

CHAPTER 256.

[S. B. 78.]

LIENS UPON CROPS.

AN ACT relating to liens upon crops, and repealing certain acts in relation thereto.

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

SECTION 1. Any person, who, as laborer, contractor or otherwise, shall, at the request of the owner, or the tenant, of any farm or land, do or cause to be done any work or labor upon any such farm or land, in tilling the same, or any part thereof, or in preparing the same or any part thereof for the growing of crops, or in sowing or planting any crop on the same, or in cultivating any crop growing thereon, or in cutting, digging, picking, pulling or otherwise harvesting any crop grown thereon, or in gathering, securing, or housing any crop grown thereon, or in threshing any grain grown thereon, shall have a lien upon any and all of the crops grown, during the calendar year in which such work or labor was done, upon all or any of the land belonging to or occupied by the person, firm or corporation at whose request the work or labor was done, for the contract price, or reasonable value, of such work and labor, and any person, who, as laborer, contractor or otherwise, shall, in any calendar year, at the request of the owner or tenant, of any farm or land, do or cause to be done any work or labor upon any such farm or land, in preparing the same, or any part thereof, for the sowing, planting, or growing of any crop, or in sowing or planting any crop thereon, to be grown and harvested in the following calendar year, shall have a lien on the crop so grown or harvested, for the contract price, or reasonable value, of such work or labor: *Provided,*

Lien of farm laborer or contractor.

Lien for preparation of ground for next year's crops.

No labor
liens on crop
of orchard.

That no lien on the crop grown on any orchard shall be allowed, under the provisions of this section, for work or labor done on such orchard or orchard lands, in pruning, spraying, cultivating, picking, gathering, sorting, housing or otherwise caring for, harvesting or securing, preparing for market or in delivering said crop, and nothing in this act shall be construed as repealing, amending or modifying any of the provisions of chapter 110 of the Laws of 1917, pages 410-411: *And provided further*, That the interest of any lessor in any portion of the crop raised on demised premises leased in consideration of a share of the crop raised, shall not be subject to the lien provided for in this section, where the work or labor is done at the request of the tenant.

See ch. 110,
L. 1917.

Lessor's
share of crop
not subject
to lien.

Landlord's
lien.

SEC. 2. Every landlord shall have a lien upon the crops growing or grown upon demised premises in any year, for the faithful performance of the terms of the lease, and for the rent accruing or accrued for such year, whether such rent is to be paid wholly, or in part, in money, or in specific articles of property, or in the products of the premises, or in labor.

Priority of
liens.

SEC. 3. The liens provided for in this act shall be of equal rank, and shall be preferred liens and prior to any other liens or encumbrances upon the crop or crops to which they attach. Any lien or right of lien created by this act, and the rights of action and recovery therefor, shall be assignable, so as to vest in the assignee all rights and remedies of the assignor, subject to all defenses thereto that might be made if such assignment had not been made.

Liens
assignable.

Time for
filing lien.

SEC. 4. Every person claiming a lien, under the provisions of this act, for work and labor done, and every landlord claiming a lien, under the provisions of this act, for rent, or the faithful performance of the lease, must within forty days, after the cessation

of the work or labor for which the lien is claimed, or within forty days after the expiration of the term of the lease, or after the expiration of each year of the lease, or after the failure of the faithful performance of the lease, as the case may be, file for record in the office of the county auditor of the county in which the crop upon which the lien is claimed is growing or was grown, a claim of lien, subscribed and verified under oath by the claimant, or some one in his behalf, to the effect that the affiant believes the claim to be just: *Provided*, That in case the lease under which the landlord claims a lien for rent has been recorded in the office of the county auditor of the county where the demised premises are situated, no other notice or claim of lien for rent during the leasehold period, need be filed or recorded, but any claim for damages, by a landlord, for failure of faithful performance of the lease, must be filed and recorded within the time, and in the manner hereinabove provided.

SEC. 5. The verified claim of lien, provided for in the preceding section, must state the name of the claimant, and in case the claim has been assigned, the name of the assignee, the demand of the claimant and the amount thereof, after deducting all just credits and offsets, the name of the person, firm or corporation, by whom the claimant was employed, and whether the owner or tenant of the land upon which the crop upon which the lien is claimed is growing or was grown, the contract price of employment, if any, or in case there was no express contract, the reasonable worth of the work and labor performed, the kind and amount thereof, and the dates of beginning and completing the same, and must contain a description of the land upon which the work and labor was performed, a description of the crop to be charged with the lien, sufficient for

Filed with
county
auditor.

Lien for
rent filed.

No other
notice.

Filing of
landlord's
claim for
damages.

Claim of
lien.

