

LAW REFORM COMMISSION OF BRITISH COLUMBIA
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REPORT ON THE TUGBOAT LIEN ACT

Despite its title, the Tugboat Worker Lien Act has nothing to do with safeguarding the interests of persons employed in the towboat industry. Rather, it provides an extraordinary collection device to tugboat operators for unpaid towage fees.

The Law Reform Commission's research reveals that the Tugboat Worker Lien Act was first enacted to address economic circumstances that no longer exist and it adds little to other remedies that are available to tugboat operators under the general law. Moreover, the constitutional basis for provincial legislation in this area is dubious at best and if the Act were seriously challenged there is a great likelihood that it would be held to be ultra vires the province. In this Report the Commission recommends that the Act be repealed.

Table of Contents

I	THE TUGBOAT WORKER LIEN ACT.	1
A.	Introduction	1
B.	Preliminary Consultation	1
II	THE LEGAL BACKGROUND	2
A.	History of the Act	2
B.	What Does the Act Do?	2
C.	The Law of Tug and Tow	3
1.	Background - The Nature of Towage Services	3
2.	Breach of a Towage Contract - Rights In Rem.	3
(a)	Maritime Liens	3
(b)	Statutory Right In Rem	4
(i)	What is a Statutory Right In Rem?	4
(ii)	Does a Statutory Right In Rem	

for Towage Exist?	4
(iii) Limitations on a Statutory Right In Rem .	5
3. Possessory Liens for Freight	5
D. Conclusion	7
III CONSTITUTIONAL CONSIDERATIONS.....	9
A. Introduction	9
B. Section 91(10) - Navigation and Shipping	9
C. Section 92A - Forestry Resources	10
D. Section 92(13) - Property and Civil Rights	10
E. Conclusion	10
IV CONCLUSION	11
APPENDIX	
TUGBOAT WORKER LIEN ACT	
R.S.B.C. 1979, c. 417	12

1994

**Province of
British Columbia**

**Report on
the *Tugboat Worker Lien Act***

**LAW REFORM
COMMISSION OF
BRITISH COLUMBIA**

MINISTRY OF ATTORNEY GENERAL

LAW REFORM COMMISSION OF BRITISH COLUMBIA

REPORT ON

THE *TUGBOAT* *WORKER LIEN ACT*

“The Commission is to take and keep under review all the law of the Province, including statute law, common law and judicial decisions, with a view to its systematic development and reform, including the codification, elimination of anomalies, repeal of obsolete and unnecessary enactments, reduction in the number of separate enactments and generally the simplification and modernization of the law....”

Law Reform Commission Act
Statutes of British Columbia 1969

The Law Reform Commission of British Columbia was established by the *Law Reform Commission Act* in 1969 and began functioning in 1970.

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**TO THE HONOURABLE COLIN GABELMANN
ATTORNEY GENERAL OF THE PROVINCE OF BRITISH COLUMBIA:**

The Law Reform Commission of British Columbia has the honour to present the following:

REPORT ON
THE *TUGBOAT WORKER LIEN ACT*

Despite its title, the *Tugboat Worker Lien Act* has nothing to do with safeguarding the interests of persons employed in the towboat industry. Rather, it provides an extraordinary collection device to tugboat operators for unpaid towage fees.

Our research reveals that the *Tugboat Worker Lien Act* was first enacted to address economic circumstances that no longer exist and it adds little to other remedies that are available to tugboat operators under the general law. Moreover, the constitutional basis for provincial legislation in this area is dubious at best and if the Act were seriously challenged there is a great likelihood that it would be held to be *ultra vires* the province. In this Report we recommend that the Act be repealed.

