

shall not apply to the office of county attorney: *Provided further*, That the fees properly chargeable to counties shall be included in the total of the earnings of such officers.

Approved March 15, 1893.

CHAPTER CXXXII.

[H. B. No. 445.]

LIENS UPON SAW LOGS, SPARS, PILES, ETC.

AN ACT providing liens upon saw logs, spars, piles or other timber, and upon lumber and shingles, and concerning the remedy to secure and obtain such liens, and the benefit thereof, and the manner and procedure of obtaining the same.

Be it enacted by the Legislature of the State of Washington:

Lien on logs,
spars, etc.,
who has.

SECTION 1. Every person performing labor upon or who shall assist in obtaining or securing saw logs, spars, piles or other timber, has a lien upon the same, and upon all other logs, spars, piles or other timber which, at the time of the filing of the claim of lien hereinafter provided, belonging to the person or corporation for whom the labor was performed, for (or) the work or labor done upon or in obtaining or securing the particular saw logs, spars, piles or other timber in said claim of lien described, whether such work or labor was done at the instance of the owner of the same or his agent. The cook in a logging camp shall be regarded as a person who assists in obtaining or securing the timber herein mentioned.

Lien on manu-
factures from
logs and other
timber.

SEC. 2. Every person performing work or labor or assisting in manufacturing saw logs and other timber into lumber and shingles, has a lien upon such lumber while the same remains at the mill where it was manufactured, or in the possession or under the control of the manufacturer, whether such work or labor was done at the instance of the owner of such logs or his agent or any contractor or subcontractor of such owner. The term lumber, as

used in this act, shall be held and be construed to mean all logs or other timber sawed or split for use, including beams, joists, planks, boards, shingles, laths, staves, hoops, and every article of whatsoever nature or description manufactured from saw logs or other timber.

SEC. 3. Any person who shall permit another to go upon his timber land and cut thereon saw logs, spars, piles or other timber, has a lien upon the same for the price agreed to be paid for such privilege, or for the price such privilege would be reasonably worth in case there was no express agreement fixing the price.

Owner's lien for logs, etc., cut on his land.

SEC. 4. The liens provided for in this chapter are preferred liens and are prior to any other liens, and no sale or transfer of any saw logs, spars, piles or other timber or manufactured lumber or shingles shall divest the lien thereon as herein provided, and as between liens provided for in this act those for work and labor shall be preferred: *Provided*, That as between liens for work and labor claimed by several laborers on the same logs or lot of logs the claim or claims for work or labor done or performed on the identical logs proceeded against to the extent that said logs can be identified, shall be preferred as against the general claim of lien for work and labor recognized and provided for in this act.

Preferred liens.

Proviso.

SEC. 5. The person rendering the service of [or] doing the work or labor named in sections 1 and 2 of this act is only entitled to the liens as provided herein for services, work or labor for the period of eight calendar months, or any part thereof next preceding the filing of the claim, as provided in section 8 of this act.

Lien only for work eight months prior to filing claim.

SEC. 6. The person granting the privilege mentioned in section 3 of this act is only entitled to the lien as provided therein for saw logs, spars, piles and other timber cut during the eight months next preceding the filing of the claim, as herein provided in the next succeeding section of this act.

Same.

SEC. 7. Every person, within thirty days after the close of the rendition of the services, or after the close of the work or labor mentioned in the preceding sections, claiming the benefit hereof, must file for record with the county

Filing of claim.

auditor of the county in which such saw logs, spars, piles and other timber were cut, or in which such lumber or shingles were manufactured, a claim containing a statement of his demand and the amount thereof, after deducting as nearly as possible all just credits and offsets, with the name of the person by whom he was employed, with a statement of the terms and conditions of his contract, if any, and in case there is no express contract, the claim shall state what such service, work or labor is reasonably worth; and it shall also contain a description of the property to be charged with the lien sufficient for identification with reasonable certainty, which claim must be verified by the oath of himself or some other person to the effect that the affiant believes the same to be true, which claim shall be substantially in the following form:

..... *Claimant, vs.*

Form of claim.

Notice is hereby given that of county, State of Washington, claims a lien upon a of , being about in quantity, which were cut or manufactured in county, State of Washington, are marked thus, and are now lying in, for labor performed upon and assistance rendered in said ; that the name of the owner or reputed owner is ; that employed said to perform such labor and render such assistance upon the following terms and conditions, to wit:

The said agreed to pay the said for such labor and assistance ; that said contract has been faithfully performed and fully complied with on the part of said, who performed labor upon and assisted in said for the period of ; that said labor and assistance were so performed and rendered upon said between the day of and the day of ; and the rendition of said service was closed on the day of, and thirty days have not elapsed since that time; that the amount of claimant's demand for said service is ; that no part thereof has been paid except, and there is now due and remaining unpaid thereon, after deducting all just credits and offsets, the sum of, in which amount he claims

a lien upon said The said also claims a lien on all said now owned by said of said county to secure payment for the work and labor performed in obtaining or securing the said logs, spars, piles or other timber, lumber or shingles herein described.

State of Washington, county of ss.

..... being first duly sworn, on oath says that he is named in the foregoing claim, has heard the same read, knows the contents thereof, and believes the same to be true.

Subscribed and sworn to before me this day of

SEC. 8. Every person mentioned in section three of this act claiming the benefit thereof must file for record with the county auditor of the county in which such saw logs, spars, piles or other timber were cut, a claim in substance the same as provided in the next preceding section of this act, and verified as therein provided.

SEC. 9. The county auditor must record any claim filed under this act in a book kept by him for that purpose, which record must be indexed, as deeds and other conveyances are required by law to be indexed, and for which he may receive the same fees as are allowed by law for recording deeds and other instruments.

