

## CHAPTER 5.

## AN ACT

[S. B. 49]

Providing for the forwarding of all Resolutions and Memorials to the several persons or officers to whom addressed, and declaring an emergency.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. That the Secretary of the Territory shall forward certified copies of all Resolutions and Memorials passed by the Legislature to the person or persons, officer or officers, to whom the same may be addressed immediately after the filing of the same in his office, except where other provisions for forwarding is made in such Resolutions and Memorials.

Secretary of  
Territory to  
transmit copies  
of resolutions,  
etc.

Section 2. That an emergency is hereby declared to exist and this act shall take effect immediately on its passage and approval.

Emergency.

Approved April 22, 1921.

## CHAPTER 6.

## AN ACT

[H. B. 8]

In relation to liens upon logs, lumber and other timber, and providing that any person supplying or performing labor or services upon, or assisting in obtaining, securing or furnishing saw logs, spars, cord-wood, fuel-wood, shingle bolts, or other timber or lumber, shall have a lien thereon for such labor or services; and repealing Sections 709 to 724, both inclusive, of the Compiled Laws of Alaska.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. Every person performing labor upon, or who shall assist in obtaining or securing saw-logs,

Lien of laborers  
provided for.

Tug boats.

Owners of teams and traction engines.

Cook and other laborers about camps and on roads.

Owners of land.

spars, piles, cordwood, fuelwood, shingle bolts, or other timber, and owner or owners of any tugboat, or towboat which shall tow or assist in towing from one place to another within this Territory, any saw-logs, spars, piles, cordwood, fuelwood, shingle bolts, or other timber, and the owner of any team or any logging or traction engine which shall haul or assist in hauling from one place to another within this Territory, any saw-logs, spars, piles, cordwood, fuelwood, shingle bolts or other timber, and the owner or owners of any logging road over which saw-logs, spars, piles, cordwood, fuelwood, shingle bolts, or other timber, shall be transported and delivered, shall have a lien upon the same for the work or labor done upon, or in obtaining or securing, or for services rendered in towing, transporting, hauling, or driving, the particular saw-logs, spars, cordwood, fuelwood, shingle bolts, or other timber in the claim of lien described herein, whether such work, labor or services was done, rendered or performed at the instance of the owner of the same or his agent. The cook and other laborers in and about the logging or wood camp, and the teamsters transporting said saw-logs, spars, piles, cordwood, fuelwood, shingle bolts or other timber, and the laborers on roads and trails (not public roads or trails) used for the transportation of the aforesaid saw-logs, spars, piles, cordwood, fuelwood, shingle bolts, or other timber, shall be regarded as persons who assisted in obtaining, securing and delivering, the timber herein mentioned.

Section 2. Any person who shall permit another to go upon his land and cut thereon saw-logs, piles, spars, cordwood, fuelwood, shingle bolts, or other timber, has a lien upon the same for the price agreed to be paid for such privilege, or for the price such privilege would be reasonably worth in case there was no express agreement fixing the price.

Section 3. The liens provided for in this Act are

preferred liens and are prior to any other liens and no sale or transfer of any saw-logs, spars, piles, cordwood, fuelwood, shingle bolts, or other timber shall divest the lien thereon as herein provided for, and as between liens provided for herein those for work and labor shall be preferred: Provided, that as between liens for work and labor claimed by several laborers on the same logs, spars, piles, cordwood, fuelwood, shingle bolts or other timber, the claim or claims for work or labor done or performed on the identical logs, piles, spars, cordwood, fuelwood, shingle bolts or other timber proceeded against to the extent that the same can be identified, shall be preferred as against the general claim of liens for work and labor recognized and provided for in this act. The person rendering the service or doing the work or labor named in Section 1 of this Act is only entitled to the liens provided herein for services, work or labor for the period of six calendar months, or any part thereof next preceding the filing of the claim, as hereinbefore provided for, and the person granting the privilege mentioned in Section 2 of this Act is only entitled to the lien as provided therein for saw-logs, spars, piles, cordwood, fuelwood, shingle bolts and other timber cut during the six months next preceding the filing of the claim, as hereinafter in the next succeeding section provided.

Preferred liens.

Priority between classes of liens.

Limitation of time of lienable service.

