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GENERAL STATUTES OF  
MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES  
AND OTHER LAWS OF A GENERAL AND PERMANENT  
NATURE, ENACTED BY THE LEGISLATURE  
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

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## CHAPTER 69

## LIENS FOR LABOR AND MATERIAL

## FOR IMPROVEMENT OF REAL ESTATE

7020. **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 a 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 said 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, fixtures, bridge, wharf, fence, or other structure thereon, or for grading, filling in or excavating the same, or for clearing or grubbing land, 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. (Amended '17 c. 285 § 1)

Cited (134-35, 158+829).

**Construction of statute**—The statutes conferring mechanics' liens are highly remedial, and are to receive a liberal construction in order that the object in enacting them may not be defeated (125-45, 145+620). Mechanics' Liens, ¶5.

**Insurance money**—One furnishing material for the construction of a building on a homestead has no claim or lien on the proceeds of insurance accruing on the destruction of the building by fire (132-372, 157+504). Homestead, ¶79.

**Performance**—Findings and evidence as to performance by subcontractor (see 132-357, 157+500).

**Materials "furnished"**—Actual delivery upon the premises of material sold and furnished a contractor for use in the construction of a building is not necessary, as against the owner, in order to effect a lien. Delivery of the material to the contractor, in good faith, is all that is necessary; and the owner may protect himself from fraudulent conduct of the contractor by requiring a bond from him to pay for materials purchased (127-277, 149+300, L. R. A. 1915E, 302). Mechanics' Liens, ¶48.

Materials furnished in good faith for the improvement of realty may be lienable, though not actually used in the work (127-138, 149+6, L. R. A. 1915B, 708). Mechanics' Liens, ¶48.

Where a materialman delivered to one house material, a part of which was intended for a house being constructed by the same contractor on an adjoining lot, and, on being informed of the mistake, charged the same to such other house, but such material was never in fact removed to or used in the construction of such house, a lien nevertheless attached thereto, which was superior to a mortgage placed thereon during the construction of the buildings (131-31, 154+511). Mechanics' Liens, ¶48; Mortgages, ¶151(3).

**Material lienable**—A lien may be enforced for lumber furnished for forms in the construction of a concrete foundation, though it was not incorporated into the structure (161+259). Mechanics' Liens, ¶47.

Coal and gasoline for generation of power, dynamite for blasting, lubricant, lighting materials and supplies, and materials for the erection of a toolhouse, furnished excavating contractors, held lienable under this section, as contributions to the improvement of defendant's realty; but supplies for and repairs and parts of the excavating machinery are not lienable, as they merely contribute to the contractor's personal property (127-138, 149+6, L. R. A. 1915B, 708). Mechanics' Liens, ¶45.

**Improvements**—Under the rule stated in 61-132, 63+257, 52 Am. St. Rep. 582, lighting fixtures do not become a part of the realty, at least under ordinary circumstances, and the value of such fixtures was improperly included in the amount adjudged to be a lien on the property (128-288, 150+1083). Mechanics' Liens, ¶31.

A combination steam heating and power plant placed by a tenant in the leased building will support a mechanic's lien only in the event that the plant constitutes a fixture in the legal sense (125-107, 145+964). Mechanics' Liens, ¶31.

That a tenant gave a chattel mortgage on articles to be attached to the leased premises did not preclude the attaching of a mechanic's lien for labor in making the attachment, though the mortgage was given with the assent of the landlord (125-107, 145+964). Chattel Mortgages, ¶138(1).

**Architect's lien**—An architect furnishing plans and specifications for the construction of a building is entitled to a lien on the building and land, though he does not supervise the con-

struction, and though the owner abandons the building project (128-261, 150+908, L. R. A. 1915D, 204). Mechanics' Liens, ⇨35, 36.

**Lien for cost of bond**—Where the building contract provided that if the owner wanted a surety bond he should pay therefor, the cost of such bond required by the owner and paid for by the contractor was not a lienable claim (130-214, 153+594). Mechanics' Liens, ⇨51.

