

rights of bondholders as to any bonds issued prior to the effective date of this 1969 amendatory act.

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CHAPTER 82
[Senate Bill No. 91]
LIEN FORECLOSURE--PROCEDURE

AN ACT Relating to liens; providing a uniform procedure for foreclosing statutory liens; adding a new section to chapter 61.12 RCW; adding a new chapter to Title 60; amending section 13, chapter 117, Laws of 1943 and RCW 19.32.170; amending section 4, chapter 72, Laws of 1905, as amended by section 4, chapter 68, Laws of 1917, and RCW 60.08.040; amending section 4, chapter 205, Laws of 1953, as amended by section 1, chapter 173, Laws of 1959, and RCW 60.34.040; amending section 3, chapter 75, Laws of 1901 and RCW 60.36.050; amending section 4, page 452, Laws of 1890 and RCW 60.52.040; amending section 2, chapter 165, Laws of 1917 and RCW 60.72.040; amending section 3, chapter 82, Laws of 1905 and RCW 76.24.030; amending section 4, page 471, Laws of 1890, as amended by section 1, chapter 123, Laws of 1953, and RCW 76.28.040; amending section 5, chapter 72, Laws of 1895, as last amended by section 1, chapter 124, Laws of 1953, and RCW 76.32.050; and amending section 2, page 216, Laws of 1877, as amended by section 1940, Code of 1881, and RCW 60.36.020.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. There is added to chapter 61.12 RCW a new section to read as follows:

The provisions of chapter 61.12 RCW, as now or hereafter amended, so far as the same shall be applicable, shall govern in actions for the judicial foreclosure of liens on personal property excluded by RCW 62A.9.104 from the provision of the Uniform Commercial Code, Title 62A. The lien holder may proceed upon his lien:

and if there be a separate obligation in writing to pay the same, secured by said lien, he may bring suit upon such separate promise. When he proceeds on the promise, if there be a specific agreement therein contained, for the payment of a certain sum, or there is a separate obligation for the said sum in addition to a decree of sale of lien property, judgment shall be rendered for the amount due upon said promise or other instrument, the payment of which is thereby secured; the decree shall direct the sale of the lien property and if the proceeds of said sale be insufficient under the execution, the sheriff is authorized to levy upon and sell other property of the lien debtor, not exempt from execution, for the sum remaining unsatisfied.

NEW SECTION. Sec. 2. As used in sections 2 through 8 of this 1969 act:

(1) The term "lien debtor" means the person who is obligated, owes payment or other performance. Where the lien debtor and the owner of the collateral are not the same person, the term "lien debtor" means the owner of the collateral.

(2) "Collateral" means the property subject to a statutory lien.

(3) "Lien holder" means a person who, by statute, has acquired a lien on the property of the lien debtor, or such person's successor in interest.

(4) "Secured party" has the same meaning as used in Article 9 of the Uniform Commercial Code (Title 62A).

NEW SECTION. Sec. 3. Any lien upon personal property, excluded by RCW 62A.9.104 from the provisions of the Uniform Commercial Code (Title 62A), may be foreclosed by an action in the superior court having jurisdiction in the county in which the property is situated in accordance with section 1 of this 1969 act, or it may be foreclosed by summary procedure as provided in sections 2 through 8 of this 1969 act.

NEW SECTION. Sec. 4. (1) A lien foreclosure authorized by

section 3 of this 1969 act may be summarily foreclosed by notice and sale as provided herein. The lien holder may sell, or otherwise dispose of the collateral in its then condition or following any commercially reasonable preparation or processing. The proceeds of disposition shall be applied in the order following to

(a) the reasonable expenses of retaking, holding, preparing for sale, selling and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;

(b) the satisfaction of indebtedness secured by the lien under which the disposition is made;

(c) the satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the lien holder, the holder of a subordinate security interest must seasonably furnish reasonable proof of his interest, and unless he does so, the lien holder need not comply with his demand.

(2) The lien holder must account to the lien debtor for any surplus, and, unless otherwise agreed, the lien debtor is not liable for any deficiency.

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable which shall be construed as provided in section 8 of this 1969 act. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the lien holder to the lien debtor, and except in

the case of consumer goods to any other person who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the lien debtor in this state or who is known by the lien holder to have a security interest in the collateral. The lien holder may buy at any public sale and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations he may buy at private sale.

NEW SECTION. Sec. 5. When a lien is foreclosed in accordance with the provisions of sections 1 through 8 of this 1969 act, the disposition transfers to a purchaser for value all of the lien debtor's rights therein, discharges the lien under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights and interests even though the lien holder fails to comply with the requirements of sections 2 through 8 of this 1969 act or of any judicial proceedings under section 1 of this 1969 act:

(a) in the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he does not buy in collusion with the lien holder, other bidders or the person conducting the sale; or

(b) in any other case, if the purchaser acts in good faith.

NEW SECTION. Sec. 6. At any time before the lien holder has disposed of collateral or entered into a contract for its disposition under sections 1 through 8 of this 1969 act, the lien debtor or any other secured party may redeem the collateral by tendering fulfillment of all obligations secured by the collateral as well as the expenses reasonably incurred by the lien holder, holding and preparing the collateral for disposition, in arranging for the sale, and his reasonable attorneys' fees and legal expenses.

