

CHAPTER 514

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IMPROVEMENT OF REAL ESTATE

514.01 MECHANICS, LABORERS AND MATERIALMEN. Whoever contributes to the improvement of real estate by performing labor, or furnishing skill, material or machinery for any of the purposes hereinafter stated, whether under contract with the owner of such real estate or at the instance of any agent, trustee, contractor or subcontractor of such owner, shall have a lien upon the improvement, and upon the land on which it is situated or to which it may be removed, for the price or value of such contribution; that is to say, for the erection, alteration, repair, or removal of any building, fixture, bridge, wharf, fence, or other structure thereon, or for grading, filling in, or excavating the same, or for clearing, grubbing, or first breaking, or for furnishing and placing soil or sod, or for furnishing and planting of trees, shrubs, or plant materials, or for labor performed in placing soil or sod, or for labor performed in planting trees, shrubs, or plant materials, or for digging or repairing any ditch, drain, well, fountain, cistern, reservoir, or vault thereon, or

for laying, altering or repairing any sidewalk, curb, gutter, paving, sewer, pipe, or conduit in or upon the same, or in or upon the adjoining half of any highway, street, or alley upon which the same abuts.

[R. L. s. 3505; 1917 c. 285 s. 1; 1921 c. 229 s. 1; 1925 c. 274 s. 1] (8490)

514.02 CONTRACTOR GUILTY OF FRAUD; LARCENY. Any contractor or subcontractor on any improvement to real estate within the meaning of section 514.01, who, with intent to defraud, shall use the proceeds of any payment made to him on account of such improvement by the owner of such real estate or person having any improvement made, for any other purpose than the payment for labor, skill, material, and machinery contributed to such improvement, while any such labor performed, or skill, material, or machinery furnished for such improvement at the time of such payment remains unpaid for, shall be guilty of larceny of the proceeds of such payment so used.

[1915 c. 105 s. 1] (8491)

514.03 EXTENT AND AMOUNT OF LIEN. If the contribution be made under a contract with the owner and for an agreed price, the lien as against him shall be for the sum so agreed upon; otherwise, and in all cases as against others than the owner, it shall be for the reasonable value of the work done, and of the skill, material, and machinery furnished. It shall extend to all the interest and title of the owner in and to the premises improved, not exceeding 40 acres in area if situated outside the limits of an incorporated city or village, and not exceeding one acre if within such limits.

[R. L. s. 3506] (8492)

514.04 LINES OF RAILWAY, TELEGRAPH, OR SIMILAR PROJECTS. If such contribution be thus made for the construction, alteration, or repair of any line of railway, or any structure or appurtenance of such railway, or of any telegraph, telephone, or electric light line, or of any line of pipe, conduit, or subway, or any appliance or fixture pertaining to either, the person performing such labor, or furnishing such skill, material, or machinery, shall have a like lien upon the lines so improved, and upon all the rights, franchises, and privileges of the owner appertaining thereto.

[R. L. s. 3507] (8493)

514.05 WHEN LIEN ATTACHES; NOTICE. All such liens, as against the owner of the land, shall attach and take effect from the time the first item of material or labor is furnished upon the premises for the beginning of the improvement, and shall be preferred to any mortgage or other encumbrance not then of record, unless the lienholder had actual notice thereof. As against a bona fide purchaser, mortgagee, or encumbrancer without notice, no lien shall attach prior to the actual and visible beginning of the improvement on the ground, but a person having a contract for the furnishing of labor, skill, material, or machinery for such improvement, may file for record with the register of deeds of the county within which the premises are situated, or, if claimed under section 514.04, with the secretary of state, a brief statement of the nature of such contract, which statement shall be notice of his lien for the contract price or value of all contributions to such improvement thereafter made by him or at his instance.

[R. L. s. 3508] (8494)

514.06 TITLE OF VENDOR OR CONSENTING OWNER, SUBJECT TO. When land is sold under an executory contract requiring the vendee to improve the same, and such contract is forfeited or surrendered after liens have attached by reason of such improvements, the title of the vendor shall be subject thereto; but he shall not be personally liable if the contract was made in good faith. When improvements are made by one person upon the land of another, all persons interested therein otherwise than as bona fide prior encumbrancers or lienors shall be deemed to have authorized such improvements, in so far as to subject their interests to liens therefor. Any person who has not authorized the same may protect his interest from such liens by serving upon the persons doing work or otherwise contributing to such improvement within five days after knowledge thereof, written notice that the improvement is not being made at his instance, or by posting like notice, and keeping the same posted, in a conspicuous place on the premises. As against a lessor no lien is given for repairs made by or at the instance of his lessee.

[R. L. s. 3509] (8495)

514.07 PAYMENT TO SUBCONTRACTORS WITHHELD. The owner may withhold from his contractor so much of the contract price as may be necessary to meet the demands of all persons, other than such contractor, having a lien upon the premises for labor, skill, or material furnished for the improvement, and for which the contractor is liable; and he may pay and discharge all such liens and deduct the cost thereof from such contract price. Any such person having a lien under the contractor, may serve upon the owner, at any time, a notice of his claim. The owner, within 15 days after the completion of the contract, may require any person having a lien hereunder, by written request therefor, to furnish to him an itemized and verified account of his lien claim, the amount thereof, and his name and address; and no action or other proceeding shall be commenced for the enforcement of such lien until ten days after such statement is so furnished. The word "owner," as used in this section, includes any person interested in the premises otherwise than as a lienor thereunder.

[R. L. s. 3510] (8496)

514.08 STATEMENT; NECESSITY FOR RECORDING; CONTENTS. The lien shall cease at the end of 90 days after doing the last of such work, or furnishing the last item of such skill, material, or machinery, unless within such period a statement of the claim therefor, be filed for record with the register of deeds of the county in which the improved premises are situated, or, if the claim be made under section 514.04, with the secretary of state. Such statement shall be made by or at the instance of the lien claimant, be verified by the oath of some person shown by such verification to have knowledge of the facts stated, and shall set forth:

- (1) A notice of intention to claim and hold a lien, and the amount thereof;
- (2) That such amount is due and owing to the claimant for labor performed, or for skill, material, or machinery furnished, and for what improvement the same was done or supplied;
- (3) The names of the claimant, and of the person for or to whom performed or furnished;
- (4) The dates when the first and last items of the claimant's contribution to the improvement were made;
- (5) A description of the premises to be charged, identifying the same with reasonable certainty;
- (6) The name of the owner thereof at the time of making such statement, according to the best information then had; and
- (7) The post-office address of the claimant. (The failure to insert such post-office address shall not invalidate the lien statement.)

[R. L. s. 3511; 1921 c. 521 s. 1] (8497)

514.09 TWO OR MORE BUILDINGS. A lienholder who has contributed to the erection, alteration, removal, or repair of two or more buildings or other improvements situated upon or removed to one lot, or upon or to adjoining lots, under or pursuant to the purposes of one general contract with the owner, may file one statement for his entire claim, embracing the whole area so improved; or, if he so elect, he may apportion his demand between the several improvements, and assert a lien for a proportionate part upon each, and upon the ground appurtenant to each, respectively.

[R. L. s. 3512] (8498)

514.10 FORECLOSURE OF LIENS. Such liens may be enforced by action in the district court of the county in which the improved premises or some part thereof are situated, or, if claimed under section 514.04, of any county through or into which the railway or other line extends, which action shall be begun and conducted in the same manner as actions for the foreclosure of mortgages upon real estate, except as herein otherwise provided, but the owner or any person or party having an interest in or lien upon the property against which a lien has been filed under the provisions of this chapter may bring an action to remove the lien in the nature of an action to determine adverse claims and subject to all the provisions of law regarding actions to determine adverse claims.

