

LIENS

CHAPTER 163

S. B. No. 75—(Jones and Stucke)

HOSPITAL AND CHARITABLE INSTITUTION LIENS

An Act to provide for liens in favor of hospitals and other charitable institutions furnishing care, treatment and maintenance of persons injured in accidents, not subject to the provisions of the Workmen's Compensation Act of North Dakota, for the reasonable value of the service so rendered, upon the rights of action, claims or demands of such injured persons, or judgments recovered thereon, against other persons, or corporations, liable in tort for damages, on account of negligence causing the injuries, and upon the proceeds of the settlements of any such claims or demands; and upon and against the insurer of such tort feisor or tort feors; and upon insurance held by the injured person, and providing for constructive notice upon such insurers, tort feors and their insurers, if any, by a filing of a lien statement with the Clerk of the District Court of the county in which such services are rendered.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Every charitable association, corporation or other institution, maintaining a hospital in the state of North Dakota, shall, for hospitalization services rendered, be entitled to a lien upon any and all rights of action, claims or demands of such injured persons, or judgments recovered thereon against other persons or corporations, liable in tort for damages, on account of negligence causing the injuries, and upon the proceeds of the settlements of any such claims or demands and upon the insurer of such tort feisor or tort feors, for the reasonable value of the services so rendered to such injured person, and by serving notice of intention to file such lien upon the person or corporation liable for such damages, such notice to be served by registered mail or by personal service in the manner now provided for service of a summons, and upon filing at any time after the rendering of such services has commenced, or from time to time, as to services already rendered, as such institution may deem best, and at least within thirty days after such services have been rendered and completed, in the office of the Clerk of the District Court of the county in which such services were rendered, a lien statement, containing the name of the injured person to whom such services were rendered, and his address as shown upon the hospital records, the date of his admission, and if released at the time of the filing of such lien, the date of his release from the hospital, the name of the person or persons, corporation or corporations alleged or claimed to have been guilty of the negligence causing such injuries, and their addresses, if known, or ascertainable from the hospital records, the name of any person or corporation and their address if known or ascertainable from the hospital records, insuring such tort feisor or

tort feasons against liability on account of negligence, the name of any insurer covering the injured person, if known; an itemized statement of the hospital's charges, and the total sum claimed to be due, which said lien statement shall be signed in the name of the hospital or institution claiming such lien and verified on behalf of such institution by some person authorized so to do and possessing knowledge of the facts above required, such affidavit showing that the facts therein set forth are true to the best of the knowledge, information and belief of the person making such verification, and that the charges for services made are the reasonable and usual charges of such hospital or institution for such services, and that the sum claimed therein is due and unpaid, together with proof of service of the notice of intention to file a lien.

§ 2. The Clerk of the District Court wherein such lien with proof of service is filed shall endorse thereon the date and hour of filing, and make an abstract thereof in a book kept for that purpose, to be known as "The Hospital Lien Book," which book shall be properly indexed and shall contain the name of the hospital or institution filing such lien, the date and hour filed, the amount claimed, and the name of the person or persons, corporation or corporations against whom it is filed, and the name of the person to whom such services are rendered, and of any insurer of such injured person, and the number of the file or files where such original lien is kept. The hospital filing such lien shall pay to the Clerk of the District Court in which the lien claim is filed, the sum of fifty cents (50c) as the fee for filing and indexing each lien.

§ 3. Filing of such lien from the time thereof shall be constructive notice to all persons of the claim of said hospital and of its right to a lien upon any claim or demand or cause of action against such tort feasons and the insurer or insurers of such tort feasons, or an insurer of the injured person, and no release of any judgment, claim or demand by such injured person, shall be valid or effective as against such lien, and the person or persons, firm or corporation making any payment to such injured person, or his legal representative, as compensation for injuries sustained, as in settlement of a cause of action claimed to exist for negligence causing such injuries, or out of insurance carried by such tort feasons by the person or corporation furnishing such insurance, shall remain liable to such hospital for the amount of the reasonable charges due at the time of such payment to the extent of the full and true consideration paid or given to the injured person, and any such hospital or institution may enforce its lien by an action at law, against such person or persons, firm or corporation, tort feason or its insurer, by a civil action, provided that judgment obtained against such tort feason or insurer shall not prevent such hospital or institution from collecting the amount of its account against the person for whom said services were rendered, or his insurer, unless payment shall have been made by the

tortfeasor, or the insurer, to such hospital, and then only to the extent that such payment shall have been made.

§ 4. Upon the trial of any action for damages for personal injuries wherein it appears at the trial that services were rendered in hospitalization of the injured person, the court before whom such action is tried, shall require the Clerk of the District Court to search the records, for information as to whether a lien has been filed, and if such lien has been filed, mention of that fact shall be made in the judgment together with the amount claimed and in the event of the collection of such judgment under execution, upon the return of such execution, a sum equal to the amount claimed in said lien, shall be deposited with the Clerk of the District Court for payment of said lien, if the parties involved admit the facts set forth in said lien, provided that if such lien is contested, then such sum to abide the final event of an action to enforce the same, which action must be brought by such hospital or institution upon demand, following such deposit, of any of the parties interested, within sixty days after such demand.