[7020—]1. **Contractor diverting payments from mechanics, laborers and materialmen guilty of larceny**—That any contractor or subcontractor on any improvement to real estate within the meaning of Section 7020, General Statutes 1913, 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. ('15 c. 105 § 1)

This section is not invalid as class legislation, or as imposing imprisonment for debt (158+829). Constitutional Law, ⇨83(2), 208(6); Larceny, ⇨2.

#### 7021. Extent and amount of lien—

128-261, 150+908, L. R. A. 1915D, 204; note under § 7020.

The contract price as agreed upon between the lien claimant and the party ordering the work is prima facie evidence of its value as against the owner (125-107, 145+964). Mechanics' Liens, ⇨281(1).

#### 7022. Lines of railway, telegraph, telephone, etc.—

128-261, 150+908, L. R. A. 1915D, 204; note under § 7020.

Plaintiff, performing services for Minnesota telephone company on its system and on unauthorized branch line into Wisconsin, was entitled to enforce a lien for the full amount against the main line system in Minnesota (162+884). Mechanics' Liens, ⇨182.

Where plaintiff performed labor for a telephone company in constructing its system in Minnesota and a branch line in Wisconsin, the lien was valid against whatever interest company had in the system (162+884). Mechanics' Liens, ⇨187.

#### 7023. When lien attaches—Notice—

128-261, 150+908, L. R. A. 1915D, 204; note under § 7020.

Evidence held to show that a principal contractor agreed that a contemplated mortgage should be prior to mechanics' liens and that such liens would be discharged by the contractor (130-214, 153+594). Mechanics' Liens, ⇨281(3).

A mortgage to secure future advances, which the mortgagee obligates himself to make, has priority over mechanics' liens which attach after the mortgage is given, but before the money is paid out (134-156, 158+918). Mortgages, ⇨151(3).

Under this section all liens attach at the time the first item of material or labor is furnished for the beginning of the improvement, though the architect prepared plans some time earlier (134-156, 158+918, distinguishing 128-261, 150+908, L. R. A. 1915D, 204). Mechanics' Liens, ⇨166.

Where material is furnished and delivered upon the premises for an improvement thereon in good faith, the lien attaches at the time of delivery, and will not be defeated by an abandonment of the improvement (161+259). Mechanics' Liens, ⇨111(2).

A lien for materials delivered to one of two buildings in course of construction by the same contractor on adjoining lots attached to the other building and was superior to a mortgage placed on the buildings during their construction, where the materialman was informed of his mistake, and charged the items to such other building, though the material was never in fact moved thereto or used therein (131-31, 154+511). Mechanics' Liens, ⇨48; Mortgages, ⇨151(3).

#### 7024. Vendors, consenting owners, etc.—

Under this section improvements upon real estate are presumed to be made upon authority of the legal owner (134-468, 158+787). Mechanics' Liens, ⇨279.

A corporation held charged with the knowledge of its secretary that improvements to its realty were being made at the instance of its lessee (124-317, 145+37). Corporations, ⇨428(7).

Leased realty is subject to a mechanic's lien for improvements made at the instance of a lessee, when the lessor knows that the improvements are being made and fails without excuse to give the notice required by this section (124-317, 145+37). Mechanics' Liens, ⇨78.

Evidence held to authorize finding that the owner consented to the making of improvements by a tenant (125-107, 145+964). Mechanics' Liens, ⇨281(3).

By the provision of this section that when improvements are made by one person all persons interested in the land, otherwise than as bona fide incumbrancers or lienors, shall be deemed to have authorized such improvements, a presumption of consent is raised against the owner; but if he does not consent he may protect his interests by serving or posting notices, and the burden of proving such notices is on the owner (161+259). Mechanics' Liens, ⇨279.