When an action has been brought, either by the lien claimant to enforce his lien or by the owner, person or party having an interest in or a lien upon the property against which a lien claim has been filed to determine adverse claims, as provided herein, application may be made at any time after such action has been commenced by any of the persons or parties above mentioned to have the property affected by any such lien, released from the lien by giving ten days' notice, or such other and

shorter notice as the court may order and direct, to the lien claimant, or his attorney, of intention to apply to the district court for the release of such lien and of the time and place of hearing. Upon a hearing upon an application the court shall fix a sum of money to be deposited by the applicant with the clerk of the district court, which sum shall not be less than the aggregate amount of, (1) the amount claimed in the lien statement, (2) \$18 for every \$100 or fraction thereof, to cover interest, (3) the probable disbursements in an action to enforce the claim for which the lien statement was filed, (4) an amount not less than double the amount of attorneys' fees allowed upon the foreclosure under section 582.01, to cover any allowance the court may make upon the trial for costs and attorneys' fees in the action or upon appeal. Upon making a deposit in the amount so fixed in the order of court, an order shall be made by the court releasing the premises described in the statement thereof from the effect of such lien. The lien claimant shall have the same right of lien against such money deposit that he had against the property released. The order releasing the lien may be filed in the office of the register of deeds or registrar of titles, if registered land, of the county in which the lien statement is recorded or filed, and thereupon the premises affected shall be released therefrom. The court shall by the same order discharge any notice of lis pendens filed in any action in which such lien may be asserted if it appears that all mechanics' liens filed or recorded against the property covered by the lis pendens have been released.

After the release of the property affected, the judgment ordered in any action either to enforce such lien or determine adverse claims and remove such lien, in the event that the lien is established, shall provide that it be paid, and it shall be paid without further proceedings out of the deposit made as provided herein. The judgment of the district court establishing a lien, unless a written notice of intention to appeal therefrom is served on the clerk of the district court within 30 days from the entry of such judgment, shall be authority to such clerk to pay the amount specified in such judgment to the persons entitled thereto, or their attorney of record in the action. The balance of deposits, if any, shall be returned to the depositor. If the lien was not a valid and enforceable one, the judgment shall direct the return of the whole deposit to the depositor unless the claimant obtains judgment against such depositor personally and in such case the judgment shall be paid as hereinbefore specified.

[R. L. s. 3513; 1921 c. 521 s. 2] (8499)

514.11 COMMENCEMENT OF ACTION; PROCEEDINGS. The action may be commenced by any lienholder who has filed his lien statement for record and all other such lienholders shall be made defendants therein. The summons shall state that the complaint has been filed with the clerk and shall be of no effect unless such complaint be in fact so filed. It shall contain a notice that the action is brought to foreclose a lien, giving the amount thereof, and a brief description of the premises affected, and of the improvement out of which the lien arose, and shall require each defendant to file his answer to the complaint with the clerk within 20 days after service on him. Such answer, in addition to all other matters proper to be pleaded, shall set up any lien claimed by the defendant, and demand the enforcement thereof. No copies of such complaint or answer need be served on any party, upon demand or otherwise, and all averments of the answer shall be taken as denied without further pleading.

[R. L. s. 3514] (8500)

514.12 NOTICE OF LIS PENDENS. Subdivision 1. **Recording.** At the beginning of the action the plaintiff shall file for record with the register of deeds of the county in which it is brought, and of the several counties if the lien be claimed under section 514.04 a notice of the pendency thereof, embracing therein a copy of the summons, omitting the caption.

Subd. 2. **Intervention and limitation on number of actions.** After such filing, no other action shall be commenced for the enforcement of any lien arising from the improvement described, but all such lienholders shall intervene in the original action by answer, as provided in section 514.11. Any such lienholder not named as a defendant may answer the complaint and be admitted as a party. If more than one action shall be commenced in good faith, all shall be consolidated and tried as one, under such order of the court as may best protect the rights of all parties concerned.

Subd. 3. One-year limitation. No lien shall be enforced in any case unless the holder thereof shall assert the same, either by complaint or answer, within one year after the date of the last item of his claim as set forth in the recorded lien statement; and, as to a bona fide purchaser, mortgagee, or encumbrancer without notice, the absence from the record of a notice of lis pendens of an action after the expiration of the year in which the lien could be so asserted shall be conclusive evidence that the lien may no longer be enforced and, in the case of registered land, the registrar of titles shall refrain from carrying forward to new certificates of title the memorials of lien statements when no such notice of lis pendens has been registered within the period; nor shall any person be bound by the judgment in such action unless he is made a party thereto within the year. Whenever a lien statement for work, labor or materials furnished upon unregistered real estate has been recorded for one year and no notice of lis pendens has been filed as required by section 514.12, subdivision 1, the register of deeds of the county in which the lien statement is recorded, shall, upon the application in writing of the record owner, his executor, administrator, personal representative or assigns, certify on the margin of said recorded lien statement that said lien is void, canceled and released. Said register of deeds shall receive for said certification on the records the same fee as for a satisfaction of a lien.

[R. L. s. 3515; 1933 c. 362 s. 1; 1945 c. 4 s. 1] (8501)

514.13 BILL OF PARTICULARS. Each lienholder shall attach to and file with his complaint or answer a bill of the items of his claim, verified by the oath of some person having knowledge thereof, and shall file such further and more particular account, as the court may at any time direct. Upon his failure to file such original or further bill, his pleading shall be stricken out and his claim disallowed. No failure to comply with any of the provisions of this chapter shall affect the right of any person to recover, in an ordinary civil action, from the party with whom he has contracted.

[R. L. s. 3516] (8502)

514.14 POSTPONEMENT, JUDGMENT, SUBROGATION. If upon the trial of such action, or at any time before the execution of final judgment therein, it shall transpire that any proper party who may still be brought in has been omitted, or that any party then entitled to answer has not yet appeared, or that for any other reason the trial or judgment should be delayed, or the judgment as ordered or entered be modified, the court may postpone the trial, or make such other or further order in the premises as shall be just. If it be found that any indebtedness for which a lien is demanded be not then due, the same shall be allowed for the amount of its present worth. Judgment shall be given in favor of each lienholder for the amount demanded and proved by him, with costs and disbursements to be fixed by the court at the trial, and such amount shall not be included in the lien of any other party; but if, after judgment, a lienholder who is personally indebted for the amount of any lien so adjudged in favor of another shall pay such indebtedness, he shall thereby become subrogated to the rights of the person so paid.

[R. L. s. 3517] (8503)

514.15 JUDGMENT, SALE, REDEMPTION. The judgment shall direct a sale of the real estate or other property for the satisfaction of all liens charged thereon, and the manner of such sale, subject to the rights of all persons which are paramount to such liens or any of them. It shall require the officer making such sale to pay over and distribute the proceeds of the sale, after deducting all lawful charges and expenses, to and among the lienors to the amount of their respective claims, if there is sufficient therefor; and if there is not sufficient then to divide and distribute the same among the several lienors in proportion to the amount due to each, and without priority among themselves. If the estate sold be a leasehold having not more than two years to run, or be the interest of a vendee under an executory contract of sale the conditions whereof are to be performed within the same period; no redemption shall be allowed; in all other cases the right of redemption shall be the same as upon execution sales. No sale shall be deemed complete until reported to and confirmed by the court.

[R. L. s. 3518] (8504)

514.16 SEVERANCE OF BUILDING, RE-SALE, RECEIVER. If, without material injury to the building or other improvement to which the lienholder has contributed, the same can be severed and removed from the land, the judgment, in the discretion of the court, may direct the sale of such improvement, with the

privilege to the purchaser of removing the same at any time within 60 days, unless before such removal the owner or other person interested in the land shall pay to the sheriff, for the purchaser, the amount realized from the sale, with interest and all expenses incurred toward such removal. If in any case the sale be not confirmed, the court may direct a re-sale, or, if deemed best, may appoint a receiver to lease or otherwise handle the property, under its direction, in the interests of all persons concerned. And in all cases of liens arising under section 514.04, such receivership may be created in the first instance instead of directing a sale of the property.

