



Storage Liens Act 1973

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Queensland

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Storage Liens Act 1973

An Act to amend the law relating to warehousing of goods

1 Short title

This Act may be cited as the *Storage Liens Act 1973*.

2 Interpretation

In this Act—

goods includes personal property of every description (save a motor vehicle) that may be deposited with a storer as bailee.

motor vehicle means a motor car, motor carriage, motor cycle, tractor or other vehicle propelled or designed to be propelled, wholly or partly by a volatile spirit, steam, gas, oil or electricity or by any means other than by human or animal power.

storer means a person lawfully engaged in the business of storing goods as a bailee for reward.

3 Declaration of storer's lien

Subject to section 5, every storer shall have a lien on goods deposited with the storer for storage, whether deposited by the owner of the goods or by the owner's authority, or by any person entrusted with the possession of the goods by the owner or by his or her authority.

4 Charges covered by lien

The lien shall be for the amount of the storer's charges, that is to say—

- (a) all lawful charges for storage and preservation of the goods; and
- (b) all lawful claims for money advanced, interest, insurance, transportation, labour, weighing, cooperating, 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 storer's lien.

4A Priority of storer's lien

- (1) The storer's lien on goods—
 - (a) is declared to be a statutory interest to which section 73(2) of the *Personal Property Securities Act 2009* (Cwlth) applies; and
 - (b) has priority over all security interests in relation to the goods.

- (2) In this section—

security interest has the meaning given by the *Personal Property Securities Act 2009* (Cwlth), section 12.

5 Necessity of notice by storer where goods deposited by person entrusted with possession

- (1) Subject to subsection (4) the storer shall within 3 months after the date of the deposit of the goods give notice of the lien—
 - (a) to any person who has before the expiration of 2 months after the date of the deposit of the goods served upon the storer a notice, containing the prescribed particulars, of the person's claim to be the owner of the goods or of an interest in them or to be entitled to some charge thereon or of whose interest in them the storer has received notice as prescribed; and
 - (b) to the grantee or (where a transfer or assignment by the grantee has been registered under the *Bills of Sale and*

Other Instruments Act 1955, part 2) to the transferee or assignee of a bill of sale—

- (i) which relates to the goods; and
 - (ii) which was granted by the person depositing the goods or by any other person of whose interest in the goods the storer has knowledge; and
 - (iii) which was registered in accordance with the said part 2 prior to the date of the deposit of the goods; and
 - (iv) which has not ceased to have any effect as to the chattels comprised therein or subject thereto or in respect of which a satisfaction has not been registered; and
- (c) to any other person of whose interest in the goods the storer at any time before the expiration of 2 months after the date of the deposit of the goods has knowledge.
- (2) The notice given by the storer under this section must be in the approved form and contain—
- (a) a sufficient description of the goods; and
 - (b) a statement showing the location where the goods are stored, the date of their deposit with the storer, and the name of the person by whom they were deposited; and
 - (c) a statement that a lien is claimed by the storer in respect of the goods under this Act; and
 - (d) such other particulars as are prescribed.
- (3) Where the storer fails to give the notice required by this section, the storer's lien, as against the person to whom the storer has failed to give notice, shall be void as from the expiration of the period of 3 months from the date of the deposit of the goods.
- (4) Nothing in this section requires notice of the lien to be given to the person by whom, or by whose authority, the goods were deposited with the storer.

6 Power to sell goods

- (1) In addition to all other remedies provided by law for the enforcement of liens or for the recovery of storer's charges, a storer may sell by public auction, in the manner provided in this section, any goods upon which the storer has a lien for charges which have become due.
- (2) The storer shall give written notice of the storer's intention to sell—
 - (a) to the person liable as debtor for the charges for which the lien exists; and
 - (b) to any person who has served upon the storer a prescribed notice of the person's claim to be the owner of the goods or of some interest therein or to be entitled to some charge thereon or of whose interest in them the storer has received notice as prescribed; and
 - (c) to the grantee or (where a transfer or assignment by the grantee has been registered under the *Bills of Sale and Other Instruments Act 1955*, part 2) to the transferee or assignee of a bill of sale—
 - (i) which relates to the goods; and
 - (ii) which was granted by the person depositing the goods or by any other person of whose interest in the goods the storer has knowledge; and
 - (iii) which was registered in accordance with the said part 2 prior to the date of the deposit of the goods; and
 - (iv) which has not ceased to have any effect as to the chattels comprised therein or subject thereto or in respect of which a satisfaction has not been registered; and
 - (d) to any other person of whose interest in the goods the storer has knowledge.
- (3) The notice shall contain—
 - (a) a sufficient description of the goods; and

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- (b) a statement showing the location where the goods are stored, the date of their deposit with the storer, and the name of the person by whom they were deposited; and
 - (c) an itemised statement of the storer's charges showing the sum due at the time of the notice; and
 - (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 date mentioned, not less than 30 days from the giving of the notice in a manner prescribed; 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.
- (4) Where the charges are not paid on or before the day mentioned in the notice, and advertisement of the sale, describing the goods to be sold, and stating the time and place of sale, shall be published—
- (a) in a newspaper published in Brisbane and circulating throughout the State;
 - (b) in a newspaper (if any) published in the district in which are situated the premises where the goods are deposited with the storer.
- (5) The sale shall be held not less than 28 days from the date of the publication in pursuance of subsection (4) of the advertisement, or where the advertisement is so published in more than 1 paper and on different days, the date of the last such publication.
- (6) A Magistrates Court constituted by a stipendiary magistrate sitting alone held in the district in which are situated the premises where the goods are deposited with the storer may, on the application in the manner prescribed of any person having an interest in the goods, at any time after the giving of the notice by order stay further proceedings under this section for such period and on such terms as it deems just, and no proceedings under this section shall be taken by the storer

after due service of such order on the storer, and during the period specified in the order.