Section 4. Every person within forty-five days after the close of the rendition of the service, or after the close of the work or labor mentioned in Section 1 of this Act, claiming the benefit hereof, must file for record with the recorder of the Recording District in which such saw-logs, spars, piles, cordwood, fuelwood, shingle bolts, or other timber were cut, a claim containing a statement of his demand and the amount thereof, after deducting as nearly as possible all just credits and offsets, with the name of the person by whom he was employed, with a statement of the terms

Claim of lien to be recorded, when and where.

and conditions of his contract, if any, and in case there is no express contract, the claim shall state what such service, work or labor is reasonably worth; and it shall also contain a description of the property to be charged with the lien sufficient for identification with reasonable certainty, which claim must be verified by the oath of himself or some other person having knowledge of the facts, to the effect that affiant believes same to be true, which claim shall be substantially in the following form:

### CLAIM OF LIEN.

..... Claimant, vs. ....

General form of  
lien.

Notice is hereby given that....., residing at  
....., Territory of Alaska, claims a lien  
upon a ..... of ....., being about ..... in  
quantity, which were cut in ..... Precinct, Territory  
of Alaska, and are now lying or being at .....,  
for labor performed and assistance rendered in .....  
said .....; that the name of the owner or re-  
puted owner is .....; that ..... employed said  
..... to perform such labor and render such as-  
sistance upon the following terms and conditions, to-  
wit:—

That said ..... agreed to pay the ..... for such  
labor and assistance .....; that said contract has  
been faithfully performed and fully complied with on  
the part of said ....., who performed labor upon and  
assisted in ..... for the period of .....; that  
said labor and assistance were so performed and ren-  
dered upon said ....., between the ..... day of  
..... and the ..... day of .....; and the ren-  
dition of said services was closed on the ..... day of  
....., and forty-five days have not elapsed since  
that time; that the amount of claimant's demand for  
said service is .....; that no part thereof has been  
paid except ....., and there is now due and re-  
maining unpaid thereon, after deducting all just credits

and offsets the sum of ....., in which amount he claims a lien upon said ..... The said ..... also claims a lien on all said ..... now owned by said ..... in said Precinct, to secure payment for the work and labor performed in obtaining or securing the said saw-logs, spars, piles, cordwood, fuelwood, shingle bolts or other timber herein described.

.....  
(Signature)

United States of America, }  
Territory of Alaska, } ss.

..... being first duly sworn on oath says that he is ..... named in the foregoing Claim of Liens, has heard the same read, knows the contents thereof and believes the same to be true.

.....  
(Signature)

Subscribed and sworn to before me this ..... day of .....

.....  
(Signature)

Section 5. Every person mentioned in Section 2 of this Act claiming the benefit thereof must file for record within forty-five days from the cutting of the same, with the recorder of the recording precinct in which such saw-logs, spars, piles, cordwood, fuelwood, shingle bolts or other timber were cut, a claim in substance the same as provided in the next preceding section of this Act and verified as therein provided.

Owner of land to record claim of lien.

Section 6. The recorder of the district must record any claim filed under this Act in a book kept by him for this purpose, which record must be indexed, as deeds and other conveyances are required by law to be

Recorder to record.

indexed, and for which he may receive the same fees as are allowed by law for recording deeds and other instruments.

Suit to fore-  
close to be com-  
menced within  
six months.

Section 7. No lien provided for in this Act binds any sawlogs, spars, piles, cordwood, fuelwood, shingle bolts, or other timber, for a longer period than six calendar months after the claim as herein provided has been filed, unless a civil action be commenced in the district court of the judicial division in which the same is filed, within that time, to enforce the same; PROVIDED, however, that in case such civil action so commenced should for any cause other than the merits, be nonsuited or dismissed, then the claim shall continue for the period of thirty days from the date of the order of nonsuit or dismissal if the said six months have expired, to permit the commencement of another action, which shall be as effective in prolonging the lien as if it had been entered during the term of six months hereinbefore stated.

Proviso.

Lien not lost on  
saw logs or  
shingle bolts,  
when.

Section 8. The lien herein provided for on saw-logs and shingle bolts shall not be released or lost by the manufacture of such saw-logs or shingle bolts into lumber or shingles, but such lien may be enforced against such lumber and shingles so manufactured therefrom. But no lien of any kind or character shall be had upon or enforced against any lumber or logs after the same shall have been used in the construction of any building or other structure or upon any spars, piles or other timber herein mentioned after the same shall have been put to the use for which it was intended.

Not enforce-  
able, when.

Liens to be en-  
forced, how.

Section 9. The liens provided for in this Act shall be enforced by a civil action in the district court of the division in which the lien was filed and shall be governed by the laws regulating the proceedings in civil action touching the mode and manner of trial, and

the proceedings to secure property so as to hold it for the satisfaction of any lien that may be against it; except as hereinafter provided.

