

## Wyoming Lien Law

### CHAPTER 7 - PERSONAL PROPERTY

#### ARTICLE 1 - IN GENERAL

29-7-101. Persons entitled to lien; exception.

(a) Any person is entitled to a lien on any goods, chattels or animals for his reasonable charges for work or services performed or feed provided when he:

(i) Makes, alters, repairs, bestows work upon, transports, stores or keeps the same; or

(ii) Feeds, herds, pastures or cares for any domestic or wild animal lawfully held in captivity. Any person creating a lien under this paragraph shall file the lien in the office of the secretary of state.

(b) W.S. 29-7-101 through 29-7-106 shall not apply where a lien is provided by W.S. 34.1-7-209 and 29-7-301. A person engaging in self-storage operations whereby members of the public rent space from the person to store goods and chattels and retain control over access to the goods and chattels is not a warehouseman under W.S. 34.1-7-102(a)(viii) and is entitled to a lien under this section.

29-7-102. Right of possession by lien claimant; termination thereof; removal of property without lienholder's consent; penalty therefor; filing of lien statement in lieu of possession.

(a) A lien claimant may retain possession of the property to which the lien pertains until paid for the labor, services, materials and feed which entitle the lien claimant to assert the lien. However, the right of possession terminates six (6) months after the date upon which the charges become due and payable unless the lien claimant has commenced proceedings to foreclose the lien as provided by W.S. 29-7-101 through 29-7-106.

(b) If any person causes to be removed from the possession of a lien claimant any property or part thereof which is subject to the lien created by W.S. 29-7-101 through 29-7-106 from the place where the property was located when the lien is perfected, without the written consent of the owner and the holder of the lien or his agent, either originally or by transfer, the person so removing the property affected by the lien is guilty of a misdemeanor. On conviction he may be punished by a fine of not more than seven hundred fifty dollars (\$750.00).

(c) If a lien claimant desires to continue a lien without retaining possession, he may before voluntarily releasing possession file a lien statement in the office of the county clerk of the county where the property is located, or in the case of a feeder's lien under paragraph (a)(ii) of this section, in the office of the secretary of state.

(d) If possession is terminated without the lien claimant's consent, he may perfect the lien by filing a lien statement on or before thirty (30) days after possession is terminated.

29-7-103. Lien statement; additional contents; county clerk to note lien on certificate of title.

(a) A lien statement under W.S. 29-7-101 through 29-7-106 shall provide in addition to the requirements of W.S.

29-1-301(b) whether the lien claimant was in possession of the property at the time the lien statement was filed or the owner consented to the filing of the lien. Notwithstanding W.S. 29-1-301(a), a feeder's lien created pursuant to W.S. 29-7-101(a)(ii) shall be filed in the office of the secretary of state together with any applicable filing fees.

(b) A lien statement relating to a motor vehicle or other property, title to which is evidenced by a certificate of title, shall not be valid as to the motor vehicle or property unless the county clerk concurrently with the filing of the lien statement places on the certificate of title an appropriate notation showing the date, the amount of the lien and the name of the lien claimant. Each notation under this subsection after the first shall be accompanied by a fee of one dollar (\$1.00) paid to the county clerk. If the county clerk issues the certificate of title, he shall immediately endorse the same encumbrance data on the certificate copy on file in his office. If the certificate is issued in some other county or state the county clerk shall promptly transmit to the state or county officer who issued the certificate of title the same encumbrance data. The other county officer shall promptly place the data on the certificate copy on file in his office.

29-7-104. Termination of lien; effect thereof on claimant's right of possession.

(a) A lien under W.S. 29-7-101 through 29-7-106 terminates:

(i) Upon a lienor's voluntary surrender of possession of the property, unless a lien statement has previously been filed as provided in W.S. 29-7-103;

(ii) One hundred eighty (180) days after the date upon which the work, services, materials and feed giving rise to the lien were performed or furnished unless a lien statement has previously been filed as provided by W.S. 29-7-103; and

(iii) One hundred eighty (180) days after a lien statement is filed as provided in W.S. 29-7-103, unless action to enforce and foreclose the lien has commenced.

(b) Upon termination of a lien, the lien claimant has no further right to possession of the property and no further interest therein.

29-7-105. Repossession; enforcement of lien by sale; notice thereof to known claimants; satisfaction by any claimant; title of good faith purchaser; disposition of proceeds; additional creditors' rights; liability for noncompliance with section; "commercially reasonable".

(a) Subject to the termination of a lien as provided in W.S. 29-7-104, a lienor who has surrendered possession involuntarily has the right to repossess the property subject to the lien. In repossessing a lienor may proceed without judicial process if this can be done without breach of the peace. A lienor may also replevy the property or use any other judicial action available.

