CHAPTER 15

Miscellaneous Liens for Services, Damages, Storage or Materials

**SECTION 29‑15‑10.** Liens for repairs or storage; sale of articles.

(A) A proprietor, an owner, or an operator of any towing company, storage facility, garage, or repair shop, or any person who repairs or furnishes any material for repairs to an article may sell the article at public auction to the highest bidder if:

(1) the article has been left at the shop for repairs or storage and the repairs have been completed or the storage contract has expired;

(2) the article has been continuously retained in his possession; and

(3) thirty days have passed since written notice was given to the owner of the article and to any lienholder that the repairs have been completed or the storage contract has expired.

The article must be sold by a magistrate of the county in which the repairs were done or the article was stored.

(B) Storage costs may be charged that have accrued before the notification of the owner and lienholder, by certified or registered mail, of the location of the article. Notification to the owner and lienholder by the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must occur within five days, after receiving the owner’s and lienholders’ identities. If the notice is not mailed within this period, storage costs after the five‑day period must not be charged until the notice is mailed.

(C) Before the article is sold, the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop, or any person who repairs or who furnishes material for repairs to the article must apply to the appropriate titling facility including, but not limited to, the Department of Motor Vehicles or the Department of Natural Resources for the name and address of any owner or lienholder. For nontitled articles, where the owner’s name is known, a search must be conducted through the Secretary of State’s Office to determine any lienholders. The application must be on prescribed forms as required by the appropriate titling facility or the Secretary of State. If the article has an out‑of‑state registration, an application must be made to that state’s appropriate titling facility. When the article is not titled in this State and does not have a registration from another state, the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop, or any person who repairs or who furnishes material for repairs to the article may apply to the sheriff or chief of police in the jurisdiction where the article is stored to determine the state where the article is registered. The sheriff or chief of police shall conduct a records search. This search must include, but is not limited to, a search on the National Crime Information Center and any other appropriate search that may be conducted with the article’s identification number. The sheriff or chief of police must supply, at no cost to the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop, or any person who repairs or who furnishes material for repairs the name of the state in which the article is titled.

(D) The magistrate, before selling the article, shall ensure that the owner or any lienholder of record has been notified of the pending sale. The magistrate must advertise the article for at least fifteen days by posting a notice in three public places in his township. The magistrate must pay to the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop, or any person who repairs or who furnishes material for repairs to the article the money due, receiving a receipt in return. Any remainder of the sale proceeds must be held by the magistrate for the owner of the vehicle or entitled lienholder for ninety days. The magistrate must notify the owner and all lienholders by certified or registered mail, return receipt requested, that the article owner or lienholder has ninety days to claim the proceeds from the sale of the article. If the article proceeds are not collected within ninety days from the day after the notice to the owner and all lienholders is mailed, then the article proceeds must be deposited in the general fund of the county or municipality.

(E) A proprietor, an owner, or an operator of the towing company, storage facility, garage, or repair shop, or any person who repairs or who furnishes material for repairs to the article may hold the license tag of any vehicle until all towing and storage costs have been paid, or if the vehicle is not reclaimed, until it is declared abandoned and sold.

(F) A proprietor, an owner, or an operator of the towing company, storage facility, garage, or repair shop, or any person who repairs or who furnishes material for repairs to the article must place a minimum bid of one dollar on the article being sold at public auction. If no higher bid is offered, the article must be awarded to the proprietor, owner, operator, or person who repairs or who furnishes material for repairs to the article at no cost.

(G) For purposes of this section, “article” means a motor vehicle, trailer, mobile home, watercraft, or other item or object that is subject to towing, storage, or repair and applies to any article in custody at the time of the enactment of this section. “Article” includes:

(1) an item that is towed and left in the possession of a towing, storage, garage, or repair facility; and

(2) personal property affixed to the article.

HISTORY: 1962 Code Section 45‑550; 1952 Code Section 45‑550; 1942 Code Section 7219; 1932 Code Section 7219; Civ. C. ‘22 Section 3933; Civ. C. ‘12 Section 2614; Civ. C. ‘02 Section 1739; G. S. 1667; R. S. 1447; 1875 (15) 878; 1912 (27) 624; 1922 (32) 935; 1925 (34) 207; 1933 (38) 221; 1941 (42) 61; 1977 Act No. 134, Section 2; 1990 Act No. 394, Section 1; 2003 Act No. 71, Section 3; 2004 Act No. 269, Section 11; 2011 Act No. 22, Section 1, eff May 9, 2011.

Effect of Amendment

The 2011 amendment rewrote subsection (G).

CROSS REFERENCES

Additional provision granting owner of self‑service storage facility a lien upon personal property located at the facility for rent, labor and other charges, see Section 39‑20‑30.

Lien for towing and storage of vehicle removed from private property on which it was parked without permission, see Section 16‑11‑760.

Lien of carriers of goods for charges, see Section 58‑13‑410.

Loss of storage lien for failure to report unclaimed vehicle, see Section 56‑19‑840.

Provisions governing self‑service storage facilities, see Section 39‑20‑10 et seq.

Regulation of pawnbrokers, see Section 40‑39‑10 et seq.

Sale of unclaimed vehicles, disposition of proceeds, see Section 56‑5‑5640.

