

**CONSOLIDATION OF GARAGE KEEPERS LIEN ACT**  
R.S.N.W.T. 1988,c.G-1

*(Current to: March 15, 2012)*

**AS AMENDED BY NORTHWEST TERRITORIES STATUTES:**

S.N.W.T. 1994,c.8,s.79 [as amended by S.N.W.T. 1999,c.5,Sch.C, s.1(3)(b),11]

s.79 in force May 7, 2001: SI-001-2001

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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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## **GARAGE KEEPERS LIEN ACT**

### Definitions

**1.** In this Act,

"claim of lien" means a claim of lien filed under section 3; (*revendication de privilège*)

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

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

"garage keeper" means a person who keeps a place of business for the storage, repair or maintenance of a motor vehicle and who receives compensation for that storage or repair or maintenance; (*garagiste*)

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

"motor vehicle" means a motor vehicle as defined in the *Motor Vehicles Act*; (*véhicule automobile*)

"Registrar" means the Registrar of the Registry; (*registrateur*)

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

"warrant" means a warrant issued under paragraph 4(2)(a). (*mandat*)  
S.N.W.T. 1994,c.8,s.79(2),(3).

### Lien

**2.** (1) In addition to every other remedy that a garage keeper has for the recovery of money owing to the garage keeper for the storage, repair or maintenance of a motor vehicle, or the price of accessories furnished for a motor vehicle, the garage keeper has a lien on the motor vehicle for the sum to which he or she is entitled to be paid for that storage, repair or maintenance or for those accessories.

### Exception

(2) No garage keeper is entitled under this Act to a lien for the price of gasoline, oil or grease furnished for a motor vehicle.

### Acknowledgement of indebtedness

(3) No garage keeper is entitled to a lien unless, before surrendering possession of the motor vehicle for which the lien is claimed, the garage keeper obtains an acknowledgement of indebtedness by requiring the person, or the authorized agent of that person, who

- (a) authorized the storage, repair or maintenance of the motor vehicle, or
  - (b) ordered that accessories be furnished for the motor vehicle,
- to sign an invoice or other statement of account.

#### Claim of lien

**3.** A lien ceases to exist on the 21<sup>st</sup> day after the day on which, in respect of the motor vehicle that is subject to the lien,

- (a) storage of the motor vehicle terminated,
- (b) repairs to the motor vehicle were completed, or
- (c) accessories for the motor vehicle were furnished,

unless on or before the 21<sup>st</sup> day, the garage keeper registers or causes to be registered in the Registry a financing statement indicating a claim of lien on the motor vehicle, signed by the garage keeper or a person authorized by the garage keeper.

S.N.W.T. 1994,c.8,s.79(4).

#### Duration of lien

**4.** (1) On the registration of a financing statement under section 3, the lien continues for one year after the date of registration.

#### Enforcement of lien

(2) A lien ceases to exist on the expiration of one year after the date of registration unless, within the one year,

- (a) a certified copy of the registered financing statement referred to in section 3 relating to the lien and a warrant in the prescribed form and addressed to the Sheriff are issued and delivered to the Sheriff, directing the Sheriff to seize the motor vehicle that is subject to the lien in accordance with the *Seizures Act*; and
- (b) the motor vehicle that is subject to the lien has been seized.

S.N.W.T. 1994,c.8,s.79(4).

#### Seizure of motor vehicle

**5.** Where a warrant is issued, the Sheriff shall, in accordance with the *Seizures Act*, seize or cause to be seized the motor vehicle in respect of which the warrant was issued.

#### Application of *Seizures Act*

**6.** (1) Where a motor vehicle is seized under section 5

- (a) the *Seizures Act* governs and applies to the seizure except where this Act expressly provides otherwise; and
- (b) the lien holder shall, subject to subsections (2) and (3), enforce his or her rights and remedies under this Act in accordance with the *Seizures Act*.

### Proceeds of sale

(2) Where a motor vehicle seized under section 5 is sold, the proceeds of the sale shall be applied first in payment of the expenses of the seizure and sale and then in payment of the debt of the lien holder.

### Balance

(3) After payment is made under subsection (2), payment out of the balance shall be governed by the provisions of the *Seizures Act* respecting the payments of a surplus remaining after distraint under that Act.