[R. L. s. 3519] (8505)

514.17 MINERS. Whoever performs labor, or furnishes any skill, material, or machinery, in or about the opening or working of any mine, at the request of the owner thereof, or of the lessee of such owner, or of any contractor with either, shall have a lien for the value thereof upon the interest of such owner or lessee, as the case may be, in the mine and its appurtenances, which lien may be asserted and enforced as in this chapter prescribed in respect to other liens upon real estate.

[R. L. s. 3520] (8506)

NOTE: Sections 514.01 to 514.17 are excepted from the Rules of Civil Procedure governing the procedure in the district courts in all suits of a civil nature insofar as they are inconsistent with the procedure and practice provided by the Rules.

PERSONALTY IN POSSESSION

514.18 FOR KEEPING, REPAIRING. Whoever, at the request of the owner or legal possessor of any personal property, shall store or care for or contribute in any of the modes mentioned in section 514.19 to its preservation, care, or to the enhancement of its value, shall have a lien upon such property for the price or value of such storage, care, or contribution, and for any legal charges against the same paid by such person to any other person, and the right to retain the property in his possession until such lien is lawfully discharged; but a voluntary surrender of possession shall extinguish the lien herein given.

[R. L. s. 3521; 1905 c. 328 s. 1; 1907 c. 114 s. 1] (8507)

514.19 FOR WHAT GIVEN. Such lien and right of detainer shall exist for:

- (1) Transporting property from one place to another as a common carrier or otherwise;
- (2) Keeping or storing property as a warehouseman or other bailee;
- (3) Keeping, feeding, pasturing, or otherwise caring for domestic animals or other beasts, including medical or surgical treatment thereof and shoeing the same;
- (4) Making, altering or repairing any article, or expending any labor, skill or material thereon.

Such liens shall embrace all lawful charges against such property paid to any other person by the person claiming such lien, and the price or value of such care, storage or contribution and all reasonable disbursements occasioned by the detention or sale of the property.

[R. L. s. 3522; 1905 c. 328 s. 2; 1907 c. 114 s. 2] (8508)

514.20 SALE. If any sum secured by such lien be not paid within 90 days after it becomes due, the lienholder may sell the property and out of the proceeds of such sale there shall be paid, first, the disbursements aforesaid; second, all charges against the property paid by such person to any other person; and, third, the total indebtedness then secured by the lien. The remainder, if any, shall be paid on demand to the owner or other person entitled thereto.

[R. L. s. 3523; 1905 c. 328 s. 3; 1907 c. 114 s. 3] (8509)

514.21 SALE, WHEN AND WHERE MADE; NOTICE. The sale herein provided for shall be made at public auction between nine o'clock in the morning and five o'clock in the afternoon in the county where the property or some part thereof is situated. A notice stating the time and place of sale, the amount which will be due on the date of sale exclusive of the expenses of advertising and sale, and the grounds of the lien, giving a general description of the property to be sold, shall be served personally upon the owner of the property if he can be found within the county in which the property is stored, and if he cannot, then it shall be mailed to the owner thereof at least three weeks before the time fixed for such sale if the place of residence or post-office address of such owner is known to him or with due diligence can be learned by the person claiming such lien, and shall be published once in each week for three successive weeks in a newspaper printed and published in the county where the property, or some part thereof, is situated, the last publica-

tion of such notice to be at least one week prior to the date of sale; or, if there is no newspaper printed and published in the county, then the notice of sale shall be posted in three of the most public places in the county at least three weeks before the time of sale. In case neither the place of residence nor the post-office address of such owner is known to the person claiming such lien and cannot with reasonable diligence be learned, the publication or posting of notice, as herein provided, shall be sufficient to authorize such sale.

[1905 c. 328 s. 4; 1907 c. 114 s. 4] (8510)

514.22 CONDUCT OF SALE. The property sold, as herein provided, shall be in view at the time of the sale. Under the power of sale hereby given enough of the property may be sold to satisfy the amount due at the time of sale, including expenses, and the property, if under cover, may be offered for sale and sold in the original packages in the form and condition that the same was received by the lienholder; but, after sufficient property has been so sold to satisfy the amount so due, no more shall be sold. The lienholder, his representatives or assigns, may fairly and in good faith purchase any property sold under the provisions of sections 514.18 to 514.22, provided the sale is conducted by the sheriff, his deputy, or any constable of the county where such sale is made.

[1905 c. 328 s. 5] (8511)

SHOEING ANIMALS

514.23 TO WHOM GIVEN; AGAINST WHOM. Every person who shall shoe or cause to be shod by his employees any horse, mule, ox, or other animal shall have a lien upon the animal shod for his reasonable charge for the shoeing of the same, and each lien conferred by sections 514.23 to 514.34 shall take precedence of all other claims or liens thereon, not duly recorded prior to the recording of the claim of lien, as provided in sections 514.24 to 514.34, but such lien shall not attach where the property has changed ownership prior to the filing of such lien.

[1907 c. 47 s. 1] (8512)

514.24 STATEMENT AND NOTICE, WHEN AND WHERE FILED. Any person desiring to secure the benefit of sections 514.23 to 514.34, shall, within six months after the shoeing of such horse, mule, ox, or other animal, or in case he shall have shod such animal more than once within that time, then within six months of the last shoeing, file with the town clerk, city clerk, or village recorder, as the case may be, in the town, village, or city in which such animal is, a statement made under oath by the claimant, or some one in his or her behalf, and a notice of his intention to claim a lien upon such animal for his charges for the shoeing of the same.

[1907 c. 47 s. 2] (8513)

514.25 CONTENTS OF STATEMENT. Such statement and notice shall state the name of the person claiming the lien, the name of the owner or reputed owner of the animal sought to be charged with the lien, and a description sufficient for identification of the animal upon which the lien is claimed, and the amount due the claimant, as near as may be, over and above all legal off-sets.

[1907 c. 47 s. 3] (8514)

514.26 SUCCESSIVE LIENS. Any person may file successive liens upon the same animal for charges for shoeing the same, and he may include in any one claim of lien his charges for any number of times of shoeing such animal; provided, that no lien shall be had for any shoeing of any animal done more than six months prior to the filing of the notice of lien.

[1907 c. 47 s. 4] (8515)

514.27 DUTY OF CLERK; FEES. It shall be the duty of the town clerk, city clerk, or village recorder, as the case may be, upon the presentation to him of any such statement and notice of lien, to file the same in his office in the same manner as provided by law for the filing and recording of chattel mortgages; and he shall be entitled to charge and receive from the person filing such statement and notice a fee of 25 cents, and no more.

[1907 c. 47 s. 5] (8516)

514.28 CERTIFIED COPY; EVIDENCE. A copy of such statement and notice of lien, filed as aforesaid, certified by the town clerk, city clerk, or recorder, as the case may be, shall be received in evidence in any proceeding taken to enforce the

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lien provided for in sections 514.23 to 514.34, but only of the fact that such statement and notice of lien was received and filed according to the endorsements of the town clerk, city clerk, or village recorder thereon and of no other fact.

[1907 c. 47 s. 6] (8517)

514.29 ACTION TO ENFORCE; NOTICE. The person having such lien shall, within six months from and after the date of filing such lien statement, commence suit for the recovery of such charges by summons, in the usual form, before any justice of the peace of the town in which he resides, or in any court, as the case may require, against the person liable for the payment thereof. Before any such lien claimant shall commence any action to foreclose such lien, he shall give the person against whom he proposes to bring such action at least 20 days' notice in writing of his intention to foreclose such lien.

[1907 c. 47 s. 7] (8518)

514.30 PERSONAL SERVICE. If such summons be returned personally served upon the defendant, the same proceedings shall thereon be had in all respects as in other suits commenced by summons, in which there is a personal service of process; and the judgment shall be rendered in such suit in like manner as judgments are now rendered in civil actions.

[1907 c. 47 s. 8] (8519)

514.31 DEFENDANT NOT FOUND. If the officer return upon such summons that the defendant cannot be found in this county, the same proceedings shall be had in all respects, as near as may be, as in suits commenced by attachment in which there is not a personal service of the attachment upon the defendant, and judgment shall be rendered in such suits in like manner as judgments are now rendered in such actions.