Security interest and other liens on motor vehicles, see Section 56‑19‑610 et seq.

Library References

Automobiles 373.

Bailment 18(2), 18(5).

Westlaw Topic Nos. 48A, 50.

C.J.S. Bailments Sections 75, 80.

C.J.S. Motor Vehicles Sections 1627 to 1677.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Auctions and Auctioneers Section 23, Statutes Governing Auctions of Particular Properties.

S.C. Jur. Aviation and Airports Section 11, Liens for Labor and Material.

S.C. Jur. Magistrates and Municipal Judges Section 35, Jurisdiction‑ Other.

S.C. Jur. Magistrates and Municipal Judges Section 63, Sales Conducted by Officer.

S.C. Jur. Shipping Law Section 47, Liens for Labor, Materials, and Storage.

Treatises and Practice Aids

3 Causes of Action 2d 807, Cause of Action to Establish or Enforce Artisan’s or Repairer’s Lien.

Attorney General’s Opinions

Discussion of whether a company or officer engages in the unauthorized practice of law by taking actions pursuant to Section 29‑15‑10. S.C. Op.Atty.Gen. (May 15, 2017) 2017 WL 2292983.

No specific statutory authority exists for constable to conduct sale to satisfy lien for repairs or storage. 1984 Op. Atty Gen, No. 84‑58, p. 144.

Purchaser of an automobile at a sale authorized by this section must satisfy not only the lien created by this section, but also any other pre‑existing perfected liens to obtain clear title to the automobile. 1974‑75 Op. Atty Gen, No. 4101, p 180.

The lien created by this section is not given priority over other liens. 1963‑64 Op. Atty Gen, No. 1773, p 290.

An artisan’s lien for repairs is not superior to a prior, properly recorded valid chattel mortgage. 1963‑64 Op. Atty Gen, No. 1764, p 277.

Even repairs made at the specific request of the conditional buyer will not create a lien superior to that of the properly recorded mortgage of the conditional seller. 1963‑64 Op. Atty Gen, No. 1773, p 290.

Effect of Uniform Commercial Code on liens relating to automobiles. As to effect of Uniform Commercial Code (Titles 10.1 to 10.10) on statutory liens relating to automobiles, see 1966‑67 Op. Atty Gen, No. 2355, p 195.

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1. In general

Regardless of the applicability of Sections 29‑15‑10 and 27‑39‑210, lessees of storage space could not recover for losses sustained by lessor’s public sale of their property, after notice, where the action of the lessors was clearly authorized by the lease. Pinckney v. Pettijohn Builders, Inc. (S.C.App. 1986) 289 S.C. 405, 346 S.E.2d 533.

The vitality of a repairman’s lien is conditioned on his continuous possession of the article. Welcome Home Center, Inc. v. Central Chevrolet Co., Inc. (S.C. 1978) 272 S.C. 166, 249 S.E.2d 896. Bailment 18(3)

Where the owner wrongfully took possession of a trailer without the knowledge or consent of the garageman‑lienor, the latter did not lose his lien thereon and was entitled to have the property restored to his possession. Bouknight v. Headden (S.C. 1938) 188 S.C. 300, 199 S.E. 315.

This section does not create a new lien. It only provides a method of enforcing an old lien and shortens the time within which the old lien might be enforced. R. H. Nesbitt Auto Co. v. Whitlock (S.C. 1920) 113 S.C. 519, 101 S.E. 822.

**SECTION 29‑15‑20.** Lien on motor vehicle for damages.

When a motor vehicle is operated in violation of the provisions of law or negligently, carelessly, recklessly, wilfully or wantonly and any person receives personal injury or property is damaged thereby or a cause of action for wrongful death arises therefrom, damages recoverable therefor shall be and constitute a lien next in priority to the lien for State and county taxes upon such motor vehicle, recoverable in any court of competent jurisdiction, and the person sustaining such damages or the personal representative of the deceased or any one or more of the beneficiaries for whom such cause of action shall be brought under Sections 15‑51‑10 and 15‑51‑20 for the benefit of all such beneficiaries may attach such motor vehicle in the manner provided by law for attachments in this State. But this lien shall not exist if the motor vehicle was stolen by the breaking of a building under a secure lock or when the vehicle is securely locked.

HISTORY: 1962 Code Section 45‑551; 1952 Code Section 45‑551; 1942 (42) 1471.

CROSS REFERENCES

Lien of judgments against railroads and street railway corporations for certain injuries, see Section 58‑15‑920.

Motor vehicles, generally, see Section 56‑1‑10 et seq.

Proceedings to sell attached automobile upon docketing judgment, see Section 15‑19‑360.

Security interests and other liens on vehicles, see Section 56‑19‑610 et seq.

Library References

Automobiles 250.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles Section 1284.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Action Section 5, Actions in Personam and in Rem.

Attorney General’s Opinions

When a vehicle is attached for property damage and sold, damages recoverable therefor shall be and constitute a lien next in priority to the lien for State and county taxes upon such vehicle. 1964‑65 Op. Atty Gen, No. 1895, p 178.

