



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **WAREHOUSEMEN'S LIEN ACT**

## PLEASE NOTE

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For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## WAREHOUSEMEN'S LIEN ACT

### CHAPTER W-1

#### 1. Definitions

In this Act

- (a) “**goods**” include personal property of every description that may be deposited with a warehouseman as bailee;
- (a.1) “**security interest**” means an interest in goods that secures payment or performance of an obligation;
- (b) “**warehouseman**” means a person lawfully engaged in the business of storing goods as a bailee for hire. *R.S.P.E.I. 1974, Cap. W-1, s.1; 1997, c.33, Schedule.*

#### 2. Lien on goods deposited for storage

- (1) Subject to section 3, every warehouseman has a lien on goods deposited with him for storage, whether deposited by the owner of the goods or by his authority, or by any person entrusted with the possession of the goods by the owner or by his authority.

##### Amount of lien

- (2) The lien shall be for the amount of the warehouseman's charges, that is to say
  - (a) all lawful charges for storage and preservation of the goods;
  - (b) all lawful claims for money advanced, interest, insurance, transportation, labour, weighing, cooping, and other expenses in relation to the goods; and
  - (c) all reasonable charges for any notice required to be given under this Act, and for notice and advertisement of sale, and for sale of the goods where default is made in satisfying the warehouseman's lien. *R.S.P.E.I. 1974, Cap. W-1, s.2.*

#### 3. Notice of lien

- (1) Where the goods on which a lien exists were deposited not by the owner or by his authority, but by a person entrusted by the owner or by his authority with the possession of the goods the warehouseman shall, within two months after the date of the deposit, give notice of the lien
  - (a) to the owner of the goods;
  - (b) to any person who has an interest in the goods that secures payment or performance of an obligation and who has registered, before the date of the deposit, a financing statement relating to that interest, pursuant to the *Personal Property Security Act* R.S.P.E.I. 1988, Cap. P-3.1.

**Contents of notice**

- (2) The notice shall be in writing and contain
- (a) a brief description of the goods;
  - (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman, and the name of the person by whom they were deposited; and
  - (c) a statement that a lien is claimed by the warehouseman in respect of the goods under this Act.

**Limitation period for giving notice**

- (3) Where the warehouseman fails to give the notice required by this section, his lien, as against the person to whom he has failed to give notice, is void as from the expiration of the period of two months from the date of the deposit of the goods. *R.S.P.E.I. 1974, Cap. W-1, s.3; 1997,c.33, Schedule.*

**4. Sale by public auction**

- (1) In addition to all other remedies provided by law for the enforcement of liens or for the recovery of warehouseman's charges, a warehouseman may sell by public auction, in the manner provided in this section, any goods upon which he has a lien for charges which have become due.

**Notice of intention to sell**

- (2) The warehouseman shall give written notice of his intention to sell
- (a) to the person liable as debtor for the charges for which the lien exists;
  - (b) to the owner of the goods;
  - (c) to any person who has an interest in the goods that secures payment or performance of an obligation and who has, before the date of the deposit, registered a financing statement relating to that interest, pursuant to the *Personal Property Security Act*; and
  - (d) to any other person known by the warehouseman to have or claim an interest in the goods.

**Contents of notice**

- (3) The notice shall contain
- (a) a brief description of the goods;
  - (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman, and the name of the person by whom they were deposited;
  - (c) an itemized statement of the warehouseman's charges showing the sum due at the time of the notice;
  - (d) a demand that the amount of the charges as stated in the notice and such further charges as may accrue shall be paid on or before a day mentioned, not less than twenty-one days from the delivery of the notice if it is personally delivered, or from the time when the notice should reach its destination according to the due course of mail if it is sent by mail; and
  - (e) a statement that unless the charges are paid within the time mentioned the goods will be advertised for sale and sold by public auction at a time and place specified in the notice.

**Advertisement of sale, contents**

- (4) Where the charges are not paid on or before the day mentioned in the notice, an advertisement of the sale, describing the goods to be sold, and stating the name of the person liable as debtor for the charges for which the lien exists, and the time and place of the sale, shall be published at least once a week for two consecutive weeks in a newspaper published in the province and circulating in the locality where the sale is to be held; the sale shall be held not less than fourteen days from the date of the first publication of the advertisement.

**Consent of owner to sale, where**

- (5) No sale of farm produce under this section shall be made between December 1 in any year and May 1 in the following year without the consent of the owner of the goods. *R.S.P.E.I. 1974, Cap. W-1, s.4; 1997,c.33, Schedule.*

**5. Defect in form or procedures, effect**

Where a notice of lien under section 3 or a notice of intention to sell under section 4 has been given, but those sections have not been strictly complied with, if the court or a judge before whom any question respecting the notice is tried or inquired into considers that the sections have been substantially complied with, or that it would be inequitable that the lien or sale be void by reason of the non-compliance, no objection to the sufficiency of the notice shall in any such case be allowed to prevail so as to release or discharge the goods from the lien or vitiate the sale. *R.S.P.E.I. 1974, Cap. W-1, s.5.*

**6. Proceeds of sale, distribution**

- (1) From the proceeds of the sale the warehouseman shall satisfy his lien, and shall pay over the surplus if any, to the person entitled thereto; and the warehouseman shall when paying over the surplus deliver to the person to whom he pays it a statement of account showing how the amount has been computed.

**Paying surplus into Court**

- (2) If the surplus is not demanded by the person entitled thereto within ten days after the sale, or if there are different claimants or the rights thereto are uncertain, the warehouseman shall pay the surplus into the Supreme Court of Prince Edward Island upon the order of a judge.

**Ex parte order**

- (3) The order may be made without notice to any other person upon such terms and conditions as to costs and otherwise as the judge may direct, and may provide to what fund or name the amount shall be credited.

**Filing statement of account**

- (4) The warehouseman at the time of paying the amount into court shall file in court a copy of the statement of account showing how the amount has been computed. *R.S.P.E.I. 1974, Cap. W-1, s.6; 1974(2nd), c.65, s.14.*

**7. Payment before sale**

- (1) At any time before the goods are sold, any person claiming an interest or right of possession in the goods may pay the warehouseman the amount necessary to satisfy his lien including the expenses incurred in serving notices and advertisement and preparing for the sale up to the time of the payment.

**Delivery of goods to owner**

- (2) The warehouseman shall deliver the goods to the person making the payment if he is the person entitled to the possession of the goods on payment of the warehouseman's charges thereon, otherwise the warehouseman shall retain possession of the goods according to the terms of the contract of deposit. *R.S.P.E.I. 1974, Cap. W-1, s.7.*

**8. Delivery of notices**

Where by this Act any notice in writing is required to be given, the notice shall be given by delivering it to the person to whom it is to be given, or by mailing it in the post office, postage paid and registered, addressed to him at his latest known address. *R.S.P.E.I. 1974, Cap. W-1, s.8.*

**9. Uniform construction of Act**

This Act shall be so interpreted and construed as to effect its general purpose of making uniform the law of those provinces which enact it. *R.S.P.E.I. 1974, Cap. W-1, s.9.*