

The Warehousemen's Lien Act

Repealed by

Chapter C-15.1 of the *Statutes of Saskatchewan, 2001*
(effective March 1, 2002).

Formerly

Chapter W-3 of the *Revised Statutes of Saskatchewan, 1978*
(effective February 26, 1979) as amended by the *Statutes of
Saskatchewan, 1979-80, c.92 and 100.*

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER W-3

An Act to make uniform the Law respecting Warehousemen's Liens

Short title

1 This Act may be cited as *The Warehousemen's Lien Act*.

Interpretation

2 In this Act:

- (a) **"goods"** includes personal property of every description that may be deposited with a warehouseman as bailee;
- (a.1) **"security interest"** means an interest in goods that secures payment or performance of an obligation;
- (b) **"warehouseman"** means a person lawfully engaged in the business of storing goods as a bailee for hire.

R.S.S. 1978, c.W-3, s.2; 1979-80, c.100, s.3.

Warehouseman's lien

3(1) Subject to section 4, every warehouseman has a lien on goods deposited with him for storage, whether deposited by the owner of the goods or by his authority, or by a person entrusted with the possession of the goods by the owner or by his authority.

Charges covered by lien

- (2) The lien is for the amount of the warehouseman's charges, that is to say:
- (a) all lawful charges for storage and preservation of the goods;
 - (b) all lawful claims for money advanced, interest, insurance, transportation, labour, weighing, coopering, and other expenses in relation to the goods; and
 - (c) all reasonable charges for:
 - (i) any notice required to be given under this Act;
 - (ii) notice and advertisement of sale; and
 - (iii) sale of the goods where default is made in satisfying the warehouseman's lien.

R.S.S. 1978, c.W-3, s.3.

Requirement as to notice of lien in certain cases

4(1) Where the goods on which a lien exists were deposited not by the owner or by his authority but by a person entrusted by the owner or by his authority with the possession of the goods, the warehouseman shall, within two months after the date of the deposit, give notice of the lien to:

- (a) the owner of the goods; and

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(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 or which security interest is perfected on that date according to *The Personal Property Security Act* without registration.

Contents of notice

(2) The notice shall be in writing and 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 by the warehouseman in respect of the goods under this Act.

Loss of lien from failure to give notice

(3) Where the warehouseman fails to give the notice required by this section, his lien, as against the person to whom he has failed to give notice, is void as from the expiration of the period of two months from the date of the deposit of the goods.

R.S.S. 1978, c.W-3, s.4; 1979-80, c.100, s.4.

Enforcement of lien by sale of goods

5(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 and in the manner provided in this section, any goods upon which he has a lien for charges that have become due.

Notice of sale

(2) The warehouseman shall give written notice of his intention to sell:

- (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 or which security interest is perfected on that date according to *The Personal Property Security Act* without registration; and
- (c) **Repealed.** 1979-80, c.100, s.5.
- (d) to any other person known by the warehouseman to have or claim an interest in the goods.

Contents of notice

(3) The notice shall contain:

- (a) a brief description of the goods;
- (b) a statement showing:
 - (i) the location of the warehouse where the goods are stored;
 - (ii) the date of their deposit with the warehouseman; and
 - (iii) 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 such further charges as may accrue shall be paid on or before a day mentioned, not less than twenty-one days from:

- (i) the delivery of the notice if it is personally delivered; or
- (ii) 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.

Advertisement of sale

(4) Where the 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 two consecutive weeks in a newspaper published in the province and circulating in the locality where the sale is to be held.

Time of sale

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

R.S.S. 1978, c.W-3, s.5; 1979-80, c.100, s.5.

Substantial compliance with Act

6 Where a notice of lien under section 4, or a notice of intention to sell under section 5 has been given, but those sections have not been strictly complied with, if the court or a judge before whom any question respecting the notice is tried or inquired into considers:

- (a) that those sections have been substantially complied with; or
- (b) that it would be inequitable that the lien or sale shall be void by reason of such 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.

R.S.S. 1978, c.W-3, s.6.

Disposition of proceeds of sale

7(1) From the proceeds of the sale the warehouseman shall satisfy his lien, and shall pay over the surplus, if any, to the person entitled thereto; and the warehouseman shall when paying over the surplus deliver to the person to whom he pays it a statement of account showing how the amount has been computed.

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(2) If:

(a) the surplus is not demanded by the person entitled thereto within ten days after the sale; or

(b) there are different claimants or the rights thereto are uncertain;

the warehouseman shall pay the surplus into Her Majesty's Court of Queen's Bench for Saskatchewan upon the order of a judge.

Procedure respecting order and contents of order

(3) The order may be made *ex parte* upon such terms and conditions as to costs and otherwise as the judge may direct, and may provide to what fund or name the amount shall be credited.

Statement of account

(4) the warehouseman at the time of paying the amount into court shall file in court a copy of the statement of account showing how the amount has been computed.

R.S.S. 1978, c.W-3, s.7; 1979-80, c.92, s.108.

Duty of warehouseman where charges paid before sale

8(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 his lien, including the expenses incurred in serving notices and advertisement and preparing for the sale up to the time of the payment.

Delivery of goods

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

R.S.S. 1978, c.W-3, s.8.

Manner of giving notices required by Act

9 Where by this Act a notice in writing is required to be given, the notice shall be given by delivering it to the person to whom it is to be given, or by mailing it in the post office, postage paid and registered, addressed to him at his last known address.

R.S.S. 1978, c.W-3, s.9.

Construction of Act

10 This Act shall be so interpreted and construed as to effect its general purpose of making uniform the law of the provinces that enact it.

R.S.S. 1978, c.W-3, s.10.