Effect of Uniform Commercial Code on liens relating to automobiles. As to effect of Uniform Commercial Code (Titles 10.1 to 10.10) on statutory liens relating to automobiles, see 1966‑67 Op. Atty Gen, No. 2355, p 195.

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1. Validity; constitutional issues

This section does not deprive one of property without due process where the car has been stolen under other conditions, it being considered the offender. Ex parte Maryland Motor Car Ins. Co. (1921) 117 SC 100, 108 SE 260. Sexton v Harleysville Mut. Casualty Co. (1963) 242 SC 182, 130 SE2d 475.

This section does not violate the due process of law provisions of SC Const, Art 1, Section 5 (now Art 1, Section 3), and the Fourteenth Amendment. Merchants’ & Planters’ Bank v Brigman (1917) 106 SC 362, 91 SE 332. Manufacturers’ Finance Acceptance Corp. v Bramlett (1930) 157 SC 419, 154 SE 410. Sexton v Harleysville Mut. Casualty Co. (1963) 242 SC 182, 130 SE2d 475.

This section is a valid exercise of the police power. Re McFadden (1919) 112 SC 258, 99 SE 838. Merchants’ & Planters’ Bank v Brigman (1917) 106 SC 362, 91 SE 332. Manufacturers’ Finance Acceptance Corp. v Bramlett (1930) 157 SC 419, 154 SE 410.

This section relates to and is germane to the title, and hence does not violate SC Const, Art 3 Section 17, providing that each act shall relate to but one subject expressed in its title. Merchants’ & Planters’ Bank v Brigman (1917) 106 SC 362, 91 SE 332. Manufacturers’ Finance Acceptance Corp. v Bramlett (1930) 157 SC 419, 154 SE 410.

Lien for damages resulting from negligent operation of motor vehicle is taking of such property by due process of law. Sexton v. Harleysville Mut. Cas. Co. (S.C. 1963) 242 S.C. 182, 130 S.E.2d 475. Constitutional Law 4416

2. In general

The proper interpretation of this section is that it includes motor vehicles of private persons and corporations, and excludes those owned and operated by governmental agencies of the State for public purposes. Brooks v One Motor Bus (1939) 190 SC 379, 3 SE2d 42. However, see McCall v Batson (1985) 285 SC 243, 329 SE2d 741, which abolished the doctrine of sovereign immunity, and listed the Brooks case as among those overruled to the extent that they hold that an action may not be maintained against the State without its consent. Brooks v One Motor Bus (1939) 190 SC 379, 3 SE2d 42. McCall v Batson (1985) 285 SC 243, 329 SE2d 741.

Cited in Evans v Watkins (1919) 112 SC 419, 100 SE 153. Rimer v State Farm Mut. Auto. Ins. Co. (1966) 248 SC 18, 148 SE2d 742.

This section puts the whole world on notice that the claim of one who sustains personal injury or property damages from the illegal or negligent operation of a motor vehicle is superior to that of any other person, except the State and county, and a mortgagee takes with notice of this section [Code 1962 Section 45‑551]. Merchants’ & Planters’ Bank v Brigman (1917) 106 SC 362, 91 SE 332. Manufacturers’ Finance Acceptance Corp. v Bramlett (1930) 157 SC 419, 154 SE 410.

Stated in Kania v Atlas Wire & Cable Co. (1949) 214 SC 232, 51 SE2d 762, 8 ALR2d 575. Continental Cas. Co. v. Padgett, 1954, 123 F.Supp. 847, reversed 219 F.2d 133.

This section could not affect the rights or liabilities of parties flowing from a North Carolina collision. Ex parte First Pennsylvania Banking & Trust Co. (S.C. 1966) 247 S.C. 506, 148 S.E.2d 373.

The purpose of this section was to afford sure remedy to injured party in instances where damage comes within purview of it. Sexton v. Harleysville Mut. Cas. Co. (S.C. 1963) 242 S.C. 182, 130 S.E.2d 475.

After an action has been instituted by a plaintiff against a defendant automobile for personal injuries alleged to have resulted from its negligent or willful operation, bond given, attachment dissolved, car released, and voluntary nonsuit taken in such cause, plaintiff may reattach the automobile in a subsequent action against the same automobile for the same injuries or for the same cause of action. Kay v. Meadors (S.C. 1950) 216 S.C. 483, 58 S.E.2d 893. Judgment 570(3)

An order refusing dissolution of an attachment, and thereby holding an automobile to answer as a defendant, was immediately appealable. Kay v. Meadors (S.C. 1950) 216 S.C. 483, 58 S.E.2d 893.

Applied in Le Gette v. Carolina Butane Gas Co. (S.C. 1947) 210 S.C. 542, 43 S.E.2d 472.

Quoted in Cox v. Coleman (S.C. 1939) 189 S.C. 218, 200 S.E. 762.