(b) A lien arising under W.S. 29-7-101 through 29-7-106 may be enforced by public or private sale of the property en bloc or in parcels at a time or place and on terms which are commercially reasonable after mailing by certified mail, return receipt requested, to their last known address a notice to all persons known to claim an interest in the property. The notification shall include:

- (i) A statement of the amount due;
  - (ii) The nature of the proposed sale; and
  - (iii) The time and place of any public sale.
- (c) Before any sale pursuant to this section any person claiming a right in the property may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section.
- (d) The lien claimant may buy at any public sale pursuant to this section.
- (e) A purchaser in good faith of property sold to enforce a lien under W.S. 29-7-101 through 29-7-106 takes the property free of any rights of persons against whom the lien was valid, despite noncompliance by the lien claimant with the requirements of this section.
- (f) A lien claimant may satisfy his lien from the proceeds of any sale pursuant to this section but shall hold the balance, if any, for delivery on demand to the owner of the property or any person entitled thereto. The owner or any other person demanding delivery of the balance shall furnish to the lien claimant reasonable evidence of his right to take delivery.
- (g) The rights provided by W.S. 29-7-101 through 29-7-106 shall be in addition to all other rights allowed by law to a creditor against his debtor.
- (h) A lien under W.S. 29-7-101 through 29-7-106 may also be enforced in accordance with the procedure set forth in W.S. 34.1-7-210(b).
- (j) A lien claimant is liable for damages caused by failure to comply with this section.
- (k) The fact a better price could be obtained by a sale at a different time or in a different method from that selected by the lien claimant is not sufficient to establish a sale as not made in a commercially reasonable manner.

#### 29-7-106. Priority of lien.

- (a) A lien pursuant to W.S. 29-7-101 through 29-7-106 except as otherwise specifically provided therein shall be prior to all other liens, encumbrances and security interests if the property claimed is in possession of the lien claimant.
- (b) If the property is not in possession of the lien claimant, a lien under W.S. 29-7-101 through 29-7-106 shall be prior to all other liens, encumbrances and security interests, except for a subsequent lien claimant in possession under W.S. 29-7-101 through 29-7-106 or a lien created under W.S. 29-8-102 relating to liens for the production of farm products under contracts executed, entered into, renewed or substantively amended after July 1, 2001.

Editor's Note: a storage facility must comply with 29-7-101 through 29-7-106 AND with the general filing requirements for filing a lien statement under 29-1-301. General practice rules for lien enforcement fall under this Article

## ARTICLE 3 - PRACTICE AND PROCEDURE

29-1-301. Lien statement to be filed; contents; notice; fee.

(a) In order to have a perfected lien pursuant to this title, a lien claimant shall file with the county clerk a lien statement sworn to before a notary public. The county clerk shall file the statement and index by date, name of claimant and property owner, and legal description.

(b) The lien statement and the abstracts shall contain as appropriate the following information:

(i) The name and address of the person seeking to enforce the lien;

(ii) The amount claimed to be due and owing;

(iii) The name and address of the person against whose property the lien is filed;

(iv) An itemized list setting forth and describing materials delivered or work performed;

(v) The name of the person against whom the lien claim is made;

(vi) The date when labor was last performed or services were last rendered or the date when the project was substantially completed;

(vii) The legal description of the premises where the materials were furnished or upon which the work was performed; and

(viii) A copy of the contract, if available.

(c) Notice shall be given to the last known owner in the case of a real estate lien by certified mail and made by the lien claimant promptly after the lien statement is filed.

(d) As a fee for filing a lien statement, the county clerk shall collect from the lien claimant the same fee as provided by W.S. 18-3-402.

(e) The fee may be assessed as costs in any action to foreclose the lien.

29-1-302. Notice of satisfaction to be filed.

Whenever any debt which is a lien pursuant to this title is paid and satisfied, the lien claimant shall file notice of satisfaction of the lien statement in the office of the county clerk of any county in which the lien is filed.

29-1-303. Liability for failure to enter satisfaction.

In addition to any actual damages, any creditor refusing or neglecting to enter satisfaction within thirty (30) days after payment as provided by W.S. 29-1-302 and after having received by certified or registered mail a request in writing for the entering of satisfaction is liable for damages of not less than one-tenth of one percent (.10%) of the

original principal amount of the debt per day until such time as the lien claimant enters satisfaction. The additional damages authorized by this section shall not exceed one hundred dollars (\$100.00) per day.

29-1-304. Rules of Civil Procedure applicable in foreclosure action.

In any action to foreclose a lien the Wyoming Rules of Civil Procedure shall govern.

29-1-305. Priority of liens.

(a) Except as provided in this section the liens provided by this title shall be on an equal footing without reference to the date of the filing of the lien statement.

(b) Any lien perfected as provided by this title attaches to the materials, machinery or supplies furnished and improvements made in preference to any subsequent lien, security interest or mortgage under any other provision of law which has been perfected upon real or personal property, including a leasehold interest, against which the lien is claimed.

(c) Any lien, security interest or mortgage which has been perfected upon real or personal property or upon a leasehold interest prior to the commencement of any construction work or repair of the premises or property except as provided by chapter 7 of this title or W.S. 29-8-102 relating to liens for the production of farm products under contracts executed, entered into, renewed or substantively amended on or after July 1, 2001, shall have priority.

(d) Where a sale is ordered by the court on foreclosure of any lien provided by this title and the proceeds from the sale are insufficient to discharge in full all of the liens, the proceeds shall be prorated among the several lien claimants according to the amounts of their respective claims.

