

CHAPTER 184

PROPERTY

HOUSE BILL 05-1345

BY REPRESENTATIVE(S) McFadyen, Coleman, Curry, McKinley, and Merrifield;
also SENATOR(S) Tochtrop, and Tapia.

AN ACT

CONCERNING THE NONSUBSTANTIVE CLARIFICATION OF EXISTING STATUTORY PROCEDURES GOVERNING THE LIEN ALLOWED TO A PERSON FOR AMOUNTS DUE IN CONNECTION WITH THE CARE OF AN ANIMAL THAT IS ENTRUSTED TO THE CUSTODY OF SUCH PERSON.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 38-20-101, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

38-20-101. Definitions. As used in this article, unless the context otherwise requires:

(3.5) "PET ANIMALS" MEANS DOGS, CATS, OR OTHER DOMESTIC ANIMALS, EXCEPT LIVESTOCK AS DEFINED IN SECTION 38-20-202 (6).

SECTION 2. 38-20-102 (1), Colorado Revised Statutes, is amended to read:

38-20-102. Lien for care and feeding of pet animals and of landlord.
(1) (a) Any ~~ranchman, farmer, feeder, agistor, herder of cattle, livery stable keeper, veterinarian, or other person to whom horses, mules, asses, cattle, sheep, hogs, dogs, cats, or other domestic~~ PET animals are entrusted for the purpose of feeding, ~~herding, pasturing,~~ keeping, ~~ranching,~~ boarding, or medical care shall have a lien, which shall be superior to all other liens, upon such ~~horses, mules, asses, cattle, sheep, hogs, dogs, cats, or other domestic~~ PET animals for the amount that may be due for such feeding, ~~herding, pasturing,~~ keeping, ~~ranching,~~ boarding, or medical care and for all costs incurred in enforcing such lien. ~~The provisions of this subsection (1) shall not apply to stolen livestock.~~

(b) If the ~~agistor or feeder~~ LIENHOLDER complies with the provisions of section

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

38-20-103 and the ~~domestic~~ PET animals referred to in paragraph (a) of this subsection (1) are sold, exchanged, or otherwise disposed of to another ~~for slaughter or packinghouse purposes~~ from the premises of the lienholder by anyone other than the lienholder acting on his OR HER own behalf, the lien created by this subsection (1) shall continue and attach to the proceeds received or receivable therefrom. This lien shall also be superior to all other liens.

SECTION 3. 38-20-103, Colorado Revised Statutes, is amended to read:

38-20-103. Pet animal contract to be filed. All contracts, or copies thereof, made by the owner of any ~~animals, such as sheep, bovine cattle, horses, or any other kind;~~ PET ANIMAL with any other person, including a feeder, for the ~~herding or~~ caring for the same for pay, or on shares, or in any other manner may be filed with the county clerk and recorder of the county where the owners or either of them reside, if they reside in the state, and, if the owners or either of them do not reside in the state, the copies may be filed with the county clerk and recorder of the county in which the contract was made. When such copies are so filed they shall be notice to everyone of the contents of such contracts and of the legal effect thereof.

SECTION 4. 38-20-107 (1), Colorado Revised Statutes, is amended to read:

38-20-107. Commencement of foreclosure action. (1) If any such charges for which a lien is given by section 38-20-102, 38-20-105, 38-20-106, or 38-20-106.2 or for which a lien is restored by section 38-20-106.5 are not paid within thirty days after the same become due and payable, the mechanic, innkeeper, ~~agistor,~~ or other person to whom such lien is given may file a foreclosure action in the county or district court of the county or city and county in which the contract or agreement between the lienholder and the owner of the property was signed or entered into, in which the owner resided at the time the contract or agreement was entered into, in which the owner resides at the time the foreclosure action is commenced or in which the work was performed, or, in the case of a lien created pursuant to section 38-20-106.2, in which any work was performed or materials were furnished. In the event that the lienholder does not foreclose the lien by commencing a judicial action within sixty days and if, under section 38-20-106, within ninety days after charges become due and payable, the lien shall terminate. However, such period of limitation may be extended by agreement between the parties for an additional period not to exceed thirty days. For the purposes of this subsection (1), if the contract between the owner and the lienholder provides for installment or continuing payments, installments or continuing payments shall be deemed to be due after default of any installment or payment or at the time the final installment or payment is due and payable at the option of the lienholder.

SECTION 5. 38-20-109 (1), Colorado Revised Statutes, is amended to read:

38-20-109. Lienor may sell - procedure. (1) When the lienor has received a judgment and after giving ten days' prior notice of the time and place of such sale, with a description of the property to be sold, by one publication in some newspaper published in the county wherein he OR SHE resides or, if there is no such newspaper, by posting in three public places within such county and after delivering to the owner of such personal property or, if he OR SHE does not reside in the county, transmitting by mail to him OR HER at his OR HER usual place of abode, if known, a copy of such

notice, he OR SHE may proceed to sell all such personal property, or so much thereof as may be necessary, at public auction, for cash in hand, at any public place within such county between the hours of 10 a.m. and 4 p.m. of the day appointed. From the proceeds thereof he OR SHE may pay the reasonable costs of such foreclosure, notice, and sale and ~~his~~ ANY necessary and reasonable charges for the preserving, maintaining, feeding, boarding, ~~pasturing~~, or caring for the property on which he OR SHE has ~~his~~ A lien, together with the reasonable cost of keeping such property up to the time of sale, but the reasonable costs of keeping such property up to the time of sale shall not exceed ninety dollars. He OR SHE shall render the residue of the proceeds and of the property unsold to the owner.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 27, 2005