Indictment does not lie for disposing of motor vehicle under lien because of accident, until after judicial determination of existence of lien. State v. Campbell (S.C. 1930) 159 S.C. 128, 155 S.E. 750. Automobiles 324

3. Definitions in other statutes

The attachment statute does not contain a definition of “motor vehicle,” and there is no statute in pari materia in this State which contains a definition. It follows that the General Assembly’s definition of “motor vehicle,” “trailer,” and “semi‑trailer,” in unrelated statutes is not controlling in the meaning of “motor vehicle” as employed in this section. Fruehauf Trailer Co. v. South Carolina Elec. & Gas Co. (S.C. 1953) 223 S.C. 320, 75 S.E.2d 688. Automobiles 250

4. Particular terms: “motor vehicle”; “operate motor vehicle”

“Operate motor vehicle” usually means person must so manipulate machinery that power of motor is applied to wheels to move automobile forward or backward. Gunn v. Burnette (S.C. 1960) 236 S.C. 496, 115 S.E.2d 171.

When a wrecker was being used to hoist another vehicle to change the tires thereon, it was not being operated as a motor vehicle as contemplated by this section. Gunn v. Burnette (S.C. 1960) 236 S.C. 496, 115 S.E.2d 171.

A trailer being drawn by a truck‑tractor on the highway and securely attached to the tractor is, together with the truck‑tractor to which it is attached, a motor vehicle within the meaning of this section and is subject to attachment for damages done by the combination. Fruehauf Trailer Co. v. South Carolina Elec. & Gas Co. (S.C. 1953) 223 S.C. 320, 75 S.E.2d 688. Automobiles 250

The term “motor vehicle” as used in this section must be interpreted to embrace all vehicles which are now motor drawn upon the highways, regardless of whether the particular vehicle was in existence at the time of the statutory enactment. Fruehauf Trailer Co. v. South Carolina Elec. & Gas Co. (S.C. 1953) 223 S.C. 320, 75 S.E.2d 688. Automobiles 250

5. Nature and operation of lien created by section

Under this section a lien on the offending vehicle comes into existence and attaches to the vehicle at the moment the injury was inflicted. Stephenson Finance Co. v Burgess (1954) 225 SC 347, 82 SE2d 512. United States v One 1957 Model Tudor Ford (1958, DC SC) 167 F Supp 864.

Lien arising by reason of automobile accident dates back, as respects liability for disposal of property under lien, to time of injury. State v Campbell (1931) 159 SC 128, 155 SE 750. United States v One 1957 Model Tudor Ford (1958, DC SC) 167 F Supp 864.

This section creates a lien only upon the condition that there are present two essential elements: The negligent and careless operation of the motor vehicle, and injuries resulting therefrom. If either of these elements is lacking, no lien exists. State v Campbell (1931) 159 SC 128, 155 SE 750. Waldrop v M. & J. Finance Corp. (1936) 178 SC 527, 183 SE 460.

No lien arose under this section after a collision in North Carolina. Ex parte First Pennsylvania Banking & Trust Co. (S.C. 1966) 247 S.C. 506, 148 S.E.2d 373.

The plea of bona fide purchaser of an automobile is not good against a collision lien claimant, and it would exceed the bounds of proper judicial restraint to overturn this construction which has had implied legislative sanction through the inclusion of this section in five successive Codes and its Re‑enactment in 1942, all without significant amendment. Layton v. Flowers (S.C. 1964) 243 S.C. 421, 134 S.E.2d 247.

The enforcement of a judgment against an automobile in the hands of an innocent purchaser for value without notice should be limited to the value of the automobile at the time the lien arose. Layton v. Flowers (S.C. 1964) 243 S.C. 421, 134 S.E.2d 247. Automobiles 250

This section creates lien when motor vehicle negligently and carelessly operated and injuries result therefrom. Sexton v. Harleysville Mut. Cas. Co. (S.C. 1963) 242 S.C. 182, 130 S.E.2d 475.

Judicial determination that essential elements of lien are present and fixing amount of damages by final judgment, is also judicial determination that under this section lien on offending vehicle came into existence and attached to such vehicle at moment injury inflicted. Sexton v. Harleysville Mut. Cas. Co. (S.C. 1963) 242 S.C. 182, 130 S.E.2d 475. Automobiles 250

Lien does not attach if offending motor vehicle stolen by the breaking under secure lock or when vehicle securely locked. Sexton v. Harleysville Mut. Cas. Co. (S.C. 1963) 242 S.C. 182, 130 S.E.2d 475.

Attachment pursuant to what are now Sections 15‑19‑10, et seq., does not create lien but is method of enforcing lien created by this section. Stewart v. Martin (S.C. 1958) 232 S.C. 483, 102 S.E.2d 886.

Whatever the precise nature of the lien created by this section may be, a person claiming injury as a result of the negligent operation of a motor vehicle does not occupy the position of a mere general creditor; he has a right, prior to all other creditors, to obtain payment of any judgment recovered through a sale of the offending vehicle. Stewart v. Martin (S.C. 1958) 232 S.C. 483, 102 S.E.2d 886. Automobiles 250

Recovery of judgment against tortfeasor is not prerequisite to bringing suit against third party for fraudulently removing and secreting the car which caused the damage, because this section creates specific interest at time of injury. Stewart v. Martin (S.C. 1958) 232 S.C. 483, 102 S.E.2d 886.

The lien may be inchoate or contingent until the injured person obtains final judgment, but in the meantime he has a special interest in the property, a fixed and positive security for the payment of any judgment which may be awarded. Stewart v. Martin (S.C. 1958) 232 S.C. 483, 102 S.E.2d 886.

