P-19

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Chapter P-19

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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) “Court” means the Court of Queen’s Bench;
- (b) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act.

RSA 2000 cP-19 s1;2006 c23 s65

Lien on chattels

2 A person has a particular lien for the payment of the person’s debt on a chattel on which the person has expended the person’s

money, labour or skill at the request of the owner of it and in so doing enhanced its value.

RSA 1980 cP-13 s2

Lien of owner or keeper of wharf

3 An owner or keeper of a wharf has a particular lien for the owner's or keeper's lawful charges on a chattel entrusted to that owner's or keeper's keeping.

RSA 1980 cP-13 s3

Lien of bailee

4(1) A bailee, whether gratuitous or for reward, has a particular lien on a chattel bailed to the bailee by the owner of it for any charges that are due to the bailee under the terms of the contract of bailment.

(2) In addition to the particular lien mentioned in subsection (1), or if there is nothing due to the bailee under the terms of the contract of bailment, the bailee has a particular lien on the chattel for the bailee's reasonable charges for caring for it

- (a) after the time fixed in the contract of bailment for the termination of that contract has expired, or
- (b) if there is no time fixed by the contract or if there is no contract of bailment, then after the expiration of the time specified in a notice given by the bailee to the bailor to take possession of the chattel.

(3) The Court may dispense with the giving of the notice by the bailee if the bailor's address or whereabouts is unknown.

RSA 1980 cP-13 s4;1981 c7 s6

Possession of property

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

RSA 1980 cP-13 s5

Extent of lien

6 A lien extends over all the property on which the lienholder has expended the lienholder's money, labour or skill, but no lien arises on account of a general balance due from the owner of the property to the lienholder.

RSA 1980 cP-13 s6

Waiving of right to lien

7 The right to a lien under this Act may be waived by an express agreement in writing based on legal consideration and made

between the parties at the time the contract out of which the lien arises was made or at any time afterwards.

RSA 1980 cP-13 s7

Detention of property

8 A person entitled to a lien on any property pursuant to this Act may detain the property in the person's possession until the amount of the person's debt has been paid.

RSA 1980 cP-13 s8

Storage charges

9(1) If the contract out of which the lien arises provides for the payment of storage charges in respect of the property detained, the person entitled to a lien on the property

- (a) may make lawful charges for the storage of it during the period of the detention, and
- (b) may add the amount of those charges to the person's debt.

(2) If the contract out of which the lien arises relates to any kind of motor vehicle as defined in the *Traffic Safety Act* and if the contract makes no provision for the payment of storage or otherwise, the person entitled to a lien on the motor vehicle

- (a) may make ordinary and reasonable charges for the storage of it during the period of detention, and
- (b) may add the amount of those charges to the person's debt.

(3) When a bailee has in the bailee's possession perishable goods that might deteriorate or be destroyed by detention,

- (a) the bailee may forthwith apply to the Court for permission to sell the goods, and
- (b) on the application, the Court may forthwith give directions for the sale of the goods or may make any order in the matter that seems just to it.

RSA 2000 cP-19 s9;RSA 2000 cT-6 s206;2014 c13 s49

Notice to debtor

10(1) If

- (a) the debt and storage charges, if any, are unpaid at the expiration of 3 months in the case of a motor vehicle and of 6 months in the case of any other property, 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

- (b) the chattel is not taken by the bailor at or before the expiration of the time specified for taking it in the contract of bailment, or at or before the expiration of the time specified in the notice referred to in section 4,

the lienholder may serve a notice on the lienholder's debtor by registered mail or personal service.

(2) The notice shall specify

- (a) a reasonable time and place for payment of the debt,
- (b) the amount owing and the property detained, and
- (c) that in default of payment, an application will be made to the Court on the day and at the hour and place stated in the notice for permission to sell the chattel.

(3) The day fixed for the application to the Court shall be not less than 30 days after the date of mailing or serving the notice.

