

MAINE STATE LEGISLATURE

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CHAPTER 627

VESSELS

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§ 3851. Domestic vessels

All domestic vessels shall be subject to a lien to any part owner or other person to secure the payment of debts contracted and advances made for labor and materials necessary for their repair, provisions, stores and other supplies necessary for their employment, and for the use of a wharf, dry dock or marine railway. Such lien shall in no event continue for a longer period than 2 years from the time when the debt was contracted or advances made.

R.S.1954, c. 178, § 12.

§ 3852. Labor and materials; owners of dry docks or marine railways

Whoever furnishes labor or materials for building a vessel has a lien on it therefor, which may be enforced by attachment thereof within 4 days after it is launched; but if the labor and materials have been so furnished by virtue of a contract not fully

completed at the time of the launching of the vessel, the lien may be enforced within 4 days after such contract has been completed. He has a lien on the materials furnished before they become part of the vessel, which may be enforced by attachment. The owners of any dry dock or marine railway used for any vessel have a lien on said vessel for the use of said dock or railway, to be enforced by attachment within 4 days after the last day in which the same is used or occupied by said vessel.

R.S.1954, c. 178, § 13.

§ 3853. Writ for enforcement

The form of writ for enforcing such lien shall be in substance as follows:

“State of Maine.

....., ss.

To the sheriff of our County of, or either of his deputies:

We command you to attach the vessel” (here give such a description of the vessel as will identify it,) “in an action brought by” (name of plaintiff) “of” (plaintiff’s place of residence including town and county) “against” (name of defendant) “of” (defendant’s place of residence including town and county) “in the Superior Court for said County of, in which action the said” (name of plaintiff) “claims a lien on said vessel for” (here describe briefly the nature of the lien) “to the amount of dollars and cents, and make due return of this writ with your doings thereon.

.....
Clerk of said Superior Court

(Seal of the court)
Dated

The action shall be brought in the county where the vessel is.

R.S.1954, c. 178, § 14; 1959, c. 317, § 380.

§ 3854. —Particulars; verification

The plaintiff shall annex to the complaint a just, true and particular account of the demand claimed to be due to him with all just credits, the names of the persons personally liable to him and names of the owners of the vessel if known to him. It shall be verified by the oath of one plaintiff, or of some person in his be-

half, that the amount claimed in said account is justly due from the person named in the complaint and account as owing it, and that he believes that by the law of the State he has a lien on such vessel for the whole or a part thereof.

R.S.1954; c. 178, § 15; 1959, c. 317, § 381.

§ 3855. Attachment of vessels on stocks; sale

If the vessel at the time is on the stocks, the attachment shall be made by filing in the office of the clerk of the town in which such vessel is, within 48 hours thereafter, a copy of so much of his return on the writ of attachment as relates to the attachment, with the name of the plaintiff, the name of the person liable for the debt, the description of the vessel as given in the writ of attachment, the date of the writ of attachment, the amount claimed and the court to which it is returnable, and by leaving a copy of such certificate with one of the owners of the vessel, if known to him and residing within his precinct, or with the master workman thereon. If the attachment is so made, the officer need not take possession of the vessel before it is launched unless specially directed by the plaintiff or his attorney to do so; but he shall, as soon as may be, afterwards. He may take possession at any time before it is launched; but if he does, he shall not hinder the work thereon or prevent or delay the launching. If at the time of attachment the vessel is launched, it shall be attached like other personal property. Whenever a vessel has been attached and the expense of retaining possession of said vessel is great, or the vessel is liable to depreciate in value by reason thereof, any attaching creditor or an owner of said vessel may bring an action in the Superior Court by complaint praying that said vessel attached may be sold, and said court may order a hearing thereon. Due notice shall be given to all parties in interest of the time and place appointed for said hearing and a hearing on said complaint shall be had before said court. If it appears to said court to be for the benefit of all parties in interest that said vessel should be sold, it shall issue to the officer in possession of the same, or to the sheriff of the county in which said vessel has been attached, an order to sell it at public auction, and shall designate in said order the notice to be given of the time and place of said sale. Said vessel shall be sold pursuant to said order, and the proceeds of such sale, after deducting necessary expenses, shall be held by the first attaching officer or the sheriff, subject to the successive attachments, as if sold on execution. If said parties do not consent to a sale as provided, Title 14, sections 4158 and 4352 to 4355, so far

as the same are applicable, shall apply to proceedings under this section.

R.S.1954, c. 178, § 16; 1959, c. 317, § 382; 1963, c. 414, § 147.

§ 3856. Service of summons on debtors and owners

The summons and complaint shall be served as in other actions on persons named as personally liable for the plaintiff's claim. A copy of the summons and complaint and writ of attachment shall also be posted in some conspicuous place on the vessel attached and mailed to all owners whose identity and whereabouts are known if they have not been named as personally liable.

R.S.1954, c. 178, § 17; 1959, c. 317, § 383.

§ 3857. Subsequent writs to be served by same officer unless disqualified

On all writs of attachment made after the first attachment and while any lien attachment is pending, the attachment and services shall be made by the same officer, or, if he is disqualified, by any qualified officer, by his giving notice thereof to the first attaching officer.