The lien provided by this section for the amount of any judgment obtained may be enforced against the car in the hands of an innocent purchaser for value. Stewart v. Martin (S.C. 1958) 232 S.C. 483, 102 S.E.2d 886. Automobiles 250

When bond is filed for the release of property upon which there is a lien originating by attachment, the bond is substituted in the place of the lien; but the filing of a bond or undertaking to release an automobile attached for its negligent operation is merely to release the offending vehicle from the custody of law. Stephenson Finance Co. v. Burgess (S.C. 1954) 225 S.C. 347, 82 S.E.2d 512.

There is a vital distinction between liens created by statute and liens created by attachment. Where a lien is not already in existence, it is the purpose of an attachment to obtain security for a debt by securing a lien on property. When the lien is created by statute, the office of the attachment is not necessary to create the lien, but merely to seize property and place it in the custody of law or court. Stephenson Finance Co. v. Burgess (S.C. 1954) 225 S.C. 347, 82 S.E.2d 512. Creditors’ Remedies 141; Creditors’ Remedies 285

There is nothing in this section which would warrant the construction that this lien becomes a part of an insurance contract issued for the benefit of the vendor‑lienor of the automobile, and, further, the injured party may not secure the insurance proceeds under the doctrine of subrogation. Silverman v. Dew (S.C. 1937) 182 S.C. 457, 189 S.E. 756.

6. Nature of cause of action; jurisdiction

Under this section an injured person may maintain an action in rem against the automobile alone without making the owner, operator, or anyone else a party defendant, the owner’s remedy being by intervening and setting up his rights to the attached car. Tolbert v Buick Car (1927) 142 SC 362, 140 SE 693. Corley v One 1950 International Truck L‑190 (1953, DC SC) 109 F Supp 730.

An individual injured as a result of the negligent operation of a motor vehicle may sue the vehicle in an in rem proceeding by attaching the same in accordance with this section but the injured party is not limited to suit against the vehicle. Lewis v. Continental Ins. Co., 1965, 239 F.Supp. 42. Automobiles 228

The action is not one against any particular person or corporation, but is an action against an automobile. Corley v. One 1950 Intern. Truck L‑190, 1953, 109 F.Supp. 730.

A joint action may be maintained, the one in personam and the other in rem, although it would not be necessary to bring the action jointly. Weatherford v. Radcliffe, 1945, 63 F.Supp. 107. Automobiles 228; Federal Civil Procedure 84.1

Action may be brought in rem against the car, or in personam against the tortfeasor, or both. Stewart v. Martin (S.C. 1958) 232 S.C. 483, 102 S.E.2d 886.

An action is sanctioned under this section solely in rem against an offending automobile. Brigman v. One 1947 Ford Convertible Coupe Auto., License No. D‑105,173 (S.C. 1948) 213 S.C. 546, 50 S.E.2d 688.

Where an action is brought against the driver of an automobile to recover damages alleged to have been sustained on account of its negligent operation, and the personal defendant is duly served with the summons and complaint and the damage‑feasant automobile is seized under a warrant of attachment regularly issued under the authority of this section, such a suit includes an action in rem against such vehicle, although it is not named as a party defendant in the summons, particularly where such vehicle is named in the captions of the complaint and of the affidavits and bond upon which the warrant of attachment is issued. Under these circumstances the jurisdiction of the damage‑feasant motor vehicle is acquired by its seizure under the attachment proceedings. Raines v. Poston (S.C. 1946) 208 S.C. 349, 38 S.E.2d 145. Automobiles 250; Venue 13

7. Effect of in rem action

As an action against a truck is an in rem action, the judgment recovered is against the truck, and does not constitute a personal liability against either the driver or the owner. Lewis v. Continental Ins. Co., 1965, 239 F.Supp. 42.

An in rem judgment against an automobile constitutes a lien thereon but such constitutes no judgment against the owner. When the action is one in rem the statute makes the automobile liable but not the owner. Williams v. Pennsylvania Nat. Mut. Cas. Ins. Co. (S.C. 1965) 246 S.C. 396, 143 S.E.2d 797.

A judgment in rem does not operate in personam or create any personal liability. It operates only on the property which is the subject of the litigation and is within the jurisdiction of the court rendering the judgment. Williams v. Pennsylvania Nat. Mut. Cas. Ins. Co. (S.C. 1965) 246 S.C. 396, 143 S.E.2d 797.

When action is in rem this section makes automobile liable but not the owner. Sexton v. Harleysville Mut. Cas. Co. (S.C. 1963) 242 S.C. 182, 130 S.E.2d 475.

8. Priorities among competing claims

Where vehicle was used in violation of revenue laws, forfeiture to the United States avoids all intermediate sales and alienations, including lien for personal injuries provided in this section. U. S. v. One 1957 Model Tudor Ford, 1958, 167 F.Supp. 864.

Where a truck containing non‑taxpaid whiskey ran into claimant’s yard, thereby causing damage, the lien of the claimant under this section was prior to right of forfeiture of the United States, where whiskey was discovered after accident. U.S. v. One 1939 Model Ford Pickup Truck, Motor No. 4662201, 1940, 35 F.Supp. 905.