The owner of a ground lease, who assigned the leasehold and afterwards purchased the fee, held not permitted to defeat mechanics' liens accruing after his assignment (125-207, 145+1072). Mechanics' Liens, Ⓒ63.

The burden of proving the giving or posting of notice under this section is upon the defendant landowner. (124-317, 145+37). Mechanics' Liens, Ⓒ272.

Painting and decorating a building and putting on a section of new roof to fit the premises for occupancy by a tenant, are not "repairs" (125-107, 145+964). Mechanics' Liens, Ⓒ26.

#### 7026. Lien statement—

**Time of filing**—It is error to instruct that if some minor finishing touches were made upon the building, subsequent to the filing of the lien statement, in completion of the original contract, the lien was invalidated (123-353, 143+975). Mechanics' Liens, Ⓒ132(5).

Where an architect prepared plans and specifications under a contract for a percentage of the total cost, the architect to supervise the construction, a lien statement filed within 90 days from the time that the owner repudiated the contract with the architect was in time, though it was filed more than 90 days after the last work was performed on the plans and specifications, the building project having been abandoned (128-261, 150+908, L. R. A. 1915D, 204). Mechanics' Liens, Ⓒ132(9).

Where work done under several contracts is practically continuous and constitutes one job, only one lien statement need be filed (125-107, 145+964). Mechanics' Liens, Ⓒ129.

Evidence held to show, that work done was under two separate and unrelated contracts, so that there was no lien for materials furnished under one of the contracts which was finished more than 90 days prior to the filing of the lien (161+257). Mechanics' Liens, Ⓒ132(11).

Findings of court that last items were not furnished with wrongful purpose of extending time for perfecting lien held sustained by the evidence (124-132, 144+472). Appeal and Error, Ⓒ1009(2).

**Excess in lien account**—A light excess in a lien account filed, due to a clerical error in adding the items, held harmless (124-317, 145+37). Mechanics' Liens, Ⓒ157(3).

**Description of premises**—Where the owner has two lots in one inclosure, and constructs a building on one of them, the fact that a lien statement ascribes the lien to the other lot does not invalidate the lien (125-45, 145+620). Mechanics' Liens, Ⓒ157(1).

**Misnomer of owner**—Designation of the owner as First Presbyterian Church, instead of Trustees of First Presbyterian Church, held an amendable defect, so that judgment based thereon was binding on surety on contractor's bond to discharge liens (133-429, 153+709).

#### 7027. Two or more buildings—

128-261, 150+908, L. R. A. 1915D, 204; note under § 7020.

#### 7028. Liens foreclosed by action—

128-261, 150+908, L. R. A. 1915D, 204; note under § 7020.

A receiver may be appointed in an action to foreclose a mechanic's lien on a showing that it is necessary to protect or preserve the property (161+407). Mechanics' Liens, Ⓒ283.

#### 7029. Summons, pleadings, etc.—

128-261, 150+908, L. R. A. 1915D, 204; note under § 7020.

If plaintiff or any other claimant fails to establish his lien or presents a defective pleading, it does not affect the rights of other lienholders, nor preclude them from making proof of all facts essential to the enforcement of their respective liens. An assertion of title to the property involved in an answer is put in issue without further pleading (161+387). Mechanics' Liens, Ⓒ252.

The personal representative of the contractor, who died before commencement of an action to foreclose a materialman's lien, is a proper party, and the determination of the incidental issue as to the amount due plaintiff is conclusive upon the estate of the deceased contractor (124-132, 144+472). Executors and Administrators, Ⓒ438(9), 453(4).

#### 7031. Bill of particulars—

An affidavit that the averments in the pleading are true of the pleader's own knowledge, and that the attached bill of items is true and correct, is a sufficient verification of such bill of items (128-288, 150+1083). Mechanics' Liens, Ⓒ271(19).

#### 7033. Judgment, sale, redemption, etc.—

There can be no personal judgment with execution until after the foreclosure sale. The judgment in this case construed to intend a personal judgment and execution only after foreclosure sale (130-214, 153+594). Mechanics' Liens, Ⓒ303(2).

