

CHAPTER 514

LIENS FOR LABOR AND MATERIAL

IMPROVEMENT OF REAL ESTATE

514.01 MECHANICS, LABORERS AND MATERIALMEN.

L. 1889, c. 200, was a complete codification and revision of the mechanics' lien law and the basis for our present chapter 514. *Reed v Sherwood*, 202 M 277, 278 NW 30.

Priority of purchase money mortgage over mechanic's lien. 1 MLR 460.

Stipulation in principal contract against filing mechanic's liens; effect upon subcontractors. 4 MLR 459.

Liens as affected by bankruptcy. 9 MLR 1.

Surety's right to require payments be applied in reduction of assured debt. 9 MLR 391.

Rights of conditional seller of articles annexed to realty as against vendor of realty. 19 MLR 342.

Requiring construction of mechanic's lien law in such a way as to give full recovery to lien claimant. 21 MLR 630.

Equitable lien where one makes improvements on another's land by mistake. 25 MLR 715.

Construction "as shown on plans." 26 MLR 115.

514.05. WHEN LIEN ATTACHES; NOTICE.

Motor vehicle accident compensation. 4 MLR 4.

Bankruptcy proceedings as they relate to mechanic's liens. 9 MLR 59.

Recital in recorded mortgage of intention subsequently to execute a new mortgage to replace the old one as constructive notice; priorities. 13 MLR 157.

Advances where the making is optional with the mortgagee; advances made after liens attach. 14 MLR 695.

Motor vehicle liens; rights of innocent purchaser. 14 MLR 783; 19 MLR 469.

514.06 TITLE OF VENDOR OR CONSENTING OWNER, SUBJECT TO.

Motor vehicle accident compensation. 4 MLR 4.

Oral agency to purchase lands. 24 MLR 718.

514.07 PAYMENT TO SUBCONTRACTORS WITHHELD.

Extension of statutory period for filing claims by furnishing materials not within the original contract. 17 MLR 219.

514.08 STATEMENT; NECESSITY FOR RECORDING; CONTENTS.

Liens in relation to Torrens certificates. 8 MLR 214.

Liens in relation to bankruptcy proceedings. 9 MLR 58.

Comparison of motor lien law with mechanic's lien provisions. 14 MLR 783.

Extension of period for filing claims. 17 MLR 219.

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Necessity of filing a claim in probate court when decedent's only property is a homestead. 25 MLR 385.

514.10 FORECLOSURE OF LIENS.

A construction contract providing that owner make monthly payments of 85 per cent of the cost of the labor and materials furnished each month by the contractor, under the provisions of section 514.07, entitles the contractor to only 85 per cent of the cost of labor and material actually paid for by him; and an owner who defended a previous action arising by reason of his contractor's default under a construction contract may recover on contractor's surety bond the amount of attorney's fees incurred in such action regardless of whether such fees have been paid. *First Church v Lawrence*, 210 M 37, 297 NW 99.

An arbitration agreement, as in a building contract, may be waived notwithstanding a provision that arbitrators' decision shall be a condition precedent to right of legal action; and where owners withdrew from arbitration proceeding instituted by contractor they thereby waived right to arbitrate; and the contractor properly resorted to the courts. *Knutson v Lasher*, 219 M 594, 18 NW(2d) 689.

514.11 COMMENCEMENT OF ACTION; PROCEEDINGS.

Nothing more appearing, where a large and heavy heating boiler was installed in defendant's greenhouse, it became a part of the real estate and lienable. Rights of tenant not being involved the doctrine of "trade fixtures" cannot be invoked. The materialman is entitled to his lien even though the contractor is discharged in bankruptcy. *Willcox Boiler Co. v Messier*, 211 M 304, 1 NW(2d) 130.

The court retains jurisdiction after entry of judgment in foreclosure actions and often time for appeal has expired for the purpose of supervising and controlling the sale; and may exercise such control by permitting a lien claimant to waive a worthless lien right included in the judgment and order entry of a personal judgment against defendant. *Smude v Amidon*, 214 M 266, 7 NW(2d) 776.