Plaintiff, regardless of whether his action is subrogated one, is not prevented by Motor Vehicle Financial Responsibility Act from seeking relief under this section; additionally, this section was not repealed by Act, based on reading of Sections 56‑9‑90 and 56‑9‑100. Waddell v. Johnson (S.C.App. 1987) 293 S.C. 334, 360 S.E.2d 517.

Where plaintiff had a lien on an automobile under this section and defendant with notice of the lien took the automobile under a past‑due chattel mortgage, the plaintiff had such a claim on the automobile as to enable him to maintain an action in trover and conversion. Waldrop v. M. & J. Finance Corp. (S.C. 1936) 178 S.C. 527, 183 S.E. 460.

This section creates a lien which is superior to homestead claims in the motor vehicle. In re McFadden (S.C. 1919) 112 S.C. 258, 99 S.E. 838.

9. Removal of action to another court; venue

A motor vehicle in an action under this section is not a citizen as contemplated in the Federal removal statute, and such an action commenced in a State court cannot be removed to a Federal court on the ground of diversity of citizenship. Corley v. One 1950 Intern. Truck L‑190, 1953, 109 F.Supp. 730.

Trial of in rem and in personam actions may be had in different places. Weatherford v. Radcliffe, 1945, 63 F.Supp. 107.

Where cause of action arose in one county and resident of that county brought action in rem against automobile, and writ of attachment was levied and automobile was seized in another county where the owner resided, the court of the first county was correct in not dismissing attachment and changing place of trial to county of owner’s residence. Brigman v. One 1947 Ford Convertible Coupe Auto., License No. D‑105,173 (S.C. 1948) 213 S.C. 546, 50 S.E.2d 688. Venue 46

Where plaintiff, suing for personal injuries caused by automobile, on defendants’ motion for change of venue withdrew all demand for judgment against defendants personally, and asked to proceed in rem against automobile which had been attached, such action was authorized, and court was not without jurisdiction and did not err in refusing to dissolve attachment or to grant change of venue. Williams v. Garlington (S.C. 1925) 131 S.C. 289, 127 S.E. 20. Automobiles 250

10. Sufficiency of affidavit; grounds to be stated therein

Negligent and careless operation of a motor vehicle, whereby damage to person or property proximately results, creates a cause of action for attachment because a lien for restitution upon the offending vehicle arises perforce this section. The ground necessary to be stated in the form of affidavit prescribed by what is now Section 15‑19‑60 need only be a statement of facts within the purview of this section. Johnson v. Hall (S.C. 1946) 208 S.C. 534, 38 S.E.2d 708. Creditors’ Remedies 164; Creditors’ Remedies 214

Under this section, an automobile causing injury or damage while operated negligently or carelessly or in violation of law may be attached, though none of the conditions required by what is now Section 15‑19‑50 are shown by affidavit. Richbourg v. Ragin (S.C. 1927) 140 S.C. 250, 138 S.E. 801.

Under this section, an automobile was properly attached, though affidavit did not show that owner was responsible for manner in which it was driven at time of accident. Petit v. Wise (S.C. 1925) 131 S.C. 112, 126 S.E. 400.

**SECTION 29‑15‑30.** Liens on railroads for labor performed or materials furnished.

Any person to whom a debt is due for labor performed or furnished or for materials furnished and actually used in the construction, alteration or repair of any railroad by virtue of an agreement with or by consent of (a) the owner or person controlling and operating it, (b) any person having authority from or rightfully acting for such owner or person in procuring or furnishing such labor or materials or (c) any person rendering services for such railroad company shall have a lien upon such railroad and upon all the interests of such owner or person as aforesaid in such railroad to secure the payment of the debt so due him and the costs which may arise in enforcing such lien under the provisions of Chapter 5 of this Title. Such lien shall be subject to all the provisions and be enforced in the same manner as provided for in said Chapter 5 of this Title.

HISTORY: 1962 Code Section 45‑552; 1952 Code Section 45‑552; 1942 Code Section 8794; 1932 Code Section 8786; Civ. C. ‘22 Section 5691; Civ. C. ‘12 Section 4161; Civ. C. ‘02 Section 3056; 1898 (22) 779.

CROSS REFERENCES

Carriers generally, see Sections 58‑1‑10 et seq.

Library References

Railroads 159.

Westlaw Topic No. 320.

C.J.S. Railroads Sections 527 to 542.

NOTES OF DECISIONS

In general 1

1. In general

A Federal court of equity can, by a supplemental bill, foreclose a lien created by the provisions of this section. Winston & Co. v. Georgia & F.R.R., 1929, 34 F.2d 163.

**SECTION 29‑15‑40.** Lien on watercraft for damages.

When a watercraft is operated or maintained in violation of the provisions of law or negligently and carelessly and any person receives personal injury or property is damaged thereby, the damages done to such person or property shall be and constitute a lien next in priority to the lien for State and county taxes upon such watercraft, including any outboard motor that may be attached to it, recoverable in any court of competent jurisdiction and the person sustaining such damage may attach such watercraft, including any outboard motor that may be attached to it, in the manner provided by law for attachments in this State. But this lien shall not exist if the watercraft or any outboard motor attached to it shall have been stolen by the breaking of a building under a secure lock or when the watercraft or any outboard motor attached to it is securely locked, nor when the damage is sustained upon waters within the jurisdiction of Federal admiralty courts.

