

LIEN FOR LABOR AND MATERIALS FOR OIL OR GAS WELLS, PIPE LINES, OR EQUIPMENT

Act 146 of 1937

AN ACT to establish, protect and enforce by lien the rights of laborers, contractors, sub-contractors and material men and other persons furnishing labor, tools, or materials, or other things of value, for the drilling, boring, torpedoing, acidizing, completing, operating or repairing of any oil or gas well, or the constructing or repairing of any oil or gas pipe line, oil or gas derrick, or oil tank.

History: 1937, Act 146, Imd. Eff. July 2, 1937.

The People of the State of Michigan enact:

570.251 Lien for labor or material for oil or gas well or pipe line; extent; waiver by agreement; delivery of materials; additional liens, recording.

Sec. 1. Any person, firm or corporation, who shall by any contract or contracts, express or implied or partly expressed and partly implied with the owner, part owner or lessee of any leasehold, for oil and gas purposes or of any gas pipe line or oil pipe line, or with one whom such owner, part owner or lessee has authorized or knowingly permitted to contract in his or their behalf for the drilling, boring, torpedoing, acidizing, completing, operating or repairing of any oil or gas well or for the constructing or repairing of any oil or gas derrick, oil tank, gas pipe line or oil pipe line, perform any labor or furnish any materials, machinery, tools, equipment, fuel, explosives, acid, or oil or gas well supplies or other things of value used in the drilling, torpedoing, acidizing, completing, operating or repairing of any oil or gas well, or who shall furnish any oil or gas well supplies, or other things of value or perform any labor in constructing or putting together any of the apparatus, fixtures or machinery used in the drilling, boring, torpedoing, acidizing, operating, completing or repairing of any oil or gas well, or who shall furnish any material, equipment, machinery, supplies or other things of value or perform any labor for constructing, operating or repairing any oil pipe line or gas pipe line, oil or gas derrick or oil tank, shall have a lien upon such leasehold, oil and gas produced from said leasehold, oil well, gas well, lease for oil and gas purposes, oil or gas derrick, oil tank, oil pipe line, gas pipe line, buildings, fixtures, appurtenances, and upon the material, tools, machinery and supplies or other things of value so furnished, and upon the oil and gas fixtures, machinery and appliances used in operations for oil and gas purposes upon the leasehold or premises for which said material and supplies were furnished or labor performed, for the amount due to him, it or them for such materials, machinery, tools, equipment, fuel, explosives, acid, or oil or gas well supplies, services or labor or other things of value and shall be entitled to interest at the legal rate from the date the same is due. These liens shall extend to a life estate, an estate for years, or any other estate or any right of redemption or other interest which such owner, part owner, or lessee may have in such leasehold at the time of making such contract or may subsequently acquire therein, and to an estate in fee when the owner or part owner thereof drills or develops said land for oil or gas purposes. Such liens shall follow the property and each and every part thereof and be enforceable against the said property wherever the same may be found and shall attach as of the date on which the first of such materials are furnished or labor performed under the contract. The taking of any note or additional security by any party entitled to such lien for the amount so due or any part thereof shall not be a waiver of any right of lien which such party may have by virtue of this act unless made a waiver by express agreement of the parties. Materials or other items for which such lien is given which are furnished by the same contractor to the same owner or to the successors or assigns of such owner for operations on same premises or leasehold, which are delivered on separate orders given at various times shall, for the purpose of this act be considered as having been furnished under a single contract: Provided, That not more than 3 months shall have elapsed between the date of delivery of any such item and the date of the last preceding delivery of materials therefor. There may be additional and successive contracts upon which additional liens may be recorded as herein provided. In no event shall it be necessary to fix or stipulate in any contract a time for the completion or a time for payment in order to obtain a lien under this act.

History: 1937, Act 146, Imd. Eff. July 2, 1937;—CL 1948, 570.251;—Am. 1958, Act 67, Eff. Sept. 13, 1958.

570.252 Lien for labor or material for oil or gas well or pipe line; contractors or sub-contractors.

Sec. 2. Any person, firm or corporation who shall furnish any such material, machinery or supplies, as described in section 1 of this act, to a contractor or a sub-contractor, or any person who shall perform such labor for a contractor or a sub-contractor, or who as an artisan or day laborer in the employ of such contractor or sub-contractor, shall perform any such labor, shall have a lien the same as provided in section 1 of this act, from the same time and in the same manner and to the same extent as the original contractor for the amount

due for such material, machinery, tools, supplies or labor, as provided in section 1 of this act, and such lien shall be enforced in the same manner and within the same time as provided for the enforcement of the lien of such original contractor.