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Table of Contents

I	THE TUGBOAT WORKER LIEN ACT.	1
A.	Introduction.	1
B.	Preliminary Consultation.	1
II	THE LEGAL BACKGROUND.	2
A.	History of the Act.	2
B.	What Does the Act Do?..	2
C.	The Law of Tug and Tow.	3
1.	Background – The Nature of Towage Services.	3
2.	Breach of a Towage Contract – Rights <i>In Rem</i>	3
(a)	Maritime Liens.	3
(b)	Statutory Right <i>In Rem</i>	4
(i)	What is a Statutory Right <i>In Rem</i> ?..	4
(ii)	Does a Statutory Right <i>In Rem</i> for Towage Exist?..	4
(iii)	Limitations on a Statutory Right <i>In Rem</i>	5
3.	Possessory Liens for Freight.	5
D.	Conclusion.	7
III	CONSTITUTIONAL CONSIDERATIONS.	9
A.	Introduction.	9
B.	Section 91(10) – Navigation and Shipping.	9
C.	Section 92A – Forestry Resources.	10
D.	Section 92(13) – Property and Civil Rights.	10
E.	Conclusion.	10
IV	CONCLUSION.	11
 APPENDIX		
TUGBOAT WORKER LIEN ACT		
	R.S.B.C. 1979, c. 417.	12

CHAPTER I

THE *TUGBOAT WORKER LIEN ACT*

A. Introduction

The first thing to note about the *Tugboat Worker Lien Act*¹ is that its title is misleading. A lien under the Act secures towage charges payable to the tugboat owner. It does not secure wages owed to persons such as the tugboat crew members. Moreover, it does not secure towage services of all kinds. It secures only money owed for the towage of “logs or timber products.”

B. Preliminary Consultation

The *Tugboat Worker Lien Act* came to our attention in the course of work in relation to the *Woodworker Lien Act*. Since both statutes concerned liens over forest products they seemed to raise common issues that might be amenable to a common solution.

In October 1992 we distributed, for consultation purposes, a Working Paper that addressed both of these lien statutes.² It was tentatively proposed that the *Tugboat Worker Lien Act* be repealed. This proposal attracted very little comment but that which it did receive was generally supportive.

We would like to thank those who responded on this issue. We would also like to acknowledge the contribution of Ms. Elizabeth Liu, a former member of the Commission's Research staff who assisted us with this study.

1. R.S.B.C. 1979, c. 417. The full text of the *Tugboat Worker Lien Act* is set out as an Appendix to this Report.

2. Law Reform Commission of British Columbia, *Liens for Logging Work* (WP 68, 1992).

CHAPTER II

THE LEGAL BACKGROUND

A. History of the Act

The background to the *Tugboat Worker Lien Act* is obscure. It was first enacted in 1927 as the *Tug-boat Men's Liens Act*.¹ The original goal of the Act appears to have been to aid small logging operators rather than tugboat operators. Contemporary newspaper accounts suggest small loggers, operating up the Pacific coast, found it difficult to obtain towage services to transport their logs to processing sites or markets. The Vancouver-based towage companies would require that towage fees be paid or secured in advance before sending a tug for the logs. The Act encouraged tugboat owners to extend credit to these small logging operators by giving the owners, subject to some exceptions, a first lien over the tow.² Since 1927 there have only been minor amendments to the Act.³

B. What Does the Act Do?

Briefly stated, the *Tugboat Worker Lien Act* provides the owner of a tugboat who performs any towage of logs or timber products (the “tow”) a lien on the tow.⁴ The lien lapses in thirty days unless the owner causes an affidavit setting out particulars of the lien claim to be filed in the “proper office.”⁵ Although it purports to be a “first lien” except for “debts or liens in favour of the Crown”⁶ the priority of certain other interests is also preserved. These include woodworker liens,⁷ *Bank Act*⁸ (Can.) security and “any lien or rights which the owner

1. S.B.C. 1926-27, c. 73.

2. *The Vancouver Morning Star*, January 19, 1927 and January 28, 1927.

3. It acquired its present title at the time of the 1979 statute revision. Some amendments were made to the Act in 1989 consequential on the merger of the County and Supreme Courts.

4. *Supra*, n. 1, s. 4.

5. *Ibid.*, s. 5. The “proper office” is the main registry of the Supreme Court in the county where the towage terminated.

6. *Ibid.*, s. 4.

7. *Woodworker Lien Act*, R.S.B.C. 1979, c. 435. See Law Reform Commission of British Columbia, *Report on the Woodworker Lien Act* (LRC 137, 1994).