HISTORY: 1962 Code Section 45‑553; 1952 Code Section 45‑553; 1942 Code Section 8793; 1933 (38) 461.

CROSS REFERENCES

Watercraft generally, see Sections 50‑1‑10 et seq.

Library References

Shipping 87.

Westlaw Topic No. 354.

C.J.S. Shipping Sections 183, 220.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Shipping Law Section 48, Liens for Damages.

Forms

Am. Jur. Pl. & Pr. Forms Shipping Section 1 , Introductory Comments.

**SECTION 29‑15‑50.** Lien of owners of certain animals on issue.

The owner of any stock horse, jack, bull, boar or ram, kept by him for the purpose of raising from, having a claim by contract against the owner of any mare or cow or other stock for service shall have a prior lien on the issue of such mare, cow or other stock for the amount of such claim, provided an action shall be instituted to enforce such claim by suit before a magistrate or other officer having jurisdiction within twelve months from the time such claim shall have accrued.

HISTORY: 1962 Code Section 45‑554; 1952 Code Section 45‑554; 1942 Code Section 8788; 1932 Code Section 8781; Civ. C. ‘22 Section 5702; Civ. C. ‘12 Section 4172; Civ. C. ‘02 Section 3068; G. S. 2349; R. S. 2523; 1875 (15) 943.

CROSS REFERENCES

Animals and livestock generally, see Sections 47‑1‑10 et seq.

Library References

Animals 19.

Westlaw Topic No. 28.

C.J.S. Animals Sections 43 to 44, 53 to 60, 519 to 522.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Magistrates and Municipal Judges Section 35, Jurisdiction‑ Other.

NOTES OF DECISIONS

In general 1

1. In general

The contract referred to in this section may be by parol. Harby v. Wells (S.C. 1898) 52 S.C. 156, 29 S.E. 563.

**SECTION 29‑15‑60.** Animal boarding facilities; liens upon animals for boarding expenses.

The owner of an animal boarding facility, at the end of an agreed upon term of boarding, shall have a lien upon any animal which is left with him for upkeep, rest, and training until the cost of the upkeep, rest, and training has been paid by the owner of the animal. The owner of the animal shall also be responsible for payment of the cost of upkeep, rest, and training of the animal after notice of the lien. If the owner of the animal has not paid the cost of upkeep, rest, and training of the animal after actual notice of the lien within ten days of such notice, the animal boarding facility owner may sell the animal after having advertised the time and place of the sale in a newspaper having general circulation in the county wherein the animal boarding facility is located at least seven days before the sale is to be held. After the sale of the animal, the owner of the animal boarding facility may deduct the cost of the upkeep, rest, and training of the animal before and after date of the notice of the lien, plus all expenses incurred from the advertising and sale provided in this section, and shall submit the balance of the proceeds of the sale to the previous owner of the animal. If the animal is not purchased at the advertised sale, the owner of the animal boarding facility shall become the owner of the animal with all the rights, privileges, and obligations of ownership. A transfer of ownership pursuant to this section entitles the new owner of the animal to obtain the breed registration certificate for the animal from the organization or association which issued the certificate.

HISTORY: 1962 Code Section 45‑554.1; 1961 (52) 135; 1997 Act No. 119, Section 1.

CROSS REFERENCES

Animals and livestock generally, see Sections 47‑1‑10 et seq.

Veterinary medicine, see Sections 40‑69‑10 et seq.

Library References

Animals 26.

Westlaw Topic No. 28.

C.J.S. Animals Sections 78 to 80, 108 to 123.

**SECTION 29‑15‑70.** Lien on textiles for labor performed or materials furnished.

A lien on account of work, labor and materials furnished in manufacturing, finishing, bleaching, mercerizing, dyeing and printing or otherwise processing natural or man‑made fibers or goods of which natural or man‑made fibers form a component part, as against goods in the lienor’s possession, shall extend to any unpaid balance of account for work, labor and materials furnished in the course of any such process in respect of any other such goods of the same owner whereof the lienor’s possession has terminated. The word “owner,” as used in this section and Section 29‑15‑80, shall include a factor, consignee or other agent intrusted with the possession of the goods held under such lien or of a bill of lading consigning them to him with authority to sell them and delivered by such factor, agent or consignee to the lienor for the purposes aforesaid.

HISTORY: 1962 Code Section 45‑555; 1952 Code Section 45‑555; 1942 Code Section 8795; 1932 Code Section 8795; 1928 (35) 1168; 1969 (56) 75.

Library References

Labor and Employment 232.

Westlaw Topic No. 231H.

RESEARCH REFERENCES

Treatises and Practice Aids

3 Causes of Action 2d 807, Cause of Action to Establish or Enforce Artisan’s or Repairer’s Lien.

NOTES OF DECISIONS

In general 1

1. In general

Applied in Embassy Men’s Apparel, Inc. v. Lyman Printing & Finishing Co. (S.C. 1966) 247 S.C. 471, 148 S.E.2d 158.