History: 1937, Act 146, Imd. Eff. July 2, 1937;—CL 1948, 570.252.

570.253 Owner or lessee may retain money to pay demands; statement of contractor; protection of owners.

Sec. 3. The owner, part owner, or lessee may at any time retain from any monies due to the original contractor, an amount sufficient to pay all demands owing or unpaid to any sub-contractor, material man, or laborer who has filed and certified the notice in the manner and form as provided in section 2 of this act. The original contractor shall, whenever any payment of money shall come due from the owner, part owner, or lessee or whenever he desires to draw any money from the owner, part owner, or lessee on such contract, make out and give to the owner, part owner, or lessee, or his agent, a statement under oath, of the number and name of every sub-contractor or laborer in his employ, and of every person furnishing the materials, giving the amount if anything, which is due or to become due to them or any of them for work done or materials furnished, and the owner, part owner or lessee or his agent may retain out of any money then due or to become due to the contractor, an amount sufficient to pay all demands that are due or to become due to such sub-contractors, laborers, and material men, as shown by the contractor's statement, and pay the same to them according to their respective rights, and all payments so made shall, as between such owner, part owner, or lessee, and such contractor, be considered the same as if paid to such original contractor. Until the statement provided for in this section is made, in manner and form as herein provided, the contractor shall have no right of action or lien against the owner, part owner, or lessee on account of such contract, and any payments made by the owner, part owner, or lessee, before such statement is made, or without retaining sufficient money, if that amount be due or is to become due, to pay the sub-contractors, laborers, or material men, as shown by the statement, shall be considered illegal and made in violation of the rights of the persons intended to be benefited by this act, and the rights of such sub-contractors, laborers and material men to a lien shall not be affected thereby. If neither such owner, part owner, lessee, or his agent can be found within the county, then it shall not be necessary for the contractor to make and deliver such statement as a prerequisite to the institution of proceedings under this act, or other suit or proceeding. In order that the owner, part owner, or lessee may be protected, he may at any time during the progress of the work demand in writing of the contractor, the statement herein provided for, which shall be made by the contractor and given to the owner, part owner, or lessee, or his agent, and if such contractor fail to furnish such statement within 5 days after demand made, he shall be liable to such owner, part owner, or lessee, each time he so refuses or neglects to comply with such demand, in the sum of 100 dollars, and also for all actual damages occasioned by such neglect or refusal, to be recovered in an action on the case or in any other appropriate proceeding.

History: 1937, Act 146, Imd. Eff. July 2, 1937;—CL 1948, 570.253.

570.254 Statement of lien; contents, verification; recording with register of deeds, fee.

Sec. 4. Every person, or his agent or attorney, whether contractor, sub-contractor, material man or laborer, who wishes to avail himself of the provisions of this statute, shall make and record in the office of the register of deeds, in the county or counties in which said leasehold, oil or gas well, pipe line, oil or gas derrick, oil tanks, materials, machinery or other property to be charged with the lien is situated, a just and true statement or account of the demand due him, over and above all legal setoffs, setting forth the time when such materials were furnished or labor performed, and for whom, and containing a sufficiently correct description of the premises, leasehold or property to be charged with the lien to identify the same, and the name of the owner, part owner or lessee thereof, if known. Such verified statement shall be recorded at any time after the contract is made and within 6 months from the date on which the last of the materials shall have been furnished or the last of the labor shall have been performed by the person claiming the lien and may be amended at any time before the final judgment or decree. Such verified statement of lien shall be recorded and indexed by the register of deeds in the same manner as provided by law for the recording of real estate mortgages, and such recording shall have the same effect as to notice as against subsequent purchasers or encumbrancers as the recording of a mortgage. The register of deeds shall receive as his fees for the recording and indexing of such liens and all subsequent papers affecting such liens, the same fees as are provided by law for recording a real estate mortgage.

History: 1937, Act 146, Imd. Eff. July 2, 1937;—CL 1948, 570.254;—Am. 1958, Act 67, Eff. Sept. 13, 1958.