NEW SECTION. Sec. 7. If it is established that the lien holder is not proceeding in accordance with the provisions of sections 2 through 8 of this 1969 act disposition may be ordered or

restrained on appropriate terms and conditions. If the disposition has occurred the lien debtor or any person entitled to notification or whose security interest has been made known to the lien holder prior to the disposition has a right to recover from the lien holder any loss caused by a failure to comply with the provisions of sections 2 through 8 of this 1969 act. The lien debtor has a right to recover in any event an amount not less than ten percent of the original lien claimed.

NEW SECTION. Sec. 8. As used in sections 2 through 8 of this 1969 act, "commercially reasonable" shall be construed in a manner consistent with the following:

The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the lien holder is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the lien holder either sells the collateral in the usual manner in any recognized market therefor or if he sells at the price current in such market at the time of his sale or if he has otherwise sold in conformity with reasonable commercial practices among dealers in the type of property sold he has sold in a commercially reasonable manner. A disposition which has been approved in any judicial proceeding or by any bona fide creditors' committee or representative of creditors shall conclusively be deemed to be commercially reasonable, but this sentence does not indicate that any such approval must be obtained in any case nor does it indicate that any disposition not so approved is not commercially reasonable.

NEW SECTION. Sec. 9. There is hereby added to Title 60 RCW a new chapter to consist of sections 2 through 8 of this 1969 act.

Sec. 10. Section 13, chapter 117, Laws of 1943 and RCW 19-.32.170 are each amended to read as follows:

Every operator of a locker shall have a lien upon all the property of every kind in his possession for all lockers' rentals, processing, handling or other charges due. Such lien may be fore-

closed under the procedures as provided (~~(or chattel mortgages)~~) in sections 1 through 8 of this 1969 act.

(1) Locker owners and operators shall not be responsible for liability for violations of game or other laws by renters unless the contents of the locker are under the control of the locker plant operator.

Sec. 11. Section 4, chapter 72, Laws of 1905, as amended by section 4, chapter 68, Laws of 1917, and RCW 60.08.040 are each amended to read as follows:

The lien herein provided for may be enforced against all persons having a junior or subsequent interest in any such chattel, (~~(by notice and sale in the same manner that a chattel mortgage is foreclosed or by decree of any court in this state exercising original equity jurisdiction in the county wherein such chattel may be in an action commenced)~~) by judicial procedure or by summary procedure as set forth in sections 1 through 8 of this 1969 act within nine months after the filing of such lien notice, and if no such action shall be commenced within such time such lien shall cease.

Sec 12. Section 4, chapter 205, Laws of 1953, as amended by section 1, chapter 173, Laws of 1959, and RCW 60.34.040 are each amended to read as follows:

The lien may be enforced within the same time and in the same manner as mechanics' liens are foreclosed, when said lien is upon real property, or in the same manner as (~~(chattel liens are enforced)~~) provided in sections 1 through 8 of this 1969 act when the lien is upon personal property. The court may allow as part of the costs of the action the money paid for filing or recording the claim and a reasonable attorney fee.

Sec. 13. Section 3, chapter 75, Laws of 1901 and RCW 60.36-.050 are each amended to read as follows:

The liens hereby created may be (~~(enforced by a suit in rem, and the law regulating like proceedings shall govern in all such~~

~~uite)~~ foreclosed as provided in section 1 of this 1969 act.

Sec. 14. Section 4, page 452, Laws of 1890 and RCW 60.52.040 are each amended to read as follows:

Liens under this chapter ~~((~~te~~))~~ may be foreclosed ~~((~~in-the-same-manner-as-liens-upon-other-personal-property-are-foreclosed~~))~~ as provided in sections 1 through 8 of this 1969 act.

Sec. 15. Section 2, chapter 165, Laws of 1917 and RCW 60-.72.040 are each amended to read as follows:

Said lien may be ~~((~~enforced-in-the-same-manner-as-the-foreclosure-of-a-chattel-mortgage-in-the-superior-court-of-the-county-in-which-the-property-or-any-portion-thereof-is-situated~~))~~ foreclosed as provided in sections 1 through 8 of this 1969 act.

Sec. 16. Section 3, chapter 82, Laws of 1905 and RCW 76.24-.030 are each amended to read as follows:

After any such logging road, way, chute, flume or artificial water course or other improvements shall have been constructed, such company shall transport all timber products offered to it for carriage as its means of transportation are adapted to carry, and such company shall have the right to charge reasonable tolls for the use thereof, which tolls shall be uniform, having due regard to the portion or length of any such logging road, way, chute, flume, or artificial water course or other improvements used by any person. Such company shall have a lien for the amount of its reasonable tolls and charges upon any and all logs or other timber products transported by it over its logging road, way, chute, flume or artificial water course. Notice of such lien shall be filed, and the same shall be ~~((~~enforced,-in-the-same-manner-as-is-now-or-may-hereafter-be-provided-for-the-filing-and-enforcement-of-liens-on-logs-by-beom~~~~ ~~companies))~~ foreclosed as provided by sections 1 through 8 of this 1969 act.