8. S.C. 1991, c. 46, s. 427.

CHAPTER II: THE LEGAL BACKGROUND

of a tugboat may have in respect of towage by virtue of the common law.”⁹

The last exception brings clearly into focus a central question raised by the *Tugboat Worker Lien Act*. What does it add to the variety of highly specialized rights and remedies that exist under maritime law? The legal significance of the *Tugboat Worker Lien Act* can only be understood in the larger context of maritime law and the special body of rights and remedies that tugboat owners may pursue when they have not been paid for their services. Below, we describe these rights and remedies¹⁰ and then proceed to consider the relationship of the *Tugboat Worker Lien Act* to these remedies.

C. The Law of Tug and Tow

1. BACKGROUND – THE NATURE OF TOWAGE SERVICES

Towage was originally regarded as a form of salvage because disabled sailing vessels were towed out of danger. With the advent of steam power, however, sailing vessels increasingly used tugs to expedite their voyage. Towage became distinct from salvage and developed its own definition and body of law.¹¹

[Towage is] the employment of one vessel to expedite the voyage of another, when nothing more is required than ... accelerating her progress.

The definition of towage expanded further to include the use of tugs to tow cargo on board barges or other vessels.

2. BREACH OF A TOWAGE CONTRACT – RIGHTS *IN REM*

(a) Maritime Liens

A maritime lien is a very strong security¹² and much Court attention has been devoted to the question whether it is available for

9. *Supra*, n. 1, s. 3.

10. For a more detailed discussion of the law of tug and tow see Parks, *The Law of Tug, Tow and Pilotage*, 1982 and Bucknill, *The Law Relating to Tug and Tow*, 1913.

11. *The Princess Alice*, (1849) W. Rob. 138, 166 E.R. 914, 915.

12. A maritime lien is a privileged lien in several respects. It arises the moment the event that creates it occurs. A maritime lien travels with the property and the person asserting the lien need not retain possession of it. The lien takes no cognizance of the actual owner of the property. The lien is a right in specific property that is good against the world.

CHAPTER II: THE LEGAL BACKGROUND

simple towage. During the 19th century, a number of early maritime law cases recognized a maritime lien upon the tow for nonpayment of the towage services.¹³ As the nature of towage changed and expanded a reconsideration was required. This occurred in 1890 in *Westrup v. Great Yarmouth Steam Carrying Co.*¹⁴ where it was definitively held that no maritime lien existed for towage claims.

(b) Statutory Right In Rem

(i) What is a Statutory Right In Rem?

A statutory right *in rem*¹⁵, which provides a right against the “thing” (property), is inferior to a maritime lien in at least two respects. The right *in rem* accrues upon the commencement of the action *in rem* and is subject to any claims subsisting at that time.¹⁶ Additionally, property is subject to a right *in rem* only if the owner of the property is connected to the cause of action.¹⁷ The right *in rem* is not available, for example, if a good faith buyer purchases the property before the action is commenced. In contrast, a maritime lien relates back to the time when it first attached and is not lost through changes in ownership or possession of the property.

(ii) Does a Statutory Right In Rem for Towage Exist?

In England, statutory rights *in rem* for towage arose under various admiralty statutes as early as 1840.¹⁸ The Canadian *Admiralty Act*¹⁹ adopted the maritime law of England, including the right *in rem*, in 1891. The Canadian *Admiralty Act* subsequently conferred the

13. See, e.g., *The St. Lawrence*, (1880) 5 P. 250 and *The Constanca*, (1846) 4 Note of Cases 512. Also, a mistaken belief developed that a remedy *in rem* carried with it a maritime lien. Since the *Admiralty Court Act, 1861*, 24 & 25 Vict., c. 10, established that a claimant could proceed either *in rem* or *in personam*, it was believed that a maritime lien existed for towage.

14. (1890) 43 Ch. D. 241; see also *The Minerva*, [1933] P. 224, 46 Lloyd's L.R. 212; *Carow Towing v. The Ed McWilliams*, (1919) 18 Ex.C.R. 470.

15. A statutory right *in rem* is sometimes called a statutory lien.

16. See *The Two Ellens*, (1872) LR 4, P.C. 161; *Benson Bros. v. "Miss Donna"*, [1978] 1 F.C. 379 (F.C.).

17. In other words, the right *in rem* can only be exercised if the owner of the property could be held accountable at the time when the facts giving rise to the cause of action occurred. The right cannot be exercised against property owned by someone who is not connected with the cause of action. This is largely due to the theory adopted by English Courts which presumed that rights *in rem* were procedural in nature and only used to compel an appearance by the defendant. See *The Beldis*, [1936] P. 51 and *The Monica S.*, [1968] 2 W.L.R. 431.