570.255 Statement of lien; service of copy on owner or lessee, proof, posting.

Sec. 5. Every person recording such statement or account as provided in the preceding section, except

those persons contracting or dealing directly with the owner, part owner or lessee of such premises, shall serve a copy of such statement within 30 days after the recording thereof, upon the owner, part owner, lessee, contractor or sub-contractor or his authorized agent, and upon any persons acquiring any interest in the property after the date of the furnishing of the first materials or the date when the first labor was performed, which said interest shall appear of record in the register of deeds' office for the county in which the lien claim is recorded, or sent to such owner, part owner, lessee, contractor, sub-contractor or other person having any interest in said property, by registered mail addressed to him at his last known address, within 30 days next after the date of recording such statement, a copy of such statement, and the affidavit of the person so serving or mailing such copy as to the time and manner of service, shall be sufficient proof of the service thereof: Provided, That if the name or address of such owner, part owner, lessee, contractor, sub-contractor or other person having any interest in said property be unknown, in lieu of such service it shall be sufficient if a copy of such statement be posted in a conspicuous place on the premises charged with such lien within said 30 day period.

History: 1937, Act 146, Imd. Eff. July 2, 1937;—CL 1948, 570.255;—Am. 1958, Act 67, Eff. Sept. 13, 1958.

570.256 Liens; duration, priority over other interests, subrogation.

Sec. 6. The several liens herein provided for shall continue for 1 year after such statement or account is recorded in the office of the register of deeds and no longer unless proceedings are begun to enforce same as hereinafter provided, and such liens shall take priority as follows:

First: As between persons claiming liens under this statute, the several liens upon the same property attaching by reason of work, labor or materials furnished in carrying forward or completing the same oil or gas wells, oil or gas derrick, oil tanks, oil or gas pipe line, machinery, fixtures or appurtenances, shall be of equal rank and share pro rata in the proceeds of any sale of such property under any judgment or decree entered in a suit brought to enforce the same.

Second: They shall take priority to all garnishments for the contract debt made prior or subsequent to the commencement of the furnishing of the materials or performance of the labor without regard to the date of filing the claims for lien.

Third: They shall be preferred to all other titles, liens, or encumbrances which may attach to or upon such oil or gas wells, oil or gas derricks, oil tanks, oil or gas pipe lines, machinery, fixtures or appurtenances or upon the leasehold upon which they are situated, which shall either be given or recorded subsequent to the commencement of the furnishing of the materials or performance of the labor.

Fourth: The liens for such labor or materials furnished, including those for additions, repairs and betterments, shall attach to the leasehold estates, oil or gas wells, oil or gas derricks, oil tanks, oil or gas pipe lines, machinery, fixtures, appurtenances or improvements for which they are furnished or done, subject to any prior recorded title, claim, lien, encumbrance, or mortgage to or upon the leasehold estate upon which such oil or gas wells, oil or gas derricks, oil tanks, oil or gas pipe lines, machinery, fixtures, appurtenances or improvements belong or are put. Any person holding a lien for such labor or materials furnished upon any leasehold estate subject to any prior recorded lien, encumbrance or mortgage may pay off any such prior lien, encumbrance or mortgage, and shall thereupon be subrogated to all of the rights of the prior holder of such lien, encumbrance or mortgage.

History: 1937, Act 146, Imd. Eff. July 2, 1937;—CL 1948, 570.256;—Am. 1958, Act 67, Eff. Sept. 13, 1958.

570.257 Proceedings to enforce lien; lis pendens, parties, cross bills, practice and procedure, sale, confirmation, costs.

Sec. 7. Proceedings to enforce such lien shall be by bill in chancery, under oath, and notice of lis pendens recorded in the office of the register of deeds, shall have the effect to continue such lien pending such proceedings. And in such proceedings, the complainant shall make all persons having rights in said leasehold estate affected or to be affected by such liens so recorded in the office of the register of deeds, and all persons holding like liens so recorded, parties to such action. And all persons holding like liens or any other persons having rights in said leasehold estate, may make themselves parties thereto on motion to the court and notice to complainant and may file their intervening or cross bills or answers claiming the benefit of cross bills and notices of lis pendens therein. The practice and procedure in such suit shall be the same as in other cases in chancery and the court shall thereupon settle and determine the rights and liabilities of all of the parties in the matter, and make such decree as may be required to determine and enforce the rights and liabilities of the various parties. Upon final decree the court may order a sale of the leasehold estate, oil or gas well, oil or gas derrick, oil tank, oil or gas pipe lines, machinery, fixtures or appurtenances, together or separately, by a circuit court commissioner or receiver, or may order the property into the hands of a receiver to be leased or rented from time to time under the direction of the court until the liens shall be discharged, or make such other order

or disposition of the premises as justice may require. If upon coming in and confirmation of the final report any portion of the liens shall still be unpaid, the court may enter personal decree for the same against the party or parties who may be personally liable therefor, and the execution shall issue for the same as upon other personal decrees rendered. The costs in all cases shall be subject to the discretion of the court and shall be paid out of the proceeds of the sale or by any parties to the suit as justice and equity may require.