SEC. 10. No lien provided for in this act binds any saw logs, spars, piles or other timber, or lumber and shingles, for a longer period than eight calendar months after the claim as herein provided has been filed, unless a civil action be commenced in a proper court, within that time, to enforce the same: *Provided, however,* That in case such civil action so commenced should for any cause other than the merits, be non-suited or dismissed, then the lien shall continue for the term of one calendar month, if the said eight months have expired, to permit the commencement of another action thereon, which shall be as effective in prolonging the lien as if it had been entered during the term of eight months hereinbefore stated.

SEC. 11. The liens provided for in this act shall be enforced by a civil action in the superior court of the county wherein the lien was filed, and shall be governed by the laws

Same.

Record of claims.

Length of time lien binding.

Manner of enforcing liens.

regulating the proceedings in civil actions touching the mode and manner of trial, and the proceedings and laws to secure property so as to hold it for the satisfaction of any lien that be against it; except as hereinafter otherwise provided.

Sheriff to be a receiver for purposes of this act.

SEC. 12. The sheriff of the county wherein the lien is filed shall be a receiver for the purpose of this act, and shall be allowed such fees as may seem just to the court for services performed as such receiver, but such fees shall be accounted for by said sheriff, as other fees accruing to him for services performed in his office of sheriff.

Answer, motion, demurrer.

SEC. 13. If the defendant or defendants appear in a suit to enforce any lien provided by this act he or they shall make their answer on the merits of the complaint, and any motion or demurrer against the said complaint must be filed with the answer; and no motion shall be allowed to make complaint more definite and certain, if it appear to the court that the defendant or defendants have or should have knowledge of the facts, or that it can be made more certain and definite by facts which will appear necessarily in the testimony; but the case, unless the court sustains the demurrer to the complaint, shall be heard on the merits as speedily as possible, and amendments of the pleadings, if necessary, shall be liberally allowed.

Right to demand enforcement of lien.

SEC. 14. Any person who shall bring a civil action to enforce the lien herein provided for, or any person having a lien as herein provided for, who shall be made a party to any such civil action, has the right to demand that such lien be enforced against the whole or any part of the saw logs, spars, piles or other timber or manufactured lumber or shingles upon which he has performed labor or which he has assisted in securing or obtaining, or which he has cut on his timber land during the eight months next preceding the filing of his lien, for all his labor upon or for all his assistance in obtaining or securing said logs, spars, piles or other timber, or in manufacturing said lumber or shingles during the whole or any part of the eight months mentioned in section seven (7) of this act, or for timber cut during the whole or any part of the eight months above mentioned. And where proceedings are commenced against

any lot of saw logs, spars, piles or other timber or lumber or shingles as herein provided, and some of the lienors claim liens against the specific logs, spars, piles or other timber or lumber or shingles proceeded against, and others against the same generally, to secure their claims for work and labor, the priority of the liens shall be determined as hereinbefore provided.

SEC. 15. No mistake or error in the statement of the demand, or of the amount of credits and offsets allowed, or of the balance asserted to be due to claimant, nor in the description of the property against which the claim is filed, shall invalidate the lien, unless the court finds that such mistake or error in the statement of the demand, credits and offsets or of the balance due was made with intent to defraud, or the court shall find that an innocent third party without notice, direct or constructive, has, since the claim was filed, become the *bona fide* owner of the property liened upon, and that the notice of claim was so deficient that it did not put the party upon further inquiry, in any manner.

Errors in statement of demand to invalidate lien, when.

SEC. 16. It shall be conclusively presumed by the court that a party purchasing the property liened upon within thirty days given herein to claimants wherein to file their liens, is not an innocent third party, nor that he has become a *bona fide* owner of the property liened upon, unless it shall appear that he has paid full value for the said property, and has seen that the purchase money of the said property has been applied to the payment of such *bona fide* claims as are entitled to liens upon the said property under the provisions of this act, according to the priorities herein established.

Purchaser of liened property presumed to not be innocent third party.

SEC. 17. Any number of persons claiming liens under this act may join in the affidavit in section 14 of this act provided, and may join in the same action, and when separate actions are commenced the court may consolidate them. The court shall also allow as part of the costs the moneys paid for filing, making and recording the claim, and a reasonable attorney's fee for each person claiming a lien.

Number may join.

Manner of
sale and ap-
portionment
of proceeds.

SEC. 18. In each civil action judgment must be rendered in favor of each person having a lien for the amount due to him, and the court or judge thereof shall order any property subject to the lien herein provided for to be sold by the sheriff of the proper county in the same manner that personal property is sold on execution, and the court or judge shall apportion the proceeds of such sale to the payment of each judgment, according to the priorities established in this act *pro rata* in its class according to the amount of such judgment.

SEC. 19. The court or judge may order any property subject to a lien as in this act provided to be sold by the sheriff as personal property is sold on execution either before or at the time judgment is rendered, as provided in section next preceding, and the proceeds of such sale must be paid into court to be applied as in said section directed.

Penalty for
rendering un-
certain iden-
tification of
liened prop-
erty.

SEC. 20. Any person who shall eloin, injure or destroy, or who shall render difficult, uncertain or impossible of identification any saw logs, spars, piles, shingles or other timber upon which there is a lien as herein provided, without the express consent of the person entitled to such lien, shall be liable to the lien holder for the damages to the amount secured by his lien, and it being shown to the court in the civil action to enforce said lien, it shall be the duty of the court to enter a personal judgment for the amount in such action against the said person, provided he be a party to such action, or the damages may be recovered by a civil action against such person.

SEC. 21. All laws or parts of laws inconsistent with the provisions of this act are hereby repealed.

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