29-1-306. Work or materials furnished considered done under same contract; exceptions.

(a) All work performed or materials furnished by a person entitled to a lien as provided by this title shall be considered as having been done under the same contract unless:

(i) For a contractor, more than one hundred eighty (180) days elapse from the date of the performance of any work or the furnishing of any materials and the date when work or materials are next performed or furnished; or

(ii) For any person not a contractor claiming relief under this title more than ninety (90) days elapse as provided in paragraph (a)(i) of this subsection.

29-1-307. Notice of foreclosure to prior perfected lienholders; effect of failure to notify.

The holder of any prior perfected lien upon the land or the leasehold interest is entitled to notice in suits to foreclose the lien. A foreclosure proceeding shall not be rendered invalid by failure to give the notice required by this section.

29-1-308. Remedies not exclusive.

The remedies provided by this title are not exclusive.

29-1-309. Filing and recording fees.

The county clerk shall be paid the same fees as provided by W.S. 18-3-402 for filing and recording all papers under this title.

29-1-310. Bond to satisfy lien; terms of bond; filing and effect thereof; action upon bond.

(a) Any lien created pursuant to Title 29 filed against any property, personalty or realty is satisfied if the owner of the property, a contractor or subcontractor has filed a corporate surety bond, letter of credit, cash or cash equivalent of established value approved by the district court in the county where the lien was filed in an amount equal to one and one-half (1 1/2) times the amount of the lien.

(b) The bond shall guarantee that if the lien claimant is finally adjudged to be entitled to recover upon the lien, the principal or his sureties, jointly and severally, shall pay the claimant the amount of and [the] judgment for at least the amount for which the lien was filed plus costs.

(c) The bond may be filed any time prior to a final judgment in an action to foreclose the lien.

(d) The bond shall be filed with the clerk of the district court in the county where the lien was filed.

(e) Upon the filing of the bond, the lien against the property shall be forthwith discharged and released in full, and the security described in subsection (a) of this section shall be substituted. The clerk of court shall issue a notice of satisfaction of lien which the owner, contractor or subcontractor may file in the office of the county clerk where the lien was filed which shall show that the lien has been satisfied.

(f) A lien claimant whose lien has been satisfied by the substitution of the security described in subsection (a) of this section may bring an action upon the bond or undertaking. The action shall be commenced within the time allowed for the commencement of an action to foreclose the lien.

29-1-311. False or frivolous liens; damages; penalties.

(a) Any claim of lien against a federal, state or local official or employee based on the performance or nonperformance of that official's or employee's duties shall be invalid unless accompanied by a specific order from a court of competent jurisdiction authorizing the filing of the lien or unless a specific statute authorizes the filing of the lien.

(b) Any person whose real or personal property is subject to a recorded claim of lien who believes the claim of lien is invalid under subsection (a) of this section, was forged, or that the person claiming the lien knew at the time of filing the lien was groundless, contained a material misstatement or false claim, may petition the district court of the county in which the claim of lien has been recorded for the relief provided in this subsection. The petition shall state the grounds upon which relief is requested, and shall be supported by the affidavit of the petitioner or his attorney setting forth a concise statement of the facts upon which the motion is based. The clerk of court shall assign a cause number to the petition and obtain from the petitioner a filing fee of thirty-five dollars

(\$35.00). Upon the filing of the petition the following shall apply:

(i) The court may enter its order, which may be granted ex parte, directing the person claiming the lien to appear before the court at a time no earlier than six (6) nor later than fifteen (15) days following the date of service of the petition and order on the person claiming the lien, and show cause, if any, why the relief provided in this subsection should not be granted;

(ii) The order shall clearly state that if the person claiming the lien fails to appear at the time and place noted, the claim of lien shall be stricken and released, and that the person claiming the lien shall be ordered to pay damages of at least one thousand dollars (\$1,000.00) or actual damages, whichever is greater, and the costs incurred by the petitioner, including reasonable attorneys' fees;

(iii) The order and petition shall be served upon the person claiming the lien by personal service, or, where the court determines that service by mail is likely to give actual notice, the court may order that service be made by mailing copies of the petition and order to the person claiming the lien at his last known address or any other address determined by the court to be appropriate. Two (2) copies shall be mailed, postage prepaid, one by ordinary first class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes shall bear the return address of the sender;

(iv) If, following a hearing on the matter the court determines that the claim of lien is invalid under subsection (a) of this section, was forged or that the person claiming the lien knew at the time of filing the lien was groundless or contained a material misstatement or false claim, the court shall issue an order striking and releasing the claim of lien and awarding damages of one thousand dollars (\$1,000.00) or actual damages, whichever is greater, costs and reasonable attorneys' fees to the petitioner to be paid by the person claiming the lien;

(v) If the court determines that the claim of lien is valid, the court shall issue an order so stating and shall award costs and reasonable attorneys' fees to the person claiming the lien to be paid by the petitioner.

(c) Any person who offers to have recorded or filed a forged or groundless lien in violation of this section with the intent to threaten, harass or intimidate a public official or employee in the performance or nonperformance of his official duties is guilty of a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00), imprisonment for not more than six (6) months, or both.