[1907 c. 47 s. 9] (8520)

514.32 EXECUTION AND SALE. If the plaintiff recover judgment in such suit, execution shall be issued thereon in the same manner and with like effect as upon judgments now rendered in suits commenced by attachment, and the horse, mule, ox, or other animal upon which the plaintiff holds such lien shall not be exempt from execution but may be sold to satisfy such execution in the same manner as if it had been seized and held upon an attachment in such suit.

[1907 c. 47 s. 10] (8521)

514.33 EXPENSES. All expenses which shall have been incurred by the person having such lien after the same had accrued shall be an additional lien upon the property, and shall be computed and ascertained upon the trial or assessment of damages and included in the judgment.

[1907 c. 47 s. 11] (8522)

514.34 FINDINGS; JUDGMENT. In all suits or attachments prosecuted under the provisions of sections 514.23 to 514.34, the court, jury, or justice of the peace who shall try the same, or make an assessment of damages therein, shall, in addition to finding the sum due the plaintiff, also find that the same is due for the cost of shoeing the horse, mule, ox, or other animal described in plaintiff's declaration, and is a lien upon the same; provided, that if the court, jury, or justice of the peace shall find that the amount due the plaintiff is not a lien upon the property described in the plaintiff's declaration, the plaintiff shall be non-suited thereby, but shall be entitled to judgment, as in other civil actions, but in such case the plaintiff shall not recover or tax any costs other than those allowed and taxable in such case; and in those cases where the amount due is found to be a lien upon the property mentioned in plaintiff's declaration, the finding or verdict may be in the following form: (The court, jurors, or justice, as the case may be) say that there is due the sum of dollars from the defendant, and that the same is due for plaintiff's reasonable charges for shoeing the animal mentioned in plaintiff's declaration (giving a description sufficient for identification of the animal), and that the plaintiff has a lien upon the animal for the amount.

[1907 c. 47 s. 12] (8523)

MOTOR VEHICLES

514.35 LIEN FOR IMPROVEMENT AND SERVICES. Whoever performs or contributes any labor or skill or furnishes or contributes any machinery, materials, or storage in making, altering, repairing, storing, or otherwise caring for any motor vehicle, whether pursuant to a contract with the owner of the motor vehicle or at the instance or request of an agent of the owner, has a lien upon the motor vehicle

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for the price or value of the labor or skill performed or the machinery, supplies, materials, or storage furnished or contributed. If the labor is performed or the machinery, supplies, materials, or storage is furnished pursuant to a contract for an agreed price, the lien shall be for the sum so agreed upon; otherwise, it shall be for the reasonable value thereof.

[1911 c 320 s 1; 1925 c 352 s 1; 1951 c 364 s 1; 1953 c 318 s 1] (8524)

514.36 STATEMENT OF CLAIM FOR LIEN; CONTENTS; FILING. The lien shall cease at the end of 60 days after the furnishing of the last item of such labor, machinery, supplies, materials, and within 60 days after the termination of such storage, unless within such period a statement of the claim therefor be filed for record with the register of deeds of the county, or with the city clerk of a city of the first class, in which the owner of such motor vehicle resides, as the case may be. Such statement shall, by or at the instance of the lien claimant, be verified by the oath of some person, shown by such verification to have knowledge of the facts stated, and set forth:

- (1) The name of the person claiming the lien, and notice of intention to claim and hold a lien;
- (2) The name of the owner, or reputed owner, of such motor vehicle;
- (3) The license number of such motor vehicle, if licensed under the laws of this state;
- (4) The amount claimed to be due, and that such amount is due for labor performed, or machinery, materials, supplies, storage furnished to the owner of such motor vehicle; or at the request of the agent of such owner; and
- (5) The dates when the first and last items of the labor, or other contribution, were made.

[1911 c. 320 s. 2; 1925 c. 352 s. 1] (8525)

514.37 FORECLOSURE OF LIEN; SUMMONS AND NOTICE; REPLEVIN OF VEHICLE; JUDGMENT; SEIZURE AND SALE OF VEHICLE; COSTS. Such lien may be foreclosed by action within six months after the statement is filed. The summons shall state that the complaint has been filed with the clerk of court in which the action is commenced, and shall contain a notice that the action is brought to foreclose a lien, giving the amount thereof, and the license number of the motor vehicle affected. Upon the commencement of the action to foreclose the lien, the lien claimant shall be entitled to the possession of the motor vehicle for the purpose of foreclosing the lien thereon, and may maintain an action of replevin therefor, against the owner or possessor thereof as by statute in such case made and provided. If the lien claimant recover judgment, the court shall order the sheriff, or officer, to seize such motor vehicle forthwith, and sell the same at public vendue, in the manner provided by law for the sale of personal property on execution. Out of the proceeds of such sale, there shall be paid (1) the expenses thereof, the fees of the officer, and the court costs; (2) to the claimant, the amount of his lien, with interest to date; and the remainder shall be paid to the owner of the motor vehicle sold, or other person entitled thereto.

[1911 c. 320 s. 3; 1925 c. 352 s. 1] (8526)

514.38 SHERIFF TO SERVE COPY OF NOTICE OF SALE. At or before posting the notice of sale, the sheriff shall serve a copy of said notice of sale on the judgment debtor, if he be a resident of the county, or can be found therein, in the manner required by law for the service of a summons in a civil action in the district court.

[1911 c. 320 s. 4; 1925 c. 352 s. 1; 1929 c. 302 s. 1] (8527)

514.39 MOTOR VEHICLE AND OWNER. The term "motor vehicle," as used in sections 514.35 to 514.38, includes all vehicles of locomotion, including tractors, except those propelled by muscular power and those which run on rails or tracks; and the term "owner" includes the conditional vendee or mortgagor in possession.

[1911 c. 320 s. 5; 1925 c. 352 s. 1] (8528)

NOTE: Sections 514.35 to 514.39 are excepted from the Rules of Civil Procedure governing the procedure in the district courts in all suits of a civil nature insofar as they are inconsistent with the procedure and practice provided by the Rules.

LOGS, TIMBER

514.40 TO WHOM AND FOR WHAT GIVEN. Whoever performs manual labor or other personal service for hire, in or in aid of the cutting, sawing, piling, loading, peeling, hauling, banking, driving, rafting, towing, cribbing, or booming any logs, cross-ties, poles, or other timber shall have a lien thereon for the price or value of such labor or service, which shall be preferred to all other claims on the same except those of the State of Minnesota and of the owner or occupant of the land from which the same may have been unlawfully removed, and no agreement to waive such lien shall be valid.

[R. L. s. 3524] (8529)

514.41 LIEN STATEMENT; FILING; ASSIGNMENT OF LIEN. If the indebtedness so due be not paid within five days after demand therefor made upon the debtor in person, or upon some agent or clerk of the debtor at his business office, the lienholder may file for record with the surveyor general a statement, verified by the oath of some person having knowledge of the facts, setting forth his post-office address, the dates of beginning and ending the labor or service, the rate of compensation agreed upon or claimed, the sums, if any, paid thereon, the amount then due, a description of the logs or other timber on which the lien is claimed, and the fact of such claim. If such labor or service be terminated by the direction or act of the employer, or by the completion of the work in which the employee is engaged, then no demand for payment shall be necessary, and the lien statement may be filed at once. If no mark or description of such logs or other timber be filed for record with the surveyor general, the lien statement shall be filed, not with him, but with the clerk of the district court of the county, in which the labor or service was performed. Any person having a claim upon logs, cross-ties, poles, or other timber, as provided in section 514.40, may assign the same in writing to any person either before or after the making and filing of the statement therefor as provided in this section; and the person to whom such claim may be assigned, his agent or attorney, may make and file for record the statement for lien therefor required by this section, in case no such statement has been filed. When such statement and assignment have been made and filed in the office of the surveyor general or in the office of the clerk of the district court, in case such statement is filed in the office of the clerk of the district court, the person to whom the assignment is made shall be subrogated to all the rights of the original claimant, and is hereby authorized to enforce the lien against the logs, cross-ties, poles, and all other timber in his own name, in the same manner and with the same effect as the original claimant could have done had not such assignment been made; and any person holding the title to the logs or timber, or any lien by mortgage or otherwise thereon, as security for payment of any sum as stumpage thereon, may in like manner purchase and take an assignment of any or all such claims for labor, or may pay and discharge the same, and in either case may tack the same to his original claim and hold the same as an additional encumbrance thereon, and may enforce the payment of the same, with interest, in like manner as his original claim thereon, but in no case shall he be required to pay more than the reasonable and current value of such labor.