The personal representative of a deceased contractor is a proper party in an action by a materialman to foreclose his lien, and a determination in such action of the incidental issue as to the amount due plaintiff is conclusive upon the estate of the deceased contractor (124-132, 144+472). Executors and Administrators, Ⓒ438(9), 453(4).

A defendant, holding a lien claim, after trial, but before findings and adjudication, released his lien and elected to take personal judgment against the principal contractor with immediate execution. Held, that no legal prejudice could result to the debtor from such judgment, and the same is sustained (130-214, 153+594). Mechanics' Liens, Ⓒ305.

**7034. Severance of building, resale, receiver, etc.—**

A receiver may be appointed in an action to foreclose a mechanic's lien on a sufficient showing that it is necessary to protect or preserve the property (161+407). Mechanics' Liens, Ⓒ 283.

**PERSONALTY IN POSSESSION****7036. For keeping, repairing, etc.—**

In so far as this act gives one transporting and storing property a lien superior to a chattel mortgage, it is not violative of the constitutional inhibition against impairment of contract rights or the taking of property without due process of law (124-144, 144+750). Constitutional Law, Ⓒ 161, 300.

It was intended by this section that one transporting and storing property at the request of a chattel mortgagor in legal possession should have a lien superior to the interest of the chattel mortgagee (124-144, 144+750). Chattel Mortgages, Ⓒ 138(1).

**MOTOR-VEHICLES****7053. To whom given—Against whom—Amount—**

"Owner" includes a conditional vendee and a mortgagor in possession. This act is not to be given a more liberal construction than the statute relating to mechanics' liens for improvements on land (135-17, 159+1080). Bailment, Ⓒ 18(2).

**7054. Statement and notice—When and where filed—To state what—**

Where upon different dates and as separate transactions labor or material is furnished for the repair of a motor vehicle, a single lien statement may be filed if the first item occurred within 60 days from the date of filing (135-17, 159+1080). Bailment, Ⓒ 18(2).

**7055. Action to enforce—Notice—Judgment—Sale—**

A single action may be maintained to foreclose a lien embraced in a single statement, though consisting of items of labor or material furnished on different dates and as separate transactions within a period of 60 days prior to date of filing of statement (135-17, 159+1080). Bailment, Ⓒ 18(2).

**ON LOGS AND TIMBER****7058. To whom given—Against whom—**

A claim for furnishing teams and equipment for such teams is not within this section (128-5, 150+216). Logs and Logging, Ⓒ 26(7).

**7059. Lien statement—Filing—Assignment of lien—**

A lien statement, showing neither demand for payment before the filing nor that the labor was terminated by the employer's act or by completion of the work, is insufficient (128-5, 150+216). Logs and Logging, Ⓒ 33(2).

**7060. Termination of lien—**

Where work was commenced October 1st, and completed thereafter in the course of continuous employment, only that portion done between the date mentioned and April 1st following is within the provisions of this section (128-5, 150+216). Logs and Logging, Ⓒ 28.

**IN OTHER CASES****7082. For threshing grain—**

Cited (124-144, 144+750).

**GENERAL PROVISIONS****7085. Inaccuracies in lien statement—**

A lien statement, otherwise in accordance with the statute, was not invalidated by the fact that it recited that the materials were furnished "for the following described improvements," without stating for what particular improvement. Where the owner had two lots in a single inclosure, the fact that a mechanic's lien statement for materials furnished for a house on one of the lots ascribed the lien to the other lot did not invalidate the lien (125-45, 145+620). Mechanics' Liens, Ⓒ 157(1).

Where a lien claimant, who had performed his contract only in part, filed a lien for the amount which would have been due if he had performed in full, he thereby knowingly claimed more than was due, and lost his right to a lien (128-288, 150+1083). Mechanics' Liens, Ⓒ 157(3).