Improvements on real property made by a vendee in possession under an executory contract for sale are chargeable in mechanic's lien proceedings against the interests of a vendor having knowledge of the improvements and in the absence of notice by said vendor that the improvements were not made at his instance. There was no error in refusal by the court of permission of appellant to cross-examine the vendee as an adverse party. *Snell v Florsheim*, 217 M 21, 13 NW(2d) 776.

A contract provision to submit to arbitration disputed questions concerning performance is irrevocable; but it may be waived and abandoned where, after the arbitrators have been selected and have convened, the defendant withdraws and refuses to proceed, and the plaintiff instead of proceeding ex parte before the arbitrators to an award, brings an action to foreclose a lien for the balance due him. *Knutson v Lasher*, 219 M 594, 18 NW(2d) 688.

This revokes the opinions issued October 16, 1944, and October 18, 1944. The provision which provides that old age assistance liens be enforced as provided by the law for enforcement of mechanics' liens refers to "method of foreclosure" only. The one year limit has no application. OAG March 21, 1945 (521p-4).

514.13 BILL OF PARTICULARS.

No bill of particulars was necessary in the instant case, only a single item of labor being furnished. *Steele v Vernes*, 212 M 281, 3 NW(2d) 425.

Bill of discovery; bill of particulars. 18 MLR 889.

514.14 POSTPONEMENT, JUDGMENT, SUBROGATION.

Since the language of the judgment clearly indicates a finding that Amidon and Burger were jointly and severally liable for the debt, it was optional with plaintiff to enter judgment against one or both defendants. If Amidon is required to

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pay more than his proportionate share of the judgment, he has his remedy against Burger. *Smude v Amidon*, 214 M 271, 7 NW(2d) 776.

PERSONALTY IN POSSESSION

514.18 FOR KEEPING, REPAIRING.

Superiority of lien based on possession to lien of a prior chattel mortgage. 8 MLR 160.

Rights of an innocent purchaser of motor vehicle; priority of conditional vendor's recorded title. 14 MLR 779.

514.19 FOR WHAT GIVEN.

Agister's lien lost by attachment of the property subject to lien. 6 MLR 598.

Garage keeper's lien; motor vehicle lien. 8 MLR 160; 14 MLR 779.

514.20 SALE.

The shipment by the owner of 26 cars of lumber to plaintiffs at different dates, but in continuous sequence, constitutes one transaction and not separate and independent contracts; and may be so considered in foreclosure by plaintiff of his warehouseman's lien. *Brooks v Carpenter*, 154 M 502, 191 NW 1001.

514.21 SALE, WHEN AND WHERE MADE; NOTICE.

In selling goods to satisfy a warehouseman's lien, carpenter's tools and a violin were included in the term "household goods." *Webb v Downes*, 93 M 457, 101 NW 966.

ON MOTOR VEHICLES

514.35 TO WHOM AND FOR WHAT GIVEN.

A subsequent bona fide encumbrancer of an automobile takes subject to the motor vehicle lien given by sections 514.35 et seq.; and the holder of a lien which is superior to a chattel mortgage is not estopped by his mere silence to assert his superior right against a purchaser with notice at the foreclosure sale under the chattel mortgage. *Conner v Caldwell*, 208 M 502, 294 NW 650.

The possessory lien for repair of a chattel, under section 514.18, is lost if possession is unconditionally resumed by the owner. *Bongard v Nellen*, 210 M 392, 298 NW 569.

Statutory lien of garage keeper. 6 MLR 234.

Rights of an innocent purchaser under the motor vehicle lien statute. 14 MLR 779.

Priority of lien as against title of subsequent bona fide creditor. 19 MLR 469.

514.36 STATEMENT OF CLAIM FOR LIEN; CONTENTS; FILING.

Liens of garage keepers. 6 MLR 233; 8 MLR 160.

Rights of purchaser; priority of lien title. 14 MLR 453; 16 MLR 306.

514.39 MOTOR VEHICLE AND OWNER.

Motor vehicle accident compensation act. 4 MLR 1.

Liens of garage owner. 6 MLR 635; 8 MLR 160.