Section 10. The United States Marshal of the division in which the lien is filed shall be the receiver, when one is appointed, and the district court upon a showing made, shall appoint such receiver, without notice, who shall be allowed such fees as may seem just to the court, which fees shall be accounted for by such marshal as other fees collected by him in his official capacity: PROVIDED, that at any time when any property, subject to the liens herein provided, is in the custody of such marshal under the provisions of such act, any person claiming any interest therein may deposit with the clerk of the court in which such action is pending, a sum of money equal in amount to the claim sued upon, together with one hundred (\$100) dollars, to cover costs and interest, (unless the court shall make an order fixing a different amount to cover such costs and interest), and shall have the right to demand and receive forthwith from such marshal the possession and custody of such property.

Marshal to be receiver.

Claimant may release property, when.

Section 11. If the defendant or defendants appear in any suit to enforce any lien provided for in this chapter, he or they shall make their answer on the merits of the complaint, and any motion or demurrer against the said complaint must be filed with the answer; and no motion to make the complaint more definite or certain shall be allowed, if it appear to the court that the defendant or defendants have or should have knowledge of the facts, or that it can be made more definite and certain by facts which will necessarily appear in the testimony; but the case, unless the court sustains the demurrer to the complaint, shall be heard on the merits as speedily as possible, and amendments of the pleadings, if necessary, shall be liberally allowed.

Defendants to answer to merits.

Section 12. No mistake or error in the statement of the demand, or of the amount of credits and offsets allowed, or of the balance asserted to be due to the claimant, nor in the description of the property against which the claim is filed shall invalidate the lien, unless the court finds that such mistake or error in the statement, of the demand, credits and offsets or of the balance due was made with intent to defraud, or the court shall find that an innocent third party without notice, direct or constructive, has, since the claim was filed, become the bona fide owner of the property liened upon and the notice of claim was so deficient that it did not put the party upon further inquiry in any manner.

No mistake or error to invalidate lien, unless.

Section 13. It shall be conclusively presumed by the court that a party purchasing the property liened upon within forty-five days given herein to claimants wherein to file their liens, is not an innocent third party, nor that he has become a bona fide owner of the property liened upon, unless it shall appear that he has paid full value for the property and has seen that the purchase money of the said property has been applied to the payment of such bona fide claims as are entitled to liens upon the said property under the provisions of this Act according to the priorities herein established.

Presumption against bona fide purchaser, unless.

Section 14. Any person who shall bring an action to enforce the lien herein provided for or any person, having a lien as herein provided for, who shall be made a party to any such action has the right to demand that such lien be enforced against the whole, or any part, of the saw-logs, spars, piles, cordwood, fuelwood, shingle bolts or other timber or lumber or shingles manufactured therefrom upon which he has performed labor or which he has assisted in securing or obtaining, or which has been cut on his land during the six months next preceding the filing of his lien for all his

May be enforced against whole or part or lienable property.

labor upon, or for all his assistance in obtaining or securing for such saw-logs, spars, piles, cordwood, fuelwood, shingle bolts, or other timber, lumber or shingles manufactured therefrom, during the whole, or any part, of the six months mentioned in Section 1, or for timber cut during the whole, or any part, of the six months above mentioned.

Where proceedings are commenced against any lot of saw-logs, spars, piles, cordwood, fuelwood, shingle bolts, or other timber or lumber or shingles manufactured therefrom, and some of the lienors claim liens against specific saw-logs, spars, piles, cordwood, fuelwood, shingle bolts or other timber or lumber or shingles manufactured therefrom and others against the same generally to secure their claims for work and labor, the priority of the liens shall be determined as hereinbefore provided.

Priority between lien claimants.

Section 15. Any number of persons claiming liens under this Act may join in the affidavit of claims mentioned and provided for in Section 3, and may join in the same action and when separate actions are commenced the court may consolidate them. The court shall allow as part of the costs the moneys for filing, making and recording the claims of lien and a reasonable attorney's fee for each person claiming a lien for the foreclosure thereof.

Lien claims and actions may be consolidated.

Section 16. Any person who, as a contractor, supplies saw-logs, spars, piles, cordwood, fuelwood, shingle bolts, or other timber, or lumber or shingle manufactured therefrom, under a contract shall be entitled to the lien hereinabove provided for, to the amount due on his contract, but such contractor's lien shall be subject and subsequent to the liens of the laborers, hereinabove provided for, for the amounts due them for labor thereon.

Contractors to have lien.