[R. L. s. 3525] (8530)

514.42 TERMINATION OF LIEN. The lien shall cease unless said statement be so filed within 30 days after the termination of such labor or service, unless the same shall have been wholly performed between October 1 and April 1 next thereafter, in which case the statement may be filed on or before the last day of said April. Such filing shall continue the lien in force for 90 days thereafter, and no longer, unless within that period an action be commenced for its enforcement as provided in sections 514.40 to 514.58.

[R. L. s. 3526] (8531)

514.43 ACTION; ATTACHMENT. The lien shall be enforced by attaching the property subject thereto in a civil action in the district court of any county of the judicial district in which the labor or service was performed, or within which judicial district is situated the surveyor general's office wherein the marks of such property are recorded; such county to be determined by the plaintiff's choice, and such attachment to be governed by the rules regulating ordinary attachment proceedings in the district court, except as in sections 514.40 to 514.58 otherwise provided. No bond or other security shall be required of the plaintiff as a condition of obtaining such writ.

[R. L. s. 3527] (8532)

514.44 ALLOWANCE AND ISSUE OF WRIT. The affidavit for such attachment shall be made by or in behalf of the plaintiff, shall be entitled in the action, shall set forth the amount of indebtedness secured by the lien and then unpaid, with the name of the debtor, and a copy of the lien statement shall be attached thereto as an exhibit. No other averments shall be necessary therein. Any judge of the district or the court commissioner of any county therein may allow the writ, and upon the filing of the affidavit and order of allowance with the clerk the writ shall issue forthwith.

[R. L. s. 3528] (8533)

514.45 CONTENTS AND LEVY OF WRIT. Such writ shall contain a description of the property, substantially as set forth in the lien statement and shall require the sheriff or other proper officer to attach and safely keep the same, or so much thereof as shall be sufficient to satisfy the plaintiff's demand, with such costs, disbursements, and charges as he may recover. If the levy be made upon logs or other timber, the marks whereof have been filed with the surveyor general, the officer shall file for record with the surveyor general a copy of the writ and of his return thereon, which return shall specify such marks and the quantity attached. In all cases a copy of such writ and return shall be filed with the clerk of the court in which the action is brought. No other filing or service thereof shall be necessary to perfect such levy.

[R. L. s. 3529] (8534)

514.46 LOGS SCALED TO OFFICER; WHERE HELD; FEES. The officer serving such writ, if necessary to save the property from loss, shall have such logs or other timber scaled to him in any boom to which they may have arrived, but he shall not delay the driving thereof to their destination, if within the state. The boomage and scalage fees may be paid by the attaching officer, and the amount so paid returned as a part of his charges. Whether paid before or after judgment, the amount of boomage and scalage shall be collected out of the property, as other costs and disbursements are collected.

[R. L. s. 3530] (8535)

514.47 PLEADINGS; PRIORITY OF LIENS. The complaint shall allege the facts upon which the plaintiff's right to a lien depends, and the averments thereof shall be taken as true unless expressly denied by answer. When more than one lien is claimed on the same property, they shall have priority in the order in which the attachments are levied.

[R. L. s. 3531] (8536)

514.48 DISCHARGE OF ATTACHMENT; BOND. The defendant, or any person entitled to defend, upon presenting an affidavit showing that he has a valid defense to the whole or some part of the plaintiff's claim, and upon paying into court such part thereof as he admits, with costs and disbursements then incurred, may have the attachment dissolved by giving a bond, to be approved by the judge, conditioned for the payment of any sum that may be recovered in the action. At least five days' notice shall be given of the application for such dissolution, and at the hearing thereof the judge, in his discretion, may require the sureties to justify orally at such time and place as he may direct. The bond so approved, the affidavit and notice, and the order of dissolution shall be filed with the clerk, whereupon the property shall be released.

[R. L. s. 3532] (8537)

514.49 FINDINGS, JUDGMENT, COSTS. Upon the trial of such action the court or jury, in addition to finding the sum due to plaintiff, shall find how much thereof is due for labor or service upon the property described in the complaint, and how much of such property is subject to plaintiff's lien. The judgment entered thereon shall include costs and disbursements as follows:

- (1) The costs allowed in ordinary actions in the district court, and in addition an attorney's fee of \$20;
- (2) The disbursements made by or in behalf of the plaintiff in enforcing the lien including all scalage, boomage, and officers' fees;
- (3) If the plaintiff be the original lienholder his fees and mileage as a witness.

[R. L. s. 3533] (8538)

514.50 EXECUTION SALE. The judgment shall be enforced by execution sale of the property found subject to the lien, if any there be; if not, execution shall issue in ordinary form for the amount recovered. If a part only of the recovery be secured by the lien, separate executions may issue as the case shall require.

The levy upon property covered by the lien shall be made in the manner provided for the levy of the attachment, and notice of the sale shall be given as in the case of ordinary execution sales, except that such notice shall also be posted in the office of the surveyor general; and if the sale be made in the county wherein the surveyor general's office is situated, it shall take place at his office. The officer making the sale shall give his certificate thereof to the purchaser, which shall vest in him the title of all parties to the action, and entitle him to a scale bill for such part of the property as is described by recorded marks.

[R. L. s. 3534] (8539)

514.51 OBSTRUCTING OR INTERMIXED LOGS. Any person desiring to float logs or other timber in any of the streams or waters of this state, and being hindered or obstructed in so doing by the logs or timber of another, or any person whose logs or timber shall become so intermingled therein with those of another as to make it difficult to separate his own without floating all to other waters, may drive all such obstructing or mingled logs or timber, with his own, to some point where the same can conveniently be assorted and his own separated from the mass. He shall have a lien upon the logs or timber so driven for the reasonable value of his services in driving the same, which shall be asserted and enforced as in the case of other liens.

[R. L. s. 3535] (8540)

514.52 SUBMERGED, BURIED OR SUNKEN LOGS; BOND; LIEN; CONVERSION. Any person desiring to raise or float any submerged, buried or sunken logs or other timber owned by him in any of the waters of this state and being hindered or obstructed in so doing by the logs or timber of another, and any person whose logs are sunken, buried, or submerged, and so intermingled with those of another as to make it difficult to raise or float his own without raising and floating all, and who shall have filed in the office of the surveyor general a bond in the amount and with sureties approved by such surveyor general conditioned that such person will, on demand and on payment of any lien he may have thereon, deliver to the owner thereof at the nearest convenient place of separation, or the nearest advantageous market, all submerged, buried, or sunken logs raised or floated by him in pursuance hereof, or in case such delivery be not so demanded, pay to the owner thereof, in pursuance of and according to the provisions of this section, and who shall from time to time renew such bond or give such additional bond as the surveyor general shall require, may raise and float all such obstructing or mingled logs or timber with his own and transport the same to some safe point where the same may be conveniently sorted and separated or advantageously marketed. He shall have a lien upon the logs or timber so raised or floated for the reasonable value of his services in raising and floating the same, which shall be asserted and enforced as in the case of other liens upon logs and timber. Any person who shall convert to his own use any logs or timber of another upon which he has a lien under the provisions of this section, and the delivery of which has not been demanded by the owner thereof, shall be liable to the owner of the logs or timber so converted for the full value thereof at the time of such conversion, with interest, less the amount of such lien and payment of the amount of such liability shall be full compensation for all logs or timber so converted.