ON LOGS AND TIMBER

514.41 LIEN STATEMENT; FILING; ASSIGNMENT OF LIEN.

Under the provisions of section 514.40, giving a lien to whomever performs manual labor or other personal service for hire in cutting or hauling of logs, one

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may have a lien for the manual labor of another employed by him and for the work of teams in and necessary to the performance of such labor. *Messerall v Dreyer*, 152 M 471, 189 NW 446.

514.42 TERMINATION OF LIEN.

A prior judgment in an action by the owner of horses let to a logger, against the contracting logger to recover a personal judgment for the agreed price of their services, and against defendant in the instant case to establish and foreclose a lien, does not estop the defendant from now claiming that plaintiff acquired no lien on the logs, the judgment being merely a personal one against the contractor, the owner of the horses performing no work, and the horses only being employed. *McKinnon v Red River Co.* 119 M 479, 138 NW 781.

514.51 OBSTRUCTING OR INTERMIXED LOGS.

Intentional or fraudulent intermingling of logs, effect and remedy. 11 MLR 274.

FOR WAGES

514.59 FOR WAGES, AS AGAINST SEIZURE.

The lien of an employee for unpaid wages under section 514.59 vests when such wages become due and are not paid or upon termination of the employment. The employee may bring suit to enforce such lien at once after his or her employment terminates or after the lien vests. The statute does not require that such lien be filed for record. It does not extend to after-acquired property. *C. I. T. Corp. v Cords*, 198 M 337, 269 NW 825.

Section 514.59 gives a preference to an employee in case of sale or execution or insolvency. It does not provide for filing. It is not strictly a lien but is a preference statute. *Re McAllister v Newgord Co.* 193 F. 265.

Payment of workmen's compensation by an operating receiver. 19 MLR 253.

FOR PROCESSING FARM PRODUCTS

514.66 HOW PRESERVED AND ENFORCED.

A thresher's lien being wholly statutory expires unless steps are taken to enforce it in the manner and within the time specified by statute; and upon expiration of the lien all rights growing out of it terminate. *Ehmke v Hartzell*, 160 M 38, 199 NW 748.

Periods allowed within which liens may be filed. 14 MLR 783.

GENERAL PROVISIONS

514.74 INACCURACIES IN LIEN STATEMENT.

In this action to foreclose a mechanic's lien, the evidence sustains the finding that in the lien statement filed, plaintiff knowingly demanded \$400 more than was justly due for the building material furnished the contractor erecting the barn, and justifies the conclusion that the lien is of no force, and that judgment be entered expunging it from the records. *Standard Lumber Co. v Alsaker*, 207 M 52, 289 NW 827.

LAUNDERERS

514.78 NOTIFICATION OF OWNER; SALE.

Amended by L. 1947 c. 309 s. 1.

FACTOR'S LIEN

514.80 DEFINITIONS.

HISTORY. 1947 c. 590 s. 1.

514.81 CONTINUING LIEN.

HISTORY. 1947 c. 590 s. 2.

514.82 EXECUTION OF LIEN; CONTENTS; AMENDMENT OF NOTICE.

HISTORY. 1947 c. 590 s. 3.

514.83 NOTICE, FILING OF.

HISTORY. 1947 c. 590 s. 4.

514.84 PURCHASES FOR VALUE.

HISTORY. 1947 c. 590 s. 5.

514.85 EFFECTIVENESS OF FACTOR'S LIEN; EXCEPTIONS.

HISTORY. 1947 c. 590 s. 6.

514.86 FORECLOSURE.

HISTORY. 1947 c. 590 s. 7.

514.87 PAYMENT; SATISFACTION; CERTIFICATE; TIME LIMITATION

HISTORY. 1947 c. 590 s. 8.

514.88 GOVERNED BY L. 1945, C. 503; EXCEPTIONS.

HISTORY. 1947 c. 590 s. 9.

514.89 ACTS THAT DO NOT INVALIDATE.

HISTORY. 1947 c. 590 s. 10.

514.90 EFFECT OF POSSESSION.

HISTORY. 1947 c. 590 s. 11.

514.91 CONSTRUCTION.

HISTORY. 1947 c. 590 s. 12.