Section 17. In every civil action for the enforcement of liens judgment must be rendered in favor of each person having a lien for the amount due to him, and the court or judge shall order any property subject to the lien herein provided for to be sold by the marshal in the same manner that personal property is sold on execution and the court or judge shall apportion the proceeds of such sale to the payment of each judgment, according to the priorities established in this Act, pro rata, in its class according to the amount of such judgment, and the court or judge thereof may in vacation, upon motion supported by affidavit showing that the property is liable to loss or destruction, order any property subject to a lien as in this Act provided for to be sold by the marshal as personal property is sold on execution before the judgment is rendered, and the proceeds of such sale must be paid into court to be applied as herein directed.

Judgment and sale.

Section 18. Any person, firm or corporation who shall eloin, injure or destroy or who shall render difficult, uncertain or impossible of identification any saw-logs, spars, piles, cordwood, fuelwood, shingle bolts, or other timber upon which there is a lien as herein provided, without the express consent of the person entitled to such lien, shall be liable to the lien-holder for the damages to the amount secured by his lien, together with costs and charges of drawing and recording such lien and reasonable attorney's fee for the foreclosure thereof, and the same being shown to the court in the action to enforce said lien it shall be the duty of the court to enter a personal judgment for the amount of said damages in such action against the said person, provided he be a party to such action, or the damages may be recovered in a civil action against such person.

Action for damages against party eloining property liened.

Section 19. Every person performing work or labor or assisting in manufacturing saw-logs and other timber into lumber has a lien upon such lumber while the

same remains at the mill where the same was manufactured, or in the possession or under the control of the manufacturer, whether such work or labor was done at the instance of the owner of such logs or his agent or any contractor or sub-contractor of such owner. The term lumber, as used in this section, shall be held, and be construed to mean all logs or other timber sawed or split for use, including beams, joists, planks, bolts, shingles, rails, stays, hoops, and every article of whatsoever nature, kind or description manufactured from saw-logs or other timber.

Liens on  
lumber.

Section 20. Every person desiring to claim the benefits of Section 19 of this Act shall within forty-five days, after the close of the service mentioned therein, file for record with the recorder of the precinct where said lumber was manufactured a notice of his claim of lien containing a statement of his demand or the amount thereof, in substance and form similar to that provided for and set forth in Section 4 of this Act, and the provisions of this Act relative to the liens of persons performing labor upon, or assisting, obtaining and securing saw-logs, spars, piles, cordwood, fuelwood, shingle bolts or other timber shall apply in all respects, where applicable, to the liens of persons performing work or labor in manufacturing lumber, as set forth in Section 19 hereof.

Notice to be  
recorded.

Section 21. That Sections 709 to 724, both inclusive, of the Compiled Laws of Alaska are hereby repealed.

Repeal.

Section 22. The purpose of this Act being remedial to secure laborers, contractors and sub-contractors the amounts due them for labor performed in producing, furnishing saw-logs, spars, piles, cordwood, fuelwood, shingle bolts and other timber or lumber or shingles manufactured therefrom, this Act shall be liberally construed to effect such purpose.

Act to be liber-  
ally construed.

[NOTE—The foregoing Chapter, was returned by the Governor to the House of Representatives for correction thereof on May 3, 1921, and the House on reconsideration thereof on said day passed the same by a vote of 16 ayes and no nays, and the Senate on May 5, on reconsideration by a vote of 7 ayes and 1 nay passed the same, the objection of the Governor to the contrary notwithstanding.]

## CHAPTER 7.

### AN ACT

[S. B. 38]

To amend Sections 5, 6, 7 and 8 of Chapter 55, Alaska Session Laws, 1919, which act relates to diseased livestock; to provide for inspection of livestock and to make provision for carrying out this Act, and declaring an emergency.

Be it enacted by the Legislature of the Territory of Alaska:

That Sections 5, 6, 7 and 8 of Chapter 55 of Alaska Session Laws, 1919, be hereby amended to read as follows:

Livestock subject to inspection and quarantine and slaughter, when.

Section 5. Horses, cattle or swine, for work, feeding, breeding or dairy purposes in the Territory of Alaska shall be subject to inspection and test for all diseases, and to quarantine, slaughter or destruction where found to be infected with or suffering from any contagious disease by an Inspector of the Bureau of Animal Industry, United States Department of Agriculture, or by a qualified inspector duly authorized by the Governor of Alaska to make inspection and tests of animals, in the Territory of Alaska; such inspection and test as far as it relates to animals kept for dairy purposes, by dairies that offer their products to the public generally in the Territory of Alaska and to animals kept for private dairy purposes, provided they are readily accessible, shall be made at least once every year, if possible, and all animals which are not

Dairy animals to be inspected annually.