Recitals.

identification with reasonable certainty, giving the kind of crop, a description of the land upon which the crop is growing or was grown, and, if the crop has been harvested, the amount of the crop, as near as may be, and a description of the containers and the number thereof, if any: *Provided*, That if the lien is claimed for preparing the ground for, or planting or sowing, a crop to be harvested in the following calendar year, a description of the land upon which the crop is to be, or is planted or sown, and the nature of the crop, shall be sufficient. In case a lien is claimed for rent, or for damages for failure of faithful performance of the lease, the verified claim, if any is filed, shall contain a description of the demised premises, and state the terms and conditions of the lease, and the amount of the rent due or to become due, or, the nature of the failure of performance, and the amount of damages claimed, and a sufficient description of the crop upon which the lien is claimed as above provided. Any such claim of lien may be amended, in case action is brought to foreclose the same, by order of court, as pleadings may be amended: *Provided*, That the interest of third parties shall not be affected by any such amendment.

Recitals required in claim of lien for preparing ground for next year's crops.

Lien claimed for rent or damages.

Recitals.

Amendment of claim.

Interest of third parties not affected.

Recordation and indexing in lien book.

Period of lien limited.

SEC. 6. The county auditor must record any claim filed under the provisions of this act, in a book kept for that purpose, which record must be indexed, as deeds and other conveyances are required by law to be indexed, and for which he shall receive the same fees as are required by law for recording deeds and other instruments.

SEC. 7. No lien provided for in this act shall bind any crop 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 before that time, to enforce the same:

Provided, That in case the claim of lien is upon a crop to be grown and harvested in the following calendar year, after the work of preparing the ground, or planting or sowing the crop, is done, such lien shall bind the crop for a period of twelve calendar months, after the claim as herein provided has been filed, if a civil action is commenced within that time to enforce the same: *Provided, further*, That in case any such civil action to enforce any lien provided in this act so commenced, shall for any cause other than the merits, be nonsuited or dismissed, then the lien shall continue for a term of one calendar month, after said eight months, or twelve months, as the case may be, 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, or twelve months, as the case may be, hereinbefore stated. In case action to enforce a lien as herein provided, is not prosecuted to judgment within two years after the commencement thereof, the court, in its discretion, may dismiss the same for want of prosecution, and the dismissal of such action, or the judgment that no lien exists rendered therein, shall constitute a cancellation of the lien.

Lien upon next year's crops continues for 12 months.

Action to enforce.

Nonsuit.

New action prolongs lien.

Dismissal of action if prosecution delayed.

SEC. 8. Any lien provided by this chapter, for which a claim has been filed, may be foreclosed and enforced by a civil action, in the superior court of the county wherein the lien was filed, and all laws and proceedings to secure property so as to hold it for the satisfaction of any lien which may be against it, shall apply to actions for the foreclosure of liens provided for in this act. In any such action brought to foreclose a lien, all persons who, prior to the commencement of such action, have legally filed claims for liens against the same property, or any part thereof, shall be joined as parties, either plaintiff

Lien foreclosed in county where filed.

Prior claimants joined as parties.

Action pending—other claimants made parties on request.

or defendant, and no person shall begin an action to foreclose a lien, upon any property, while a prior action, begun to foreclose another lien on the same property, is pending, but if not made a party plaintiff or defendant in such prior action, he may apply to the court to be joined as a party thereto, and his lien may be foreclosed in such action, and no action to foreclose a lien provided for in this act, shall be dismissed at the instance of an applicant therein, to the prejudice of any other party to the suit who claims a lien.

One claimant may not dismiss to prejudice of others.

Sheriff to act as receiver.

SEC. 9. The sheriff of the county wherein any action is brought under the provisions of this act shall be the receiver when any is appointed, and the superior court, upon a sufficient showing made, shall appoint such receiver without notice, who shall be allowed such fees as may seem just to the court, which fees shall be accounted for by such sheriff as other fees are collected by him in his official capacity: *Provided*, That when any property is in the custody of such sheriff, under the provisions of this section, any person claiming any interest therein, may deposit with the clerk of the court wherein such action is pending, a sum of money in an amount equal to the claim or claims sued upon, together with one hundred dollars (\$100), or such sum as may be fixed by the court in which such action is pending, to cover costs and interest, and shall have the right to demand and receive forthwith from such sheriff, the possession and custody of such property: *Provided, further*, That in no action brought under the provisions of this act shall costs be allowed to any lien claimant, unless a demand has been made for payment of his claim before the commencement of the suit, unless the court shall find that the claimant at the time of bringing action, had reasonable ground to believe that the owner or person having control

Conditions under which custody of property surrendered by sheriff.

When costs allowed lien claimant.

of the property upon which such lien is claimed, was attempting to eloin, injure, destroy, or render difficult, uncertain or impossible of identification, the property upon which the lien is claimed, or otherwise prevent the collection of the claim.

SEC. 10. If the defendant or defendants appear in the 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 said complaint must be filed with the answer, and no motion shall be allowed to make the 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 definite and certain by facts which will necessarily appear 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 to the pleadings and notice of claim of lien, if necessary, shall be liberally allowed.

Defendant's motions or demurrers must be filed with answer.

Case to be heard on the merits.

SEC. 11. No mistake or error in the claim of lien filed, shall invalidate the lien, unless the court finds that such mistake or error 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 a *bona fide* owner of the property against which the claim of lien was filed, and that the notice of claim of lien was so deficient that it did not put such third party upon further inquiry in any manner.