R.S.1954, c. 178, § 18; 1959, c. 317, § 384.

§ 3858. Entry of action; who may defend; bond

The actions shall be entered on the docket as follows: The person claiming the lien, as plaintiff, the person alleged to be personally liable, as defendant, and the name or other description of the vessel attached. The owners or mortgagees of the vessel, or any plaintiff in an action wherein it is attached for a lien, may appear and defend any action so far as relates to the validity and amount of the lien claim; but no such plaintiff shall so defend until he gives bond, to the satisfaction of the court, to pay the costs awarded against him.

R.S.1954, c. 178, § 19; 1959, c. 317, § 385.

§ 3859. Offer of default; admission of sum due

The defendant may offer to be defaulted as in other cases. The owners of the vessel may admit, in writing filed with the clerk, that a certain sum is due the plaintiff as a lien on the vessel. If the plaintiff does not recover a greater sum as lien, he recovers no costs against such owner or the vessel or its proceeds

after the admission is filed; but such owner recovers costs thereafter.

R.S.1954, c. 178, § 20.

§ 3860. Apportionment of costs

The court, except as provided in section 3859, may decide all questions of costs and apportion them as they think proper.

R.S.1954, c. 178, § 21; 1959, c. 317, § 386.

§ 3861. Framing of issues

At the request of either party, the following questions of fact shall be submitted to a jury: "What amount claimed in the complaint is due from the defendant to the plaintiff?" and "For how much of such amount has the plaintiff a lien on the vessel attached?" The verdict shall be in answer to these questions. If the parties waive a jury trial, these questions shall be decided by the court on a hearing or report of a referee appointed by the court.

R.S.1954, c. 178, § 22; 1959, c. 317, § 387.

§ 3862. Judgment against defendant

Upon ascertaining the amount, judgment shall be rendered in his favor against the defendant as in other personal actions, for the amount found not to be a lien on the vessel, with such costs as the court awards. A separate judgment shall be rendered in his favor against said defendant and the vessel attached for the amount decided to be a lien, with such costs as the court awards. Separate executions shall be issued thereon.

R.S.1954, c. 178, § 23.

§ 3863. Sale of vessel; proceeds paid into court

When judgment is recovered in any action on which a vessel was attached, the court may issue an order to the attaching officer to sell it at auction, and to pay the proceeds thereof into court after deducting the expenses of sale and for taking care of the vessel while under attachment. Such officer shall sell it as other personal property is sold on execution. The purchaser shall hold it free from any prior claim.

R.S.1954, c. 178, § 25; 1961, c. 317, § 602.

§ 3864. Distribution of proceeds or surplus

If such proceeds are more than all the judgments recovered against such vessel and the amounts claimed in the undecided actions, the court may order the judgments, as fast as they are recovered against said vessel, to be paid from said fund until all such actions are terminated and all judgments satisfied. The court may, on complaint, order the balance, if any, to be paid to the persons legally entitled thereto.

R.S.1954, c. 178, § 26; 1961, c. 317, § 603.

§ 3865. Pro rata distribution; prevention of double liens

If such proceeds are not enough to pay in full the judgments recovered and the claims still undecided, the court may order the money to remain until all the actions are terminated, and then divide pro rata; or it may direct a sufficient amount to be retained to pay on the undecided claims their proportion and divide the residue ratably among the judgments recovered, and if, after all the actions are terminated, and the judgments recovered subsequent to the first division have received the same proportion as prior judgments, there is any sum remaining, it shall be divided among the judgments pro rata, and in such division the court shall make such orders as will prevent the enforcement of a double lien and will secure the just rights of all.

R.S.1954, c. 178, § 27; 1961, c. 317, § 604.

§ 3866. Vessel under attachment attached on lien claim

If the vessel has been already attached by a sheriff or his deputy when a writ of attachment is issued for such lien claim, such writ of attachment shall be served by such officer. If attached by a constable, he shall give up to the officer having the lien writ of attachment the possession and the precept upon which he attached it with his return of the facts thereon. The attachment shall hold subject to the legal priorities of the lien claim.

R.S.1954, c. 178, § 28; 1959, c. 317, § 389.

§ 3867. Nonlien claims not prevented by lien claims

A vessel attached for a lien claim may be attached by the same officer in the ordinary manner in an action against the owners thereof, and such attachment shall be valid, subject to the legal priorities of the lien attachments.

R.S.1954, c. 178, § 29; 1961, c. 317, § 605.

§ 3868. Sale of vessels attached by lien and nonlien claims

When a vessel attached for liens and also in the ordinary manner is sold by order of the court and the proceeds are more than sufficient to satisfy the lien judgments, the surplus shall be paid to the officer to be held upon the writs of attachment not founded on the lien claims.

R.S.1954, c. 178, § 30; 1959, c. 317, § 390.

§ 3869. Admiralty powers of court

The court, like a court in admiralty, may make all orders necessary for carrying out this chapter according to their true intent and meaning.

R.S.1954, c. 178, § 31.