

CONSOLIDATION OF WAREHOUSE KEEPERS LIEN ACT
R.S.N.W.T. 1988,c.W-2

(Current to: January 31, 2015)

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

S.N.W.T. 1994,c.8,s.85 [as amended by S.N.W.T. 1995,c.5,s.1(3)(e)]

s.85 in force May 7, 2001: SI-001-2001

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at <http://www.justice.gov.nu.ca/english/legislation.html> but are not official statements of the law.

Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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WAREHOUSE KEEPERS LIEN ACT

Definitions

1. In this Act,

"financing statement" means a financing statement as defined in the *Personal Property Security Act*; (*état de financement*)

"goods" means personal property deposited with a warehouse keeper as bailee; (*marchandises*)

"lien" means a lien referred to in subsection 2(1); (*privilège*)

"Registry" means the Personal Property Registry established by the *Personal Property Security Act*; (*réseau d'enregistrement*)

"security interest" means an interest in goods that secures payment or performance of an obligation; (*sûreté*)

"warehouse keeper" means a person lawfully engaged in the business of storing goods as a bailee for hire. (*entreposeur*) S.N.W.T. 1994,c.8,s.85(2).

Lien

2. (1) Subject to section 3, a warehouse keeper has a lien on goods deposited with him or her for storage, whether the goods are deposited by

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

Charges

(2) A lien is for the amount of

- (a) the lawful charges of the warehouse keeper for storage and preservation of the goods;
- (b) the lawful claims of the warehouse keeper for money advanced, interest, insurance, transportation, labour, weighing, cooperating and other expenses in relation to the goods; and
- (c) all reasonable charges of the warehouse keeper for any notice that is required to be given under this Act, notice and advertisement of sale and the sale of the goods where default is made in satisfying the lien of the warehouse keeper.

Notice of lien

3. (1) Where the goods on which a lien exists were deposited by a person entrusted with the possession of the goods by the owner or by the authority of the owner, the

warehouse keeper shall, within two months after the date of the deposit, give written notice of the lien

- (a) to the owner of the goods; and
- (b) to any person who has a security interest in the goods in respect of which a financing statement is registered in the Registry at the date of the deposit of the goods with respect to the security interest.

Contents of notice

(2) The notice referred to in subsection (1) must 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 the deposit of the goods with the warehouse keeper, and
 - (iii) the name of the person who deposited the goods; and
- (c) a statement that a lien is claimed by the warehouse keeper in respect of the goods under this Act.

Failure to give notice

(3) Where a warehouse keeper fails to give the notice required by subsection (1), his or her lien, as against the person to whom the warehouse keeper failed to give notice, is void at the expiration of two months after the date of the deposit of the goods.

S.N.W.T. 1994,c.8,s.85(3).

Sale of goods

4. (1) In addition to all other remedies provided by law for the enforcement of liens or for the recovery of the charges of a warehouse keeper, a warehouse keeper may sell by public auction goods on which the warehouse keeper has a lien for charges that have become due.

Notice of sale

(2) A warehouse keeper shall give written notice of his or her intention to sell goods under subsection (1)

- (a) to the person liable as debtor for the charges for which the lien exists;
- (b) to the owner of the goods;
- (c) to any person who has a security interest in the goods in respect of which a financing statement is registered in the Registry at the date of the deposit of the goods with respect to the security interest; and
- (d) to any person known by the warehouse keeper to have or claim an interest in the goods.

Contents of notice

(3) The notice referred to in subsection (2) must 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 the deposit of the goods with the warehouse keeper, and
- (iii) the name of the person who deposited the goods;
- (c) an itemized statement of the charges of the warehouse keeper showing the sum due at the time of the notice;
- (d) a demand that the amount of the charges stated in the notice and further charges that may accrue shall be paid on or before a day specified in the notice, not less than 21 days after
 - (i) the delivery of the notice, if it is personally delivered, or
 - (ii) the time when the notice should reach its destination in the usual course of mail, if the notice is sent by mail; and
- (e) a statement that unless the charges are paid within the time specified in the notice, the goods will be advertised for sale and sold by public auction at a time and place specified in the notice.

Advertisement

(4) Where charges are not paid on or before the day specified in the notice given under subsection (2), an advertisement of the sale shall be published at least once a week for two consecutive weeks in a newspaper circulating in the locality where the sale is to be held.

Contents of advertisement

- (5) The advertisement referred to in subsection (4) must
- (a) describe the goods to be sold;
 - (b) state the name of the person liable as debtor for the charges for which the lien exists; and
 - (c) state the time and place of the sale.

Time of sale

(6) A sale held under subsection (1) shall be held not less than 30 days after the date of the first publication of the advertisement referred to in subsection (4).
S.N.W.T. 1994,c.8,s.85(4).

Substantial compliance

5. Where notice of a lien is given under section 3 or notice of intention to sell is given under section 4 and section 3 or 4 has not been strictly complied with, no objection to the sufficiency of the notice shall release or discharge the goods from the lien or vitiate the sale, if the judge determining a question respecting the notice considers that

- (a) the section has been substantially complied with; or
- (b) it would be inequitable to hold that the lien or sale is void by reason of the non-compliance.

Disposition of proceeds

- 6.** Where a sale is held under section 4, the warehouse keeper shall
- (a) satisfy his or her lien from the proceeds of the sale;

- (b) pay the surplus, to the person entitled to it; and
- (c) deliver to the person to whom he or she pays the surplus at the time of paying the surplus a statement of account showing how the amount of the surplus has been calculated.

Payment into court

7. (1) Where a sale is held under section 4, the warehouse keeper shall pay the surplus into court on the order of a judge where

- (a) the surplus is not demanded by the person entitled to it within 10 days after the sale;
- (b) there are different claimants to the surplus; or
- (c) the rights to the surplus are uncertain.

Order

(2) The order referred to in subsection (1) may

- (a) be made *ex parte* on the terms and conditions as to costs and otherwise that the judge directs; and
- (b) provide to what fund or name the amount of the surplus is to be credited.

Statement of account

(3) A warehouse keeper, at the time of paying an amount into court under subsection (1), shall file in court a copy of the statement of account showing how the amount of the surplus has been calculated.

Payment of charges

8. (1) Before the goods are sold under section 4, any person claiming an interest or right of possession in the goods may pay the warehouse keeper the amount necessary to satisfy his or her lien, including the expenses incurred in serving notices, advertising and preparing for the sale up to the time of payment.

Effect of payment

(2) On payment under subsection (1), the warehouse keeper shall

- (a) deliver the goods to the person making the payment if that person is entitled, on payment, to possession of the goods; or
- (b) retain possession of the goods according to the terms of the contract of deposit if the person making the payment is not entitled, on payment, to possession of the goods.

Service of notice

9. Notice that is required under this Act shall be given by

- (a) delivering the notice to the person to whom it is to be given; or
- (b) mailing the notice by registered mail to the last known address of the person to whom it is to be given.

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