[R. L. s. 3535a; 1907 c. 428 s. 1] (8541)

514.53 SCALING AND MARKING OF SUBMERGED LOGS; DUTY OF SURVEYOR GENERAL; FEES. Every person who shall engage in raising or floating logs or timber under the provisions of section 514.52 shall cause all logs and other timber raised or floated by him to be scaled at time of such raising or floating by the surveyor general, and shall place on each log and piece of timber so raised a suitable log mark, which mark shall only be used on logs or timber so raised or floated. The surveyor general shall attend in person or by deputy at the raising and floating of such logs or timber, and promptly scale the same, recording the size, kind, and all marks on each piece thereof. For such service said surveyor general shall receive in addition to all fees now allowed by law the further sum of \$5.00 for each day's attendance under the provisions of sections 514.40 to 514.58, and such fees shall be paid by the person so employing him and shall be taken and held to be a part of the cost of raising and floating such logs and timber. No such work shall be performed within the limits of any operating boom company organized

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under the laws of this state, except under the supervision and direction of some representative of the boom company within whose limits such work is being carried on.

[R. L. s. 3535b; 1907 c. 428 s. 1] (8542)

514.54 TIMBER CUT IN OTHER STATES. If such logs or other timber are cut in another state, and are thence rafted or otherwise transported into this state, any person who has performed labor or service thereon for which he would have been entitled to a lien if the same had been performed in Minnesota shall have the same lien therefor, and may enforce it at any place where the logs or timber may be found, to the same extent and with like effect as though the same had accrued in this state.

[R. L. s. 3536] (8543)

514.55 STRAY TIMBER SECURED IN OTHER STATES. Any person authorized by the laws of another state so to do, who shall pick up or secure lost or stray logs, timber, or other floating property upon any waters of that state whereon there is, during the season of navigation, an actual commerce carried by vessels drawing eight feet of water, or more, which property shall thereafter be rafted or otherwise transported to waters of the same description within this state, shall have a lien thereon for the value of such services and the expenses thereof, to the same extent and effect as that given by law to persons authorized to perform like services upon such waters in this state.

[R. L. s. 3537] (8544)

514.56 HOW PRESERVED AND ENFORCED. The liens provided for in sections 514.54 and 514.55 shall be preserved and enforced as in the case of labor liens, except that no demand for payment need be made before the lien statement is filed, and that the lien statement, in addition to the other facts required, shall specify under which of the sections the lien is claimed; and except that in no case need the same be filed for record elsewhere than with the surveyor general.

[R. L. s. 3538] (8545)

514.57 SURVEYOR GENERAL; LIEN FOR CHARGES. To secure the payment of his fees, mileage, and other charges for official services relating to logs, timber, and lumber, the surveyor general shall have a lien upon the same, which he may retain by affixing to the scale bill of such logs, timber, or lumber a statement of the amount due him, with a declaration that he claims and is entitled to such lien, and by taking actual possession of a quantity of such logs, timber, or lumber sufficient to pay such amount, with the expenses of seizure and sale.

[R. L. s. 3539] (8546)

514.58 SALE AND DISTRIBUTION OF PROCEEDS. If the amount of such lien be not paid within 60 days after delivery of the scale bill and statement aforesaid, the property so seized may be sold at auction by the sheriff or any constable of the county upon ten days' posted notice. One copy of the notice shall be posted in the office of the surveyor general, who may become a purchaser at the sale. Out of the proceeds of the sale the officer making the same shall retain his fees and charges therefor, and pay to the surveyor general the amount of his lien and all expenses lawfully incurred by him in enforcing the same. The remainder, if any, shall be paid to the owner or other person entitled thereto.

[R. L. s. 3540] (8547)

WAGES

514.59 FOR WAGES, AS AGAINST SEIZURE. Every mechanic, salesman, clerk, operative, or other employee of a manufacturer, merchant, or dealer in merchandise shall have a lien upon all the property of his employer, as against any attachment or execution levied thereon, for the security of his wages earned within the six months last preceding, to an amount not exceeding \$200. Such lien shall not be affected by any agreement with the employer to waive the same, and shall be preferred to mortgages, judgments, and other liens which shall have attached after the beginning of the labor or services in which the wages were earned.

[R. L. s. 3541] (8548)

514.60 NOTICE TO SHERIFF; PROPERTY HELD. Within five days after such levy the lienholder shall give to the officer making the same a written notice of the amount and grounds of his claim; whereupon the officer shall hold the property, or the proceeds thereof in case of sale, subject to such claim until the

same is determined by agreement of the parties concerned or by the judgment of a court. The lien shall cease unless such agreement be reached, or an action to determine the claim be commenced, within 30 days after such notice was served. Upon a sale of the property by the officer holding the sale he shall pay the liens, in the order of the giving of the notices, out of the moneys derived therefrom.

[R. L. s. 3542] (8549)

514.61 DEATH OR DISSOLUTION OF EMPLOYER. The lien shall also exist, as against all other creditors, in case of the death, dissolution, or insolvency of the employer. The notice provided for in section 514.60 shall, in such case, be given to the personal representative of the decedent, or to the receiver or other officer of court entitled to possession of the assets of the employer, within five days after his qualification as such, and the lien shall cease unless determined or sued upon as prescribed in section 514.60.

[R. L. s. 3543] (8550)

SERVICE OF MALE ANIMALS

514.62 LIEN ON OFFSPRING. The owner of any bull, ram, or boar kept for public service shall have a lien upon the offspring of such animal for the price or value of its service.

[R. L. s. 3544] (8551)

514.63 PRESERVATION AND ENFORCEMENT. To preserve the lien created by section 514.62 the holder thereof, within six months after such service, shall file for record, with the clerk of the town wherein the female bred to such animal may be, a verified statement containing a description of the female, and stating the time and place of the service and the amount due therefor. A certified copy of such statement shall be sufficient to authorize the lienholder to take possession of the offspring at any time within one year after its birth, and to foreclose his lien thereon by advertisement and sale, as in the case of a chattel mortgage.

[R. L. s. 3545] (8552)

514.64 [Repealed, 1949 c 273 s 1]

PROCESSING FARM PRODUCTS

514.65 LIEN FOR THRESHING OR OTHERWISE HARVESTING. Any person owning or operating a threshing machine, combined thresher and harvester, clover huller, corn picking machine, corn sheller, corn shredder, ensilage cutter or hay baler shall have a lien upon the grain threshed, clover hulled, corn shelled or shredded, or picked, ensilage cut, or hay baled, as the case may be, for the price or value of such service, which shall be preferred to all other liens or encumbrances except those given for the seed from which the grain was grown.

[R. L. s. 3546; 1923 c. 132 s. 1; 1929 c. 314 s. 1; 1937 c. 254 s. 1] (8555)

514.66 HOW PRESERVED AND ENFORCED. Within 15 days after such threshing, clover hulling, corn picking, corn shelling or shredding, or hay baling is completed the claimant of such lien shall file with the register of deeds of the county in which it was done a verified statement of the amounts and kinds of grain threshed, clover hulled, corn picked, corn shelled or shredded, or hay baled, the time and place of doing the same, giving the first and last days thereof, the rates per bushel, per day, per hour or other terms of the contract and the total charge therefor, the amounts paid thereon, if any, and the balance due, the name of the reputed owner and of the person requesting the work to be done, and a notice that a lien is claimed for the amount remaining unpaid. A certified copy of such statement shall authorize the seizure and sale of so much of the grain, clover, corn or hay covered by the lien as may be necessary to satisfy the same, with reasonable costs and expenses, but such seizure must be made, or an action to foreclose be commenced, within six months after such filing. The cost and the expenses above referred to shall include an attorney's fee amounting to 15 per cent of the amount of the lien claimed in the event such lien is not paid within 90 days after the filing thereof and the lien claimant employs an attorney at law to collect the same. So far as applicable thereto, the laws relating to the enforcement of chattel mortgages shall govern the foreclosure of liens hereunder. Any person secreting or disposing of property covered by such lien, without the consent of the lienholder, shall be guilty of a misdemeanor, the minimum penalty thereof shall be a fine of \$25.