Lien not invalidated through mistake in claim filed.

Protection of innocent third party.

SEC. 12. It shall be conclusively presumed by the court, in any action brought under the provisions of this act, that any one purchasing property subject to any lien under the provisions of this act, within the forty days given herein to claimants within which to file their liens, is not an innocent third party, and that he has not become a *bona fide* owner

Presumption not innocent third party

unless full
value paid
for property.

of the property, so purchased, unless it shall appear that he has paid full value for such property, and has required the purchase money of said property to be applied to the payment of such *bona fide* claimants as are entitled to liens upon said property under the provisions of this act.

Lien
established.

Judgment.

What
included
in costs.

Order to sell
property.

Apportion-
ment of pro-
ceeds among
claimants.

Remainder
to owner.

SEC. 13. In any action brought under the provisions of this act, judgment must be rendered in favor of each person establishing a lien for the amount due him with costs, and the court shall allow, as a part of the costs, the moneys paid for making, filing and recording the claim of lien, and a reasonable attorney's fee for each person establishing a lien, and the court shall order any property upon which any lien provided for by this act is established, to be sold by the sheriff of the proper county in the same manner that personal property is sold on execution, and the court shall apportion the proceeds of such sale to the payment of the several judgments rendered in the action, *pro rata*, according to the amounts of such judgments, and if any balance remain of such proceeds after the payment of such judgment, shall direct the payment of the same to the owner of the property sold.

Sale of liened
property
before judg-
ment.

Proceeds
paid into
court.

SEC. 14. In any action begun under the provisions of this act, the court, upon a sufficient showing being made, may order any property upon which a lien is claimed under the provisions of this act, to be sold by the sheriff as personal property is sold on execution, before judgment is rendered, and that the proceeds of such sale shall be paid into court, to be applied as may be provided for by the judgment.

Eloignement,
injury, etc.,
of crops
liened.

SEC. 15. Any person who shall eloin, injure, or destroy, or who shall render difficult, uncertain or impossible of identification, any crop or crops upon which there is a lien, as provided for in this act,

without the express consent of the lien holder, shall be liable to the lien holder for damages, to the amount secured by his lien, and the facts 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 of such damages and costs, against said person, if he be a party to said action, or such damages may be recovered in a civil action against such person.

Liabile in damages to lien holder.

SEC. 16. Nothing contained in this act shall be construed to impair or affect the right of any person to whom any debt may be due for labor performed, or for rent or damages, under the provisions of this and preceding sections, to maintain a personal action to recover such debt against the person liable therefor.

Present rights not impaired.

SEC. 17. That sections 1975, 1976, and 1977, and section 1978, in so far as it relates to the provisions of said sections 1975, 1976 and 1977, of the Code of Washington Territory of 1881; an act entitled, "An Act to amend sections 1975 and 1977 of chapter 139 of the Code of Washington Territory, relating to liens," Laws of Washington Territory of 1885-6, pages 114-116; chapter LXXV (75) of the Laws of Washington Territory of 1887-8, page 130; chapter LXXV (75) of the Laws of 1891, pages 144-145; and chapter 176 of the Laws of 1919, are hereby repealed: *Provided*, That all rights acquired under any of said acts, and existing at the time of the taking effect of this act, are hereby preserved, and may be enforced as though said acts had not been repealed, and all actions pending under the provisions of said repealed acts, at the time this act takes effect, shall proceed as though said acts had not been repealed: *Provided, further*, That the repeal of any of said acts shall not be construed as

Statutes repealed.

Saving clause.

No revivor.

reviving any former law amended or repealed by any thereof.

Passed the Senate March 10, 1927.

Passed the House March 10, 1927.

Approved by the Governor March 19, 1927.

CHAPTER 257.

[S. B. 238.]

MOTOR VEHICLE FUND—REAPPROPRIATION FOR STATE HIGHWAYS.

AN ACT reappropriating certain sums from the motor vehicle fund for the purpose of construction and maintenance of state highways, and declaring that this act shall take effect immediately.

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

SECTION 1. That the sum of three million, one hundred sixteen thousand, five hundred forty-four dollars and fifty-two cents (\$3,116,544.52) from the motor vehicle fund or so much thereof as may be necessary be and the same is hereby reappropriated for completing and maintaining work already under contract and construction on certain state roads hereinafter mentioned: the same being the unexpended balance of certain existing appropriations as shown by the state auditor's books on December 31, 1926, the said balance being reappropriated as follows:

Reappropriation for completion and maintenance of work.

See ch. 20, L. 1925.

STATE ROAD No. 1—	
Seattle-Blaine	\$166,556.79
Seattle-Vancouver	105,368.45
STATE ROAD No. 2—	
Seattle-Wenatchee	78,022.70
Wenatchee-Idaho State Line	29,291.29
STATE ROAD No. 3—	
Virden-Kennewick	100,857.90
Kennewick-Richland	10,145.11
Pasco-Walla Walla-Oregon State Line....	32,593.56