(4) If the amount claimed is not paid to the bailee,

- (a) the bailee may apply on the day and at the hour and place specified in the notice to the Court informally for a sale of the chattel, and
- (b) the Court may make any order that seems just to it with respect to the sale.

(5) Unless the Court otherwise directs, it is not necessary to take out an order for sale, but the Court may note informal directions for the sale on the notice or on any affidavit that is used.

(6) If

- (a) a dispute arises between the bailor and bailee as to the amount due, or
- (b) the bailor does not appear at the time and place referred to in subsection (4),

the Court may, on hearing the application, fix the amount due or direct an action to be brought.

RSA 2000 cP-19 s10;2009 c53 s137;2014 c13 s49

Substituted service

11 If it is made to appear to the Court that it is not practicable to serve a notice required to be given by this Act on a debtor, either personally or by registered mail, the Court may, on the application

ex parte by or on behalf of the lienholder, make an order for substituted or other service or for the substitution for service of notice by letter, public advertisement or otherwise, or may dispense with service.

RSA 1980 cP-13 s11;1981 c7 s6

Disposal of property valued at less than \$300

12(1) Notwithstanding section 10,

- (a) if
 - (i) the debt and storage charges, if any, are unpaid at the expiration of 3 months in the case of a motor vehicle and of 6 months in the case of any other property, 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
 - (ii) the chattel is not taken by the bailor at or before the expiration of the time specified for taking it in the contract of bailment, or at or before the expiration of the time specified in the notice referred to in section 4,

and

- (b) if the lienholder believes on reasonable grounds that the chattel has a total market value of less than \$300,

the lienholder may sell the property by a means and for a price that the lienholder believes is reasonable.

(2) If no person purchases the chattel put up for sale under subsection (1) within a reasonable time, the lienholder may dispose of the chattel in any manner that the lienholder believes is reasonable in the circumstances.

1984 c9 s2

Application of proceeds of sale

13(1) The proceeds of the sale shall be applied first in payment of the expenses of the sale and then in payment of the lienholder's debt, and the balance, if any, shall be paid to the person entitled to it on application by the person for it.

(2) If application under subsection (1) is not made forthwith,

- (a) the officer conducting the sale under section 10, or
- (b) the lienholder or the lienholder's agent conducting the sale under section 12,

shall immediately pay the balance to the Minister.

(3) The Minister shall keep the money the Minister receives under subsection (2) on behalf of the person entitled to it for one year from the day the Minister receives the money and, if that person does not make a claim for that money within that year or, if a claim is made within that year but is not upheld, that money is to be paid into the General Revenue Fund.

(4) The Minister may entertain an application, verified by affidavit as the Minister requires, on the part of a mortgagee of the chattel so sold, or on the part of a creditor of the owner of the chattel, and may in the Minister's discretion

- (a) make an order for the payment of all or a portion of the balance to the mortgagees or creditors according to their priorities, or
- (b) informally refer the facts to the Court.

(5) Where the Minister refers facts to the Court under subsection (4), the Court may direct interpleader proceedings to be taken if there is more than one claimant, or in any case may on the production of evidence that it considers necessary make an order that to it seems just.

(6) An order made under subsection (5) is sufficient authority for the Minister to pay any money in the Minister's possession according to the tenor of the order.

RSA 2000 cP-19 s13;2006 c23 s65

Application of Act

14 This Act

- (a) applies only to cases of lien where
 - (i) there is no provision for realizing by sale in any other statute, and
 - (ii) no provision is made in any other statute for determining the rights of the owner of the goods and chattels and the bailee,

and

- (b) in particular, does not apply to a lien given under the *Innkeepers Act*, the *Animal Keepers Act* or the *Warehousers' Liens Act*.

RSA 2000 cP-19 s14;2005 cA-40.5 s14

General liens

15 Nothing in this Act affects the law respecting general liens.

RSA 1980 cP-13 s14



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