[R. L. s. 3547; 1921 c. 248 s. 1; 1923 c. 132 s. 2; 1929 c. 314 s. 2] (8556)

GOVERNMENTAL SERVICES

514.67 INSPECTIONS, EXAMINATIONS, OR OTHER GOVERNMENTAL SERVICES. All charges and expenses for any inspection, examination, or other governmental service of any nature now or hereafter authorized or required by law shall constitute and be a first and prior lien from the date of such inspection, examination, or service upon all property in this state subject to taxation as the property of the person from whom such charges and expenses are by law authorized or required to be collected. No record of such lien shall be deemed necessary, but the same shall be duly presented or proven in any bankruptcy, insolvency, receivership, or other similar proceeding, or be barred thereby.

As used in this section the following words and terms have the following meanings:

(1) "Person" means and includes any natural person in any individual or representative capacity, and any firm, copartnership, corporation, or other association of any nature or kind.

(2) The term "first and prior lien" means a lien equivalent to, and of the same force and effect as a lien for taxes; but any such lien or claim shall be deemed barred unless proceedings to enforce same shall have been commenced within two years from the date when such claim becomes due.

[1925 c. 188 ss. 1, 2] (8556-1, 8556-2)

HOSPITAL CHARGES

514.68 LIEN FOR HOSPITAL CHARGES. Any person, firm, or corporation operating a hospital in this state shall have a lien for the reasonable charges for hospital care of an injured person upon any and all causes of action accruing to the person to whom such care was furnished, or to the legal representatives of such person, on account of injuries giving rise to such causes of action and which necessitated such hospital care, subject, however, to any attorney's lien.

[1933 c. 345 s. 1] (8556-3)

514.69 FILE WITH CLERK OF THE DISTRICT COURT. In order to perfect such lien, the operator of such hospital, before, or within ten days after, such person shall have been discharged therefrom, shall file in the office of the clerk of the district court of the county in which such hospital shall be located a verified statement in writing setting forth the name and address of such patient, as it shall appear on the records of such hospital, the name and location of such hospital and the name and address of the operator thereof, the dates of admission to and discharge of such patient therefrom, the amount claimed to be due for such hospital care, and, to the best of claimant's knowledge, the names and addresses of all persons, firms, or corporations claimed by such injured person, or the legal representatives of such person, to be liable for damages arising from such injuries; such claimant shall also, within one day after the filing of such claim or lien, mail a copy thereof, by registered mail, to each person, firm, or corporation so claimed to be liable for such damages to the address so given in such statement. The filing of such claim or lien shall be notice thereof to all persons, firms, or corporations liable for such damages whether or not they are named in such claim or lien.

[1933 c. 345 s. 2] (8556-4)

514.70 CLERK TO PROVIDE RECORD. The clerk of court shall endorse thereon the date and hour of filing and, at the expense of the county, shall provide a hospital lien book with proper index in which he shall enter the date and hour of such filing, the names and addresses of such hospital, the operators thereof and of such patient, the amount claimed and the names and addresses of those claimed to be liable for damages. He shall be paid \$1.00 as his fee for such filing.

[1933 c. 345 s. 3] (8556-5)

514.71 RELEASE. No release of such causes of action, or any of them, or of any judgment thereon shall be valid or effectual as against such lien unless such lienholder shall join therein, or execute a release of such lien, and the claimant, or assignee of such lien, may enforce such lien by action against the person, firm, or corporation liable for such damages, which action shall be commenced and tried in the county in which such lien shall be filed, unless ordered removed to

another county by the court for cause. If the claimant shall prevail in such action, the court may allow reasonable attorneys' fees and disbursements. Such action shall be commenced within two years after the filing of such lien.

[1933 c. 345 s. 4] (8556-6)

514.72 NOT TO APPLY TO WORKMEN'S COMPENSATION. The provisions of sections 514.68 to 514.71 shall not apply to any moneys becoming due under the workmen's compensation act of this state.

[1933 c. 345 s. 5] (8556-7)

GENERAL PROVISIONS

514.73 LIENS ASSIGNABLE. All liens given by this chapter are assignable and may be asserted and enforced by the assignee, or by the personal representative of any holder thereof in case of his death.

[R. L. s. 3548] (8557)

514.74 INACCURACIES IN LIEN STATEMENT. In no case shall the liens given by this chapter be affected by any inaccuracy in the particulars of the lien statement; but, as against all persons except the owner of the property, the lien claimant shall be concluded by the dates therein given, showing the first and last items of his account. In no case shall a lien exist for a greater amount than the sum claimed in the lien statement, nor for any amount, if it be made to appear that the claimant has knowingly demanded in the statement more than is justly due.

[R. L. s. 3549] (8558)

514.75 PROMISSORY NOTE; EFFECT. The taking of a promissory note or other written obligation to pay any indebtedness for which a lien is given by this chapter shall not discharge such lien unless the obligation by its terms shall so provide, or the time for payment be thereby extended beyond the date fixed by law for enforcing the lien.

[R. L. s. 3550] (8559)

514.76 SATISFACTION; PENALTY FOR REFUSAL. Every lien claimed under any provision of this chapter shall be satisfied of record, at the expense of the claimant, upon payment or tender to him of the amount actually due thereon, or upon written demand made at any time after expiration of the time within which it may be asserted in an action or other proceeding to enforce the same, if it has not been so asserted. Refusal to cause satisfaction to be entered within ten days after such payment, tender, or demand shall render the party so refusing liable in a civil action, to any person interested, for \$25 as liquidated damages if the lien was claimed upon real estate; otherwise, \$10; and in either case for any further damages which the plaintiff may have suffered therefrom.

[R. L. s. 3551] (8560)

LAUNDERERS

514.77 LIENS FOR LAUNDERERS. Whenever any article of wearing apparel, bedding, linens, flatwork and household furnishings, shall be left with any person, firm, or corporation for the purpose of being repaired, altered, dyed, cleaned, pressed, or laundered, such person, firm, or corporation is authorized to retain possession of said wearing apparel or garment until the amount due on the same for repairing, altering, dyeing, cleaning, pressing, or laundering by contract shall be fully paid off and discharged. In case no amount is agreed upon by contract, then said person, firm, or corporation shall retain possession of such wearing apparel or garment until all reasonable, customary, and usual compensation shall be paid in full.

[1945 c. 601 s. 1]

514.78 NOTIFICATION OF OWNER; SALE. When possession of any of the articles of wearing apparel, bedding, linens, flatwork and household furnishings, embraced in section 514.77, has continued for 90 days after the charges accrue, and the charges so due have not been paid, it shall be the duty of the persons so holding said articles to notify the owner of these charges, by registered mail at his last known address. On the owner's failure to pay these charges within ten days after such notice has been given, the persons so holding said wearing apparel, bedding, linens, flatwork and household furnishings shall then be authorized to sell said wearing apparel, bedding, linens, flatwork and household furnishings. Said sale may be public or private and the proceeds of the same shall be applied toward the payment of the charges and any balance shall be paid over to the person entitled

to the same. If the owner's residence is beyond the state, or is unknown, the person holding said wearing apparel, bedding, linens, flatwork and household furnishings shall not be required to give such notice before proceeding to sell.

[1945 c 601 s 2; 1947 c 309 s 1]

514.79 BALANCE OF PROCEEDS OF SALE; PAYMENT OF. If the persons who are legally entitled to receive the balance mentioned in sections 514.77 to 514.79 are not known or have removed from the state or county in which such repairing, altering, dyeing, cleaning, pressing and laundering was done, the person, firm, or corporation which held said property shall pay the balance resulting from any sale to the treasurer of the county in which said articles were held and take his receipt therefor. Whenever such balance shall remain in the possession of the county treasurer for a period of two years unclaimed by the party legally entitled to the same, such balance shall become a part of the general funds of the county in which the articles were sold.