### Priority

**7.** Every lien on a motor vehicle under this Act shall be postponed to an interest in, or charge, encumbrance or lien on the motor vehicle that is created or arises in good faith and without express notice of the lien under this Act at any time during which the motor vehicle is out of the possession of the person entitled to the lien under this Act and before the registration of a financing statement referred to in section 3.

S.N.W.T. 1994,c.8,s.79(5).

### Several lien holders

**8.** (1) If more than one person has a lien on the same motor vehicle, the person whose claim of lien is registered first has the prior lien.

### Seizure of motor vehicle

(2) If one of the persons referred to in subsection (1) causes the motor vehicle to be seized, that person shall be deemed to have made the seizure on behalf of all persons who have a lien on the motor vehicle at the time of the seizure.

### Several liens

(3) If a person has more than one lien on the same motor vehicle, a seizure under one lien constitutes a seizure in respect of all of the liens of that person on the motor vehicle. S.N.W.T. 1994,c.8,s.79(6).

### Written demand where registered financing statement

**8.1.** (1) Where a financing statement is registered under section 3 and

- (a) the indebtedness, in respect of which the lien is claimed and the financing statement was registered, is paid,
- (b) the motor vehicle is sold under section 6,
- (c) the description of the motor vehicle contained in the financing statement includes an item that is not subject to the claim of lien,  
or
- (d) the garage keeper is not otherwise entitled to maintain the registration relating to the claim of lien,

the person, or the authorized agent of that person, who

- (e) authorized the storage, repair or maintenance of the motor vehicle,  
or
- (f) ordered that accessories be furnished for the motor vehicle,

as the case may be, or any person with an interest in the motor vehicle may, by a demand in writing containing an address for reply and delivered to the garage keeper, require the garage keeper to register a document referred to in subsection (2).

#### Contents of demand

(2) A demand referred to in subsection (1) shall require that the garage keeper, not later than 40 days after the demand is made, either

- (a) register a financing change statement
  - (i) discharging the registration, in a case falling within paragraph (1)(a), (b) or (d), or
  - (ii) amending the description of the motor vehicle in the registration to exclude items that are not subject to the claim of lien, in a case falling within paragraph (1)(c); or
- (b) register an order of the Supreme Court confirming that the registration need not be amended or discharged.

#### Effect of non-compliance

(3) If the garage keeper fails to comply with a demand referred to in subsection (1), the person making the demand may register the financing change statement referred to in paragraph (2)(a) on providing to the Registrar satisfactory proof that the demand has been delivered to the garage keeper.

#### Service of demand

(4) The demand referred to in subsection (1) may be delivered in accordance with section 68 of the *Personal Property Security Act* or by registered mail addressed to the address of the garage keeper as it appears on the financing statement.

#### Application to Court

(5) On application to the Supreme Court by the garage keeper, the Supreme Court may order that the registration

- (a) be confirmed; or
- (b) be discharged or amended.

#### Fees

(6) No fee or expense shall be charged and no amount shall be accepted by a garage keeper for compliance with a demand made under subsection (1).

#### Damages where failure to comply

(7) If a garage keeper fails to comply with a demand referred to in subsection (1), the owner or any person with an interest in the motor vehicle has a right to recover loss or damage that was reasonably foreseeable as likely to result from the failure.

#### Damages where no authority

(8) A person who discharges or amends a registration without being authorized by the garage keeper or by this section is liable to the garage keeper for loss or damage suffered by the garage keeper. S.N.W.T. 1994,c.8,s.79(7).

Regulations

**9.** The Commissioner, on the recommendation of the Minister, may make regulations

- (a) prescribing a tariff that may be charged in respect of a warrant and a seizure and sale made under the warrant or any matter incidental to that;
- (b) respecting forms to be used under this Act;
- (c) **repealed, S.N.W.T. 1994,c.8,s.79(9);**
- (d) prescribing the form of a warrant referred to in paragraph 4(2)(a);  
and
- (e) prescribing rules governing the manner of issuing, delivering or filing warrants or other documents with the Sheriff.  
S.N.W.T. 1994,c.8,s.79(8),(9).