Sec. 17. Section 4, page 471, Laws of 1890, as amended by section 1, chapter 123, Laws of 1953, and RCW 76.28.040 are each amended to read as follows:

After such works have been constructed, the corporation shall catch, hold, and assort the logs and timber products of all persons requesting such service, upon the same terms and without discrimination. It shall have the right, in consideration of the convenience and security afforded to the public in the handling of logs and timber products, to charge and collect tolls on all logs or other timber products caught within its works and upon the order or request of the owner or owners thereof, and there assorted, boomed, or rafted. The tolls (~~(should)~~) shall not exceed one dollar and fifty cents per thousand feet on logs, spars, or other large timber, and reasonable rates on all other timber products. A corporation operating a boom at the mouth of any river, shall catch and hold, assort, boom, and raft all logs and timber products, except such as may be already in charge of the owner or his agents, without request of the owner, and it shall have the right to charge and collect tolls not to exceed one dollar and fifty cents per thousand feet for such service. The amount of logs or timber is to be board measure, to be ascertained by the usual legal method of scaling. The corporation shall have a lien upon the logs and timber products for the driving, floating, booming, sorting, and rafting thereof, and the right to (~~(enforce)~~) foreclose such lien (~~(in-any-manner-provided-by-law-for-the-enforcement-of-liens-upon-personal-property)~~) as provided in sections 1 through 8 of this 1969 act. The corporation shall, as soon as practicable, deliver logs or other timber products caught within its booms, sorted and rafted ready for towing, to the owner thereof, and if required to hold such property for more than thirty days, shall have the right to charge a reasonable rate for such storage for the excess period.

Sec. 18. Section 5, chapter 72, Laws of 1895, as last amended by section 1, chapter 124, Laws of 1953, and RCW 76.32.050 are each amended to read as follows:

After such corporation has entered upon its duties, which shall be within three months of the filing of its maps of location,

it shall operate in streams theretofore navigable, upon the request of the owners, and in the case of logs and other timber products which are commingled, or lying in such a position as to obstruct or impede the drive, without such request. When a navigable stream upon which it was not previously practicable to float logs or other timber products is improved by clearing out rocks, straightening the channel, or constructing wing dams and sheers, thereby aiding and assisting the floating of logs and other timber products, the corporation shall be entitled to driving charges on all logs or other timber products placed in the stream without a request to drive them, and in streams not navigable before such improvements were made, it shall without request, sluice, sack, and drive all logs and other timber products of suitable length that may be placed in the stream so improved, or that may be delivered into its ponds.

It shall handle all such logs and other timber products of all persons upon the same terms, without discrimination as to time of sluicing, sacking, and driving.

It shall be entitled to charge and collect reasonable and uniform tolls for such services and improvements, on all logs and other timber products handled, or sheered out of sloughs or off the bars by means of the improvements. Such tolls shall not exceed two dollars per thousand feet, board measure, on logs, spars or other large timber, and reasonable compensation on all other timber products, such charges to be fixed by the board of trustees of the corporation in proportion to the distance the timber is to be driven and the number of dams through which it is necessarily sluiced or sheered. In case the corporation is also engaged in the booming and rafting of logs and other timber so sluiced, sacked, and driven, an additional sum not to exceed one dollar and twenty cents per thousand feet for logs, spars and other large timber, and reasonable compensation on all other timber products may be charged for the booming and rafting.

The amount of such logs and other products shall be deter-

mined by the usual method of scaling, and the corporation shall have a lien upon all logs and other timber products handled for sluicing, sacking, and driving, and for booming and rafting to be ~~((enforced-in the-manner-provided-by-law-for-the-enforcement-of-liens-for-labor on-logs))~~ foreclosed as provided in sections 1 through 8 of this 1969 act.

Sec. 19. Section 2, page 216, Laws of 1877, as amended by section 1940, Code of 1881, and RCW 60.36.020 are each amended to read as follows:

Such liens may be enforced, in all cases of maritime contracts or service, by a suit in admiralty, in rem, and the law regulating proceedings in admiralty shall govern in all such suits; and in all cases of contracts or service not maritime, by a civil action in any ~~((district-court-in-this-territory))~~ superior court of this state as provided in section 1 of this 1969 act.

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CHAPTER 83
[Senate Bill No. 163]
SEARCH WARRANTS

AN ACT Relating to search warrants; and amending section 2, page 101, Laws of 1854 as last amended by section 1, chapter 86, Laws of 1949 and RCW 10.79.015.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 2, page 101, Laws of 1854 as last amended by section 1, chapter 86, Laws of 1949 and RCW 10.79.015 are each amended to read as follows:

Any such magistrate, when satisfied that there is reasonable cause, may also, upon like complaint made on oath, issue search warrant in the following cases, to wit:

(1) To search for and seize any counterfeit or spurious coin, or forged instruments, or tools, machines or materials, prepared or provided for making either of them.