[1945 c. 601 s. 3]

FACTORS LIEN

514.80 DEFINITIONS. The term "factor" shall mean any person, firm, bank, or corporation, their successors or assigns, engaged in whole or in part, in the business of lending or advancing money on the security of merchandise whether or not they are employed to sell such merchandise. The term "merchandise" shall mean any personal property intended for sale, either before or after manufacturing or processing, or in the process thereof, but shall not include machinery, equipment or trade fixtures of the borrower which is not intended for sale. The term "borrower" shall mean the owner of the merchandise, or his agent, who creates a lien in favor of a factor.

[1947 c 590 s 1]

514.81 CONTINUING LIEN. If so provided by any written agreement with the borrower, a factor shall have a continuing lien upon all merchandise of the borrower generally described in such agreement, or any separate written statements thereafter signed by the borrower and delivered to the factor, regardless of whether or not such merchandise is in the constructive, actual or exclusive occupancy or possession of the factor, or whether such merchandise shall be in existence at the time of creating the lien or at the time of filing the notice hereinafter referred to, or shall come into existence subsequently thereto or shall be acquired by the borrower thereafter, and upon any accounts receivable or other proceeds resulting from the sale or other disposition of such merchandise, and to the extent provided for in said written agreement or separate written statement such lien shall secure the factor for all his loans and advances to, or for the account of, the borrower made within the time specified in a notice filed pursuant to the provisions of sections 514.82 and 514.83 or of any amendment of notice filed pursuant to said sections, together with interest thereon, and all commissions, obligations, indebtedness, charges and expenses properly chargeable against or due from said borrower, and for the amounts due or owing upon any notes or other obligations given or received by a factor for or upon account of any such loans or advances, interest, commissions, obligations, indebtedness, charges and expenses.

[1947 c 590 s 2]

514.82 EXECUTION OF LIEN; CONTENTS; AMENDMENT OF NOTICE. Notice of the creation of a factor's lien shall be signed by the factor and the borrower, shall be filed as hereinafter provided, and shall contain the following information:

(a) The name and address of the factor, and the name under which the factor does business, if an assumed name.

(b) The name and address of the borrower.

(c) The general character of merchandise subject to the lien, or which may become subject thereto, together with the place or places where such merchandise is or will be situated.

(d) The date of the written agreement between the factor and the borrower and the period of time, not exceeding one year from the date of filing the notice, during which loans or advances may be made against merchandise under the terms of said agreement.

Amendments of the notice signed by the factor and the borrower may be filed from time to time in the same manner to record any changes in the information contained in the original, subsequent or amended notices, and to record any extension of the time, not exceeding one year from the date of filing such amendment of notice, during which advances may be made under the terms of said written agreement, or any separate written statements signed by the borrower and delivered to the factor subsequent to the original agreement.

[1947 c 590 s 3]

514.83 NOTICE, FILING OF. Such notice of the creation of a factor's lien shall be filed, as hereafter provided, within 15 days after the execution of the written agreement between the factor and the borrower providing for the creation of said lien; and no factor's lien created pursuant to sections 514.80 to 514.91 shall be valid or enforceable against creditors of the borrower until the notice provided for in section 514.82 has been so filed. Notice of the creation of a factor's lien shall be filed in the office of the register of deeds of the county in which the merchandise subject to or to become subject to the lien is or will be situated, except that if the merchandise is or will be situated in a city of the first class, such filing shall be with the city clerk of such city. Such notice need not be witnessed or acknowledged or contain a receipt for copy.

[1947 c 590 s 4]

514.84 PURCHASES FOR VALUE. Purchasers for value in the ordinary course of the business of the borrower shall take the merchandise free and clear of the factor's lien provided for herein, whether or not they have knowledge of the existence of such lien.

[1947 c 590 s 5]

514.85 EFFECTIVENESS OF FACTOR'S LIEN; EXCEPTIONS. Any factor's lien created pursuant to sections 514.80 to 514.91 shall from and after the date of filing of the notice of creation of the factor's lien be effectual upon, and attach to, the merchandise from time to time described in the written agreement or separate written statements as against all claims of unsecured creditors of the borrower, and as against subsequent liens of creditors, except that notwithstanding the prior perfection of the lien of the factor under the provisions of this statute specific liens for processing, warehousing, or shipping the merchandise in the usual course of the borrower's business preparatory to sale shall be superior to the lien of the factor on said merchandise, but this section shall not obligate the factor personally for any debts secured by such superior lien.

[1947 c 590 s 6]

514.86 FORECLOSURE. Any factor's lien created pursuant to sections 514.80 to 514.91 may be foreclosed, the property sold, and redemption made in the same manner as provided for foreclosure, sales, or redemption under chattel mortgages, or in such other manner as may have been agreed in writing between the borrower and factor.

[1947 c 590 s 7]

514.87 PAYMENT; SATISFACTION; CERTIFICATE; TIME LIMITATION. Upon payment or satisfaction of the indebtedness secured by any factor's lien, the factor, upon the request of the borrower, shall furnish to the borrower a certificate or certificates signed by the factor stating that such indebtedness has been paid or such lien satisfied, or both. When such certificate or certificates are filed with the officer with whom the original notice of lien has been filed, such lien shall be deemed discharged. Failure of the factor to deliver any such certificate or satisfaction within ten days after any such request shall subject the factor to double damages at the suit of any person injured by such neglect. All liens shall be deemed to have expired three years from the date of filing of the notice of creation thereof unless prior to the expiration of such three year period the factor files a statement under oath that the indebtedness secured by said factor's lien has not yet been paid in full or otherwise discharged, and upon the filing of such statement the said lien shall be deemed to continue for one year from the date of such filing or until the prior payment of the indebtedness.

[1947 c 590 s 8]

514.88 GOVERNED BY LAWS 1945, CHAPTER 503; EXCEPTIONS. The lien of the factor upon any accounts receivable resulting from the sale or other disposition of the merchandise subject to the lien provided for herein, shall be governed as

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far as applicable by the provisions of sections 521.01 to 521.07; provided however, that unless the factor and the borrower shall agree otherwise, the delivery by the borrower to the factor of a written agreement or separate written statement as hereinbefore provided for designating the merchandise which will be subject to the lien, shall operate as an assignment of the accounts receivable which will result from the sale or other disposition of such merchandise with the same effect as if an assignment thereof by the borrower to the factor had been duly perfected under sections 521.01 to 521.07 immediately after such sale or other disposition.

[1947 c 590 s 9]

514.89 ACTS THAT DO NOT INVALIDATE. No one or more of the following acts:

(a) The return to or recovery by the borrower of merchandise sold and the subsequent dealing with said merchandise by the borrower as his own property; or

(b) The granting of credit allowances or adjustments by the borrower to the person purchasing such merchandise; or

(c) Failure of the factor to require the borrower to account to the factor for the proceeds of merchandise sold, or to account to the factor for moneys received on any account receivable resulting from the sale of merchandise covered by any factor's lien; shall impair, invalidate or render void the factor's lien on any such merchandise or any other merchandise remaining subject to such factor's lien nor the factor's right to or lien upon any balance remaining owing on any such account receivable or on any other account receivable resulting from the sale of any other merchandise which is subject to such factor's lien irrespective of whether the factor shall have consented to or acquiesced in any such act or acts.

[1947 c 590 s 10]

514.90 EFFECT OF POSSESSION. When any factor, or any third party for the account of any such factor, shall have possession of any merchandise, such factor shall have a continuing general lien, as set forth in section 514.81, without filing the notice provided for in sections 514.80 to 514.91. Nothing in sections 514.80 to 514.91 shall be construed as affecting or limiting any other existing or future lien or right of the factor, at common law or by statute, or any transaction falling within the provisions of law requiring or permitting filing, recording, consent, publication, notices or formalities of execution of instruments creating chattel mortgages or other liens of any nature.

[1947 c 590 s 11]

514.91 CONSTRUCTION. Sections 514.80 to 514.91 are to be construed liberally to secure the beneficial interests and purposes thereof. A substantial compliance with their several provisions shall be sufficient for the validity of a lien and to give jurisdiction to the courts to enforce the same.

[1947 c 590 s 12]