**SECTION 29‑15‑80.** Enforcement of lien on textiles.

If any part of the amount for which goods are held under such lien remains unpaid for a period of sixty days after the earliest item of such amount became due and payable, the lienor may sell such goods at public auction, first (a) publishing a notice of the time and place of such sale once in each of two successive weeks in a newspaper published in the city or town, if any there be, and otherwise in the county, in which the goods are situated, the last publication to be not less than five days prior to the sale, (b) giving five days’ notice of such sale by posting in five or more public places in such county, one whereof shall be in the town or city ward in which such goods are situated and (c) if the residence or business address of the owner of the goods is known or can be ascertained, sending by registered mail a copy of such notice to such owner at such address at least five days before the day of sale. But if such goods are readily divisible no more thereof shall be so sold than is necessary to discharge the underlying indebtedness and cover the expenses of the sale. The proceeds of sale shall be applied to the payment of such indebtedness and expenses and the balance, if any, shall be paid to the owner or person entitled thereto. The remedy herein provided to enforce such lien shall be in addition to any other provided by law.

HISTORY: 1962 Code Section 45‑556; 1952 Code Section 45‑556; 1942 Code Section 8796; 1932 Code Section 8796; 1928 (35) 1168.

Library References

Labor and Employment 236.

Westlaw Topic No. 231H.

RESEARCH REFERENCES

Treatises and Practice Aids

3 Causes of Action 2d 807, Cause of Action to Establish or Enforce Artisan’s or Repairer’s Lien.

**SECTION 29‑15‑90.** Lien of laundries, dyers, and the like.

(A) Except as otherwise provided in this section, when personal property has been left at a laundry, dyer, dry cleaning establishment, retail store, or any other establishment for the purpose of cleaning, dry cleaning, dyeing, washing, alteration, or repairs and is not called for within six months and the charges paid in full, the establishment may dispose of the property by whatever means it chooses. An establishment, at the time of receiving the property, shall give to the person delivering it conspicuous notice in writing of disposal after six months. If notice is not given upon delivery, the property must not be disposed of until after twelve months.

(B) Except as otherwise provided in this section, when personal property has been left at a laundry, dry cleaning establishment, retail store, or any other establishment for the purpose of storage and is not called for within six months and thirty days and the charges paid in full, the establishment may dispose of the property by whatever means it chooses. Notice first must have been sent by certified mail to the last‑known address of the person, his agent, or employee, who left the goods at the establishment thirty days before disposal. An establishment, at the time of receiving the property, shall give to the person delivering it conspicuous notice in writing of disposal after six months and thirty days. If notice is not given upon delivery, the property must not be disposed of until after twelve months and thirty days and until after notice by certified mail pursuant to this subsection.

(C) If the property is insured through the establishment, the time periods provided for in this section do not begin to run until the insurance expires.

HISTORY: 1962 Code Section 45‑557; 1952 Code Section 45‑557; 1942 Code Section 7221; 1939 (41) 125; 1987 Act No. 140, Section 1; 1990 Act No. 507, Section 1.

Library References

Bailment 18(2).

Westlaw Topic No. 50.

C.J.S. Bailments Sections 75, 80.

**SECTION 29‑15‑100.** Lien on aircraft for labor performed, materials furnished, or contracts of indemnity provided.

(a) Every person engaged in servicing or furnishing supplies or accessories for aircraft or providing contracts of indemnity for aircraft shall have a lien on such aircraft for his reasonable charges therefor, including reasonable charges for labor, for the use of tools, machinery and equipment, and for all accessories, materials, fuel, oils, lubricants, earned premiums, and other supplies furnished in connection with the servicing or furnishing of supplies or accessories, or providing contracts of indemnity for such aircraft. Such lien shall be dissolved unless the person claiming it shall file, within ninety days after such service, supplies, accessories or contracts of indemnity are furnished, in the office of the register of deeds or clerk of court of the county within which the aircraft was located at the time such service, supplies, accessories or contracts of indemnity were furnished, a statement, subscribed and sworn to by himself or by some person in his behalf, giving a just and true account of the demands claimed to be due to him, with all just credits, and also the name of the person to whom the service, supplies, accessories or contracts of indemnity were furnished, the name of the owner of the aircraft, if known, and a description of the aircraft sufficient for identification. Such statement shall be recorded by the register of deeds or clerk in a book kept by him for that purpose, for which he shall receive the same fees as for recording other papers of equal length.

(b) The lien on aircraft authorized by the provisions of subsection (a) may be enforced as provided in Sections 29‑9‑50 through 29‑9‑80 of the 1976 Code.

HISTORY: 1976 Act No. 739, Sections 1, 2.

Code Commissioner’s Note

1997 Act No. 34, Section 1, directed the Code Commissioner to change all references to “Register of Mesne Conveyances” to “Register of Deeds” wherever appearing in the 1976 Code of Laws.

Library References

Aviation 244.

Westlaw Topic No. 48B.

C.J.S. Aeronautics and Aerospace Section 112.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Aviation and Airports Section 11, Liens for Labor and Material.

S.C. Jur. Clerks of Court Section 10, Duties.

S.C. Jur. Shipping Law Section 47, Liens for Labor, Materials, and Storage.

Treatises and Practice Aids

3 Causes of Action 2d 807, Cause of Action to Establish or Enforce Artisan’s or Repairer’s Lien.