CHAPTER 11

Lien of Mining and Manufacturing Employees

**SECTION 29‑11‑10.** Lien of mining and manufacturing employees on output of employer.

 All employees of factories, mines, mills, distilleries and every kind of manufacturing establishment of this State shall have a lien upon all the output of the factory, mine, mill, distillery or other manufacturing establishment by which they may be employed, either by the day or month, whether the contract be in writing or not, to the extent of such salary or wages as may be due and owing to them under the terms of their contract with the employer, such lien to take precedence over any and all other liens except the lien for municipal, State and county taxes.

HISTORY: 1962 Code Section 45‑451; 1952 Code Section 45‑451; 1942 Code Section 8789; 1932 Code Section 8782; Civ. C. ‘22 Section 5703; Civ. C. ‘12 Section 4173; Civ. C. ‘02 Section 3069; 1897 (22) 502; 1915 (29) 248.

CROSS REFERENCES

Mines and minerals, generally, see Section 10‑9‑10 et seq.

Library References

Labor and Employment 232.

Westlaw Topic No. 231H.

NOTES OF DECISIONS

In general 1

Employees 2

Salary or wages 3

1. In general

Cited in Witt v. People’s State Bank of South Carolina (S.C. 1932) 166 S.C. 1, 164 S.E. 306, 83 A.L.R. 1068.

See Little v Edisto Hardwood Co. (1931) 161 SC 344, 159 SE 646, where under facts there presented the court held that workers were entitled to wages under this section and company estopped by their actions to deny that person hiring them was not their agent but independent contractor. Little v. Edisto Hardwood Co. (S.C. 1931) 161 S.C. 344, 159 S.E. 646.

An employer filing replevy bond and proceeding to trial was estopped in a subsequent action on bond to claim that the employee was not a laborer within this section. Padgett v. Cunningham (S.C. 1930) 156 S.C. 356, 153 S.E. 280. Labor And Employment 236

This section and what is now Section 29‑11‑30 are sufficiently definite in respect to what officer of court was to issue attachment therein authorized. Moody v. Dudley Lumber Co. (S.C. 1927) 138 S.C. 478, 137 S.E. 141.

South Carolina worker’s lien statute does not apply to workers in out‑of‑state manufacturing facilities. General Electric Capital Corp. v. Renew (C.A.4 (S.C.) 2004) 122 Fed.Appx. 604, 2004 WL 2823249, Unreported. Labor And Employment 166; Labor And Employment 232

2. Employees

The word “employees” in this section does not include superintendent and bookkeeper of a mine. Malcomson v. Wappoo Mills, 1898, 86 F. 192.

Employee working on commission, whose wages cannot be determined until employer’s product has been sold, is not an employee entitled to a lien under this section against product manufactured by employer. Moody v. Dudley Lumber Co. (S.C. 1927) 138 S.C. 478, 137 S.E. 141.

3. Salary or wages

Compensation to be received by employee in event he remained in employ of lumber company for definite period and rendered satisfactory service, was additional compensation earned by employee, and was not a mere “bonus” but wages or salary within provisions of this section. Robertson v. Wise (S.C. 1929) 153 S.C. 459, 151 S.E. 87. Labor And Employment 232

This section is not limited to “laborers,” as that term is generally understood, namely, as those who work by the day with compensation usually referred to as wages. Robertson v. Wise (S.C. 1929) 153 S.C. 459, 151 S.E. 87.

**SECTION 29‑11‑20.** Proceedings to enforce lien.

 Anyone entitled to the provisions of this chapter may begin suit upon his demands in any court of competent jurisdiction and at the time of commencing action may file with the officer out of whose court he desires process to issue an affidavit setting forth the facts out of which his alleged lien arose and the amount thereof and shall designate the property alleged to be affected by such lien. Thereupon such officer shall issue his process in the nature of a warrant of attachment, directing the sheriff of the county or any lawful constable to seize so much of the property described in the affidavit as may be necessary to satisfy the alleged lien.

HISTORY: 1962 Code Section 45‑452; 1952 Code Section 45‑452; 1942 Code Section 8790; 1932 Code Section 8783; Civ. C. ‘22 Section 5704; Civ. C. ‘12 Section 4174; Civ. C. ‘02 Section 3070; 1897 (22) 502; 1906 (25) 81.

Library References

Labor and Employment 236.

Westlaw Topic No. 231H.

NOTES OF DECISIONS

In general 1

1. In general

Cited in Robertson v. Wise (S.C. 1929) 153 S.C. 459, 151 S.E. 87.

**SECTION 29‑11‑30.** Seizure and disposition of property.

 The officer executing the process shall seize and take into his possession and custody, according to the mandate of the process, the property described and shall hold it until the final determination of the suit between the parties, following the usual practice in attachment cases as to sale after judgment if the property seized be perishable and ordered sold by the court. But if a person claiming to be the legal owner of the property seized desire to do so pending suit, he may furnish good and sufficient security for the payment of such judgments as may be recovered by the plaintiff against him in the suit pending, to be approved by the officer issuing the process, and shall thereupon be entitled to the custody of the property seized, just as though no process had been issued against it. Claims of third persons in such cases shall be made and determined in the same manner as such claims in attachment cases.

HISTORY: 1962 Code Section 45‑453; 1952 Code Section 45‑453; 1942 Code Section 8790; 1932 Code Section 8783; Civ. C. ‘22 Section 5704; Civ. C. ‘12 Section 4174; Civ. C. ‘02 Section 3070; 1897 (22) 502; 1906 (25) 81.

Library References

Labor and Employment 236.

Westlaw Topic No. 231H.

**SECTION 29‑11‑40.** Costs and fees of officers.

 The costs and fees of officers in proceedings under this chapter shall be the same as in cases of attachment under this Code.

HISTORY: 1962 Code Section 45‑454; 1952 Code Section 45‑454; 1942 Code Section 8791; 1932 Code Section 8784; Civ. C. ‘22 Section 5705; Civ. C. ‘12 Section 4175; Civ. C. ‘02 Section 3071; 1897 (22) 502.