- (7) This section shall apply only to cases in which some part of the charges in arrear are in respect of a period more than 6 months prior to the date upon which the notice of intention to sell is given.

7 Sufficiency of notices

Where a notice of lien under section 5, or a notice of intention to sell under section 6 has been given, but such provisions have not been strictly complied with, if any court before whom any question respecting the notice is tried or inquired into considers that such provisions have been substantially complied with, or that it would be inequitable that the lien or sale shall be void by reason of such noncompliance, 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.

8 Substituted service of notices

- (1) Regulations made under section 20 may provide for the giving of notice by advertisement in cases where any person to whom notice may be given pursuant to section 5 or 6 is unknown to the storer, or where no address of any such person is known to the storer, and for the ascertainment of the day upon which such notice shall be deemed to have been given, and for any other matter relating to such advertisement.
- (2) Any notice given by advertisement in accordance with such regulations shall for the purposes of this Act be deemed to have been given personally on the date ascertained pursuant to the regulation.

10 Notices

A notice required or authorised by this Act to be given to any person shall be in writing.

11 Buyer of goods under Act to acquire good title

- (1) The buyer of any goods sold by a storer in the exercise of the storer's powers under this Act shall acquire a good title to the goods.
- (2) Upon any proceedings by or against the storer in respect of any goods sold by the storer in the exercise of powers under this Act, the burden of proving that the provisions of this Act relating to the sale of those goods have been complied with shall be upon the storer.

12 Right of owner of goods sold under Act

Where the bailor of any goods is not the owner thereof and the goods are sold by the storer in the exercise of powers under this Act without notice by the storer to the owner, the owner shall not be entitled to the return of the goods but shall have the same rights in respect of the proceeds of the sale of the goods as the storer would have had in respect of the goods if the property therein had not passed to the buyer by virtue of this Act.

13 Provision for payment of charges before sale

- (1) At any time before goods are sold by virtue of this Act any person claiming any interest or rights of possession in the goods may pay the storer the amount necessary to satisfy the amount of the charges of the storer including the reasonable and necessary expenses incurred in serving notices, in publication of advertisements and in preparing for sale up to the time of payment.
- (2) The storer shall deliver the goods to the person making the payment if he or she is the person entitled to the possession of the goods on payment of the storer's charges thereon, otherwise the storer shall retain possession of the goods according to the contract (express or implied) for the deposit of the goods.

14 Implied covenant in bill of sale

There shall be implied in every bill of sale or other encumbrance over or in respect of any goods in favour of the grantee or encumbrancee, a covenant that the amount of any payment made by him or her in relation to those goods in terms of section 13 may be added to or be deemed to be included in, the principal moneys secured by such bill of sale or other encumbrance.

15 Disposal of proceeds of sale

- (1) Where, after goods have been sold by virtue of this Act and the storer has deducted the charges covered by the storer's lien in relation to those goods, there remains a surplus of moneys in the hands of the storer, the storer shall within 28 days after the sale pay those moneys to the public trustee unless they have previously been paid to the person entitled thereto.
- (2) Where the storer pays the surplus of any moneys to the person entitled thereto, the storer shall furnish to that person a record prepared by the storer in relation to the goods containing the following particulars, that is to say—
 - (a) a sufficient description of the goods;
 - (b) the date and place of the sale and the name and principal place of business of the auctioneer by whom the goods were sold;
 - (c) the amount of the proceeds of the sale;
 - (d) a statement of each item of the charges of the storer in relation to the goods and the transaction to which each item relates.
- (3) Any moneys paid to the public trustee under this section shall be held by the public trustee on behalf of the person for the time being entitled thereto, and such person shall be entitled to be repaid such sum less any prescribed charges.
- (4) Any such sum lying unclaimed in the hands of the public trustee for a period of 6 years shall be deemed to be unclaimed moneys under and within the meaning of the *Public Trustee Act 1978* and shall be dealt with accordingly.

16 Right of owner to inspect goods

Where the bailor of the goods is not the owner thereof, then, at any time after notice of the bailor's lien has been given by the storer, the owner of the goods, and any person who has served upon the storer a notice of his or her claim to be the owner of the goods or of some interest therein, or to be entitled to some charge thereon, may, at a reasonable time and upon reasonable notice to the storer, enter upon the premises of the storer whereat the goods are kept under the bailment and inspect the goods.

17 Ambulatory operation of Act

Any provisions of this Act which apply to or in respect of any person by virtue of the person's rights or obligations in respect of any goods shall as respects a period during which those rights or obligations are vested in any other person apply to and in respect of that other person.

18 Saving of powers outside Act

The powers conferred on a person by this Act shall be in addition to and not in derogation of any powers exercisable by the person independently of this Act and without limiting the generality hereof where in relation to goods deposited with the person as bailee a storer complies with this Act the storer is not required to comply with the *Disposal of Uncollected Goods Act 1967* in that regard also.

19 Proceedings for offences

Proceedings for an offence against this Act may be taken by way of summary proceedings under the *Justices Acts 1886*.

19A Approval of forms

The chief executive may approve forms for use under this Act.

20 Regulation making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may prescribe a penalty of not more than 2 penalty units for an offence against the regulation.

21 References to this Act

In an Act or document, a reference to the *Warehousemen's Liens Act 1973* is a reference to this Act.