History: 1937, Act 146, Imd. Eff. July 2, 1937;—CL 1948, 570.257;—Am. 1958, Act 67, Eff. Sept. 13, 1958.

570.258 Lien not to preclude any other lawful remedy.

Sec. 8. The provisions of this act shall not preclude anyone entitled to a lien hereunder from pursuing any other remedy given by law for the collection of the indebtedness for which a lien is hereby given.

History: 1937, Act 146, Imd. Eff. July 2, 1937;—CL 1948, 570.258.

570.259 Lienholder to execute discharge upon payment of debt; recording with register of deeds, fee; discharge by ex parte proceedings.

Sec. 9. Upon the full payment of any indebtedness for which a claim for lien has been recorded under the provisions of this act, the party claiming such lien shall upon request of any person interested in the property affected by such lien, execute, acknowledge and cause to be recorded with the register of deeds of the county wherein such lien claim shall have been recorded, a full release and satisfaction of such lien. Such release or satisfaction shall be recorded and processed by the register of deeds in the same manner as provided by law for discharging a real estate mortgage. The fee of the register of deeds for recording such release shall be the same as is provided by law for recording a discharge of real estate mortgage: Provided also, That if no proceedings to enforce any lien or liens provided for in this act shall be made within the 1 year or said lien or liens have been paid, said lien or liens may be discharged of record by ex parte proceedings in the same manner as provided by law for the discharge of mortgages by ex parte proceedings.

History: 1937, Act 146, Imd. Eff. July 2, 1937;—CL 1948, 570.259;—Am. 1958, Act 67, Eff. Sept. 13, 1958.

570.260 Assignment or waiver of lien.

Sec. 10. All liens or claims for liens which may arise or accrue under the terms of this act shall be assignable, and proceedings to enforce such liens, or claims for liens may be maintained by and in the name of the assignees, who shall have as full and ample power to enforce the same as if such proceedings were taken under the provisions of this act by and in the name of the lien claimants themselves.

History: 1937, Act 146, Imd. Eff. July 2, 1937;—CL 1948, 570.260.

570.261 Notice by publication.

Sec. 11. When any defendant resides out of the state, or is absent from the state, or concealed therein, or cannot be found by reason of his continued absence from his place of residence, or when it cannot be ascertained in what state or country the defendant resides, the complainant may cause notice to be given by publication in like manner, and upon same conditions as in ordinary suits in chancery.

History: 1937, Act 146, Imd. Eff. July 2, 1937;—CL 1948, 570.261.

570.262 Liberal construction.

Sec. 12. This act is hereby declared to be a remedial statute and is to be construed liberally to secure the beneficial results, intents and purposes thereof, and a substantial compliance with its several provisions shall be sufficient for the validity of the lien or liens hereinbefore provided for, and to give jurisdiction to the court to enforce the same.

History: 1937, Act 146, Imd. Eff. July 2, 1937;—CL 1948, 570.262.

570.263 Oil or gas wells and pipe lines; definitions.

Sec. 13. For the purpose of this act the terms “owner, part owner or lessee” shall be construed to include all the interests, legal or equitable, which any person, firm, corporation, association, syndicate, trustee, co-partnership or joint adventurer may have in the leasehold, oil or gas runs, oil well, gas well, oil pipe line, gas pipe line, oil or gas derrick, oil tank, machinery, materials, tools, supplies, buildings and appurtenances upon which the improvements contemplated by this act are made.

History: 1937, Act 146, Imd. Eff. July 2, 1937;—CL 1948, 570.263.

570.266 Declaration of emergency.

Sec. 16. An emergency is hereby declared by reason whereof it is necessary for the immediate preservation of the public peace, safety, convenience and welfare that this act take immediate effect.

History: 1937, Act 146, Imd. Eff. July 2, 1937;—CL 1948, 570.266.

CAUTION!
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