§ 5. In the event that such injured person receiving hospitalization shall have a contract providing for indemnity or compensation for the sum incurred for hospitalization received by such injured person, such hospital shall have a lien upon the amount payable under said contract and the party obligated to make reimbursement for such hospitalization under such contract may pay the sum due thereunder directly to such hospital and such payment shall constitute a full release of the party making such payment under such contract to the amount of such payment; provided, however, that if the amount of the claim is contested, payment shall be made to the Clerk of the District Court and shall be subject to all of the terms and conditions stated in Section 4 hereof.

§ 6. Any person or persons, firm or corporation legally liable under this act and against whom a claim shall be asserted for compensation for such injuries, shall be permitted to examine the records of any such hospital which has filed such a claim in reference to such treatment, care and maintenance of such injured person.

§ 7. The provisions of this act shall not apply to any money becoming due under the Workmen's Compensation Act of the State of North Dakota.

§ 8. Action to enforce said lien shall be commenced within one year after the filing of such lien; except that in cases where the cause of action against tortfeasor or insurers shall not have become barred, or actions shall pend, involving the question of liability, then such lien shall continue effective until the final termination of such action or actions, and for a period of one year thereafter.

Approved March 6, 1935.

CHAPTER 164

H. B. No. 313—(Bauer, Bettenhausen and Ritter)

DESTRUCTION OUTLAWED LIENS BY REGISTER OF DEEDS

An Act authorizing and directing the register of deeds in the various counties to remove from their files and destroy outlawed seed liens, labor liens, stallion liens, chattel mortgages and threshing liens filed prior to January 1, 1920, and by reason of failure of renewal as by statute provided have become outlawed; requiring records to be kept.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. REGISTER OF DEEDS TO REMOVE WHAT.] That the register of deeds in the various counties in the State of North Dakota are hereby directed to remove from the files in their offices, and to destroy all seed liens, labor liens, stallion liens, chattel mortgages and threshing liens filed prior to January 1, 1920 and which by reason of the failure to renew the same by affidavit, or otherwise, have become outlawed and no longer constitute liens upon the property mentioned or described therein; such removal and destruction to be made on or before August 1, 1935, or as soon thereafter as conveniently possible.

§ 2. RECORD TO BE MADE.] At the time of destroying said files the register of deeds shall note on the margin of the index opposite the record of each instrument so removed and destroyed, the date when the same was destroyed.

Approved March 13, 1935.

CHAPTER 165

H. B. No. 287—(Erickson of McKenzie)

SUGAR BEET PRODUCTION LIEN

An Act creating and establishing a lien in connection with the planting, cultivation and harvesting of sugar beets, to be known as Sugar Beet Crop Production Lien, providing the manner in which such lien shall be perfected, the priority thereof, repealing all acts in conflict herewith, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. SUGAR BEET PRODUCTION LIEN, WHO MAY HAVE.] Any person, association, co-partnership or corporation, who shall enter into a contract to furnish to another sugar beet seed to be planted, insecticide, fertilizer to be used upon the land so planted, labor in connection with the cultivation, harvesting and hauling thereof, as well as any cash advances made, or material or services rendered, or any part or portion thereof necessary in the production and harvest-

ing of sugar beet crops, shall be entitled to a lien upon the crop so raised for the full amount to become due under and in accordance with the terms and conditions of said contract.

§ 2. PROCEDURE TO OBTAIN LIEN.] Any person, association, co-partnership or corporation, entitled to a lien under this act shall, within sixty days from the date of entering into such contract file in the office of the register of deeds of the county in which such crop is to be grown a verified copy of such contract containing, among other things, the name and postoffice address of all parties to the contract and a description of the land upon which such crop is to be grown. Unless such contract shall be filed within the time aforesaid such person, association, co-partnership or corporation shall be deemed to have waived the right to such lien.

§ 3. PRIORITY.] The lien given by this act shall, as to the crops covered thereby, have priority over all other liens and encumbrances thereon.

§ 4. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

§ 5. Whereas an emergency exists in that the Government Agencies hold that the present law affords no protection for loans therefore this act is hereby declared to be an emergency measure and shall be in force and effect from and after its passage and approval.

Approved March 13, 1935.

MINING

CHAPTER 166

S. B. No. 122—(McDonald and Cain)

STATE COAL MINE INSPECTOR

An Act to amend and re-enact Sections 3084a2, 3084a3, 3084a7 and 3084a9, Supplement to the Compiled Laws of 1913, providing for the appointment of the State Coal Mine Inspector by the Workmen's Compensation Bureau, defining eligibility to that office, providing for assistance and instruments to be furnished to the inspector and for payment therefor and providing for the filling of temporary vacancies in the office, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Section 3084a2 Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 3084a2. OFFICE OF STATE COAL MINE INSPECTOR CREATED.] The Workmen's Compensation Bureau shall appoint one State Coal