

Warehousemen's Lien Act, R.S.A. 2000, c. W-2

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WAREHOUSEMEN'S LIEN ACT

Chapter W-2

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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) "goods" includes personal property of every description that may be deposited with a warehouseman as bailee;
- (b) "security interest" means an interest in goods that secures payment or performance of an obligation;
- (c) "warehouseman" means a person lawfully engaged in the business of storing goods as a bailee for hire.

RSA 1980 cW-3 s1;1988 cP-4.05 s100

Method of giving notices

2 Where by this Act any notice in writing is required to be given, the notice shall be given

- (a) by delivering it to the person to whom it is to be given, or
- (b) by mailing it, postage paid and registered, addressed to the person at the person's last known address.

RSA 1980 cW-3 s2

Declaration of warehouseman's lien

3 Subject to section 5, every warehouseman has a lien on goods deposited with the warehouseman for storage

- (a) by the owner of the goods or by the authority of the owner, or
- (b) by any person entrusted with the possession of the goods by the owner or by the authority of the owner.

RSA 1980 cW-3 s3

Charges covered by lien

4 The lien is for the amount of the warehouseman's charges, that is to say,

- (a) for all lawful charges for storage and preservation of the goods,

- (b) for all lawful claims for money advanced, interest, insurance, transportation, labour, weighing, cooperating and other expenses in relation to the goods, and
- (c) for all reasonable charges for any notice required to be given under this Act, and for notice and advertisement of sale, and for sale of goods if default is made in satisfying the warehouseman's lien.

RSA 1980 cW-3 s4

Where notice of lien given by warehouseman

5(1) Where the goods on which a lien exists were deposited not by the owner nor by the owner's authority but by a person entrusted by the owner or by the owner's authority with the possession of the goods, the warehouseman shall, within 2 months after the date of the deposit, give notice of the lien to

- (a) the owner of the goods, and
 - (b) any person who has a security interest in the goods where a financing statement is registered at the date of the deposit with respect to the security interest.
- (2)** The notice shall be in writing and shall contain
- (a) a brief description of the goods,
 - (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman and the name of the person by whom they were deposited, and
 - (c) a statement that a lien is claimed under this Act by the warehouseman in respect of the goods.
- (3)** If the warehouseman fails to give the notice required by this section, the warehouseman's lien, as against the person to whom the warehouseman has failed to give notice, is void from the expiration of the period of 2 months from the date of the deposit of the goods.

RSA 1980 cW-3 s5;1988 cP-4.05 s100

Sale of goods

6(1) In addition to all other remedies provided by law for the enforcement of liens or for the recovery of warehouseman's charges, a warehouseman may sell by public auction, in the manner provided in this section, any goods on which the warehouseman has a lien for charges that have become due.

- (2)** Written notice of the warehouseman's intention to sell shall be given by the warehouseman
- (a) to the person liable as debtor for the charges for which the lien exists,
 - (b) to the owner of the goods and to any person who has a security interest in the goods where a financing statement is registered at the date of the deposit with respect to the security interest, and
 - (c) to any other person known by the warehouseman to have or claim an interest in the goods.
- (3)** The notice shall contain
- (a) a brief description of the goods,
 - (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman and the name of the person by whom they were deposited,
 - (c) an itemized statement of the warehouseman's charges showing the sum due at the time of the notice,
 - (d) a demand that the amount of the charges as stated in the notice and any further charges that accrue be paid on or before a day mentioned, not being less than 21 days
 - (i) from the delivery of the notice if it is personally delivered, or
 - (ii) from the time when the notice should reach its destination according to the due course of mail if it is sent by mail,
- and
- (e) a statement that unless the charges are paid within the time mentioned, the goods will be advertised for sale and sold by public auction at a time and place specified in the notice.
- (4)** If the warehouseman's charges are not paid on or before the day mentioned in the notice, an advertisement of the sale
- (a) describing the goods to be sold,
 - (b) stating the name of the person liable as debtor for the charges for which the lien exists, and
 - (c) stating the time and place of the sale,

shall be published at least once a week for 2 consecutive weeks in a newspaper published in Alberta and circulating in the locality where the sale is to be held.

(5) The sale shall be held not less than 14 days from the date of the first publication of the advertisement.

RSA 1980 cW-3 s6;1988 cP-4.05 s100

Unessential irregularities in notices

7 When a notice of lien under section 5 or a notice of intention to sell under section 6 has been given, but those provisions have not been strictly complied with, if the court before whom any question respecting the notice is tried or inquired into considers

- (a) that the provisions have been substantially complied with, or
- (b) that it would be inequitable that the lien or sale be avoided by reason of the non-compliance,

no objection to the sufficiency of the notice shall in any such case be allowed to prevail so as to release or discharge the goods from the lien or vitiate the sale.

RSA 1980 cW-3 s7

Disposition of proceeds of sale

8(1) From the proceeds of the sale the warehouseman shall satisfy the warehouseman's lien and shall pay over the surplus, if any, to the person entitled to it.

(2) The warehouseman shall, when paying over the surplus, deliver to the person to whom the warehouseman pays it a statement of account showing how the amount has been computed.

(3) If the surplus is not within 10 days after the sale demanded by the person entitled to it, or if there are different claimants or the rights to the surplus are uncertain, the warehouseman shall on the order of a judge pay the surplus into the Court of Queen's Bench.

(4) The order may be made ex parte on any terms and conditions as to costs and otherwise that the judge may direct, and may provide to what fund or name the amount of the surplus is to be credited.

(5) At the time of paying the amount of the surplus into court, the warehouseman shall file in court a copy of the statement of account showing how the amount has been computed.

RSA 1980 cW-3 s8

Payment before sale of goods

9(1) At any time before the goods are sold, any person claiming an interest or right of possession in the goods may pay the warehouseman the amount necessary to satisfy the warehouseman's lien, including the expenses incurred in serving the notices and the advertisement and in preparing for the sale up to the time of the payment.

(2) The warehouseman shall deliver the goods to the person making the payment if that person is the person entitled to the possession of the goods on payment of the warehouseman's charges on them, otherwise the warehouseman shall retain possession of the goods according to the terms of the contract of deposit.

RSA 1980 cW-3 s9

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