18. See, e.g., the *Admiralty Court Act*, (1840) 3 & 4 Vict., c. 65 and (1861) 24 & 25 Vict., c. 10

19. S.C. 1891, c. 29.

CHAPTER II: THE LEGAL BACKGROUND

jurisdiction of the British High Court of Admiralty on the Exchequer Court of Canada.²⁰ This jurisdiction is now vested in the Federal Court of Canada.²¹ In Canada, therefore, a tugboat operator may pursue a statutory right *in rem* in the Federal Court of Canada for unpaid towage charges.²²

(iii) *Limitations on a Statutory Right In Rem*

A right *in rem* arising out of towage cannot be claimed until the towage contract is completed. Further, the owner of the property must be connected to the cause of action. No right *in rem* exists if the shipper is someone other than the owner of the property.²³ If the shipper sells the property to a third party before the contract is completed, the tugboat operator loses the right *in rem*.

The priority position of the right *in rem* is weak. Its holder is vulnerable to claims subsisting at the time the action was commenced.

3. POSSESSORY LIENS FOR FREIGHT

Services performed under towage contracts are often similar to contracts for the carriage of goods. Carriers, however, enjoy additional rights and a distinction has emerged between two types of towage contract. A towing agreement is characterized either as a “simple towage contract” or a “towage contract in the nature of affreightment” (hereafter a “contract for freight”²⁴). The distinction seems to turn on who supplies the tow. The courts seem most willing to characterize a towage contract to be one for freight when the

20. *Ibid.*, ss. 3, 4.

21. The *Federal Court Act*, S.C. 1985, c. F-7, ss. 2, 22(1).

22. Further, s. 43(3) of the *Federal Court Act* mirrors the traditional maritime law limit on statutory rights *in rem* by providing that the defendant must beneficially own the subject of the right *in rem* at the time when the *cause of action arises*.

23. *E.g.*, A, the owner of the property, may contract with B to transport the property to Vancouver. B may then contract with T, the tugboat owner, to tow the property. If B does not pay T after the contract is completed, T may sue B for breach of contract. T, however, does not possess a statutory right *in rem* because the owner of the property is not accountable for the breach of contract. A statutory right *in rem* may exist if B acted as an agent for A, the owner.

24. In its technical sense, *freight* is the amount recoverable pursuant to a contract for the carriage and delivery of goods.

CHAPTER II: THE LEGAL BACKGROUND

tugboat operator also supplies the barge (or other thing) that forms the “tow.”²⁵

The characterization is important because it determines the nature of the tugboat operator's remedies for unpaid charges. In addition to a statutory right *in rem*, a towage contract characterized as a contract for freight provides the tugboat operator with a common law possessory lien for freight upon delivery of the goods. A possessory lien gives a person who is owed freight the right to retain²⁶ the goods carried until the freight is paid.²⁷ The lien attaches to the goods carried as cargo even if the shipper is not the owner of them.²⁸ The possessory lien is lost once the goods are delivered to the consignee or owner.²⁹

A key question is whether the towage of logs and timber products gives rise to a possessory lien. That depends on whether a court is prepared to characterize the towage as a contract for freight. Where the forest products are transported on board a barge that is supplied by the tugboat operator the arrangement, quite clearly, is a contract for freight. A different characterization results when the barge is supplied by the shipper rather than the tugboat operator. This would seem to be a simple towage contract and not a contract for freight.

Typically, however, logs and timber products are collected in *booms*, or are tied together to resemble a raft or crib and they are towed in that form. The similarities between towage in this form and the carriage of goods on board a barge is no longer as apparent. The logs

25. *E.g.*, a contract providing both a tug and a barge to haul cargo carried on board the barge is a contract for freight, while a contract to haul a barge loaded with cargo is simply a towage contract. See Tetley, *Maritime Liens and Claims* (1985) 299-300; Parks, *The Law of Tugs, Tow and Pilotage* (2nd ed., 1982). Although both authors accept the general principle and apply it to all contracts for towage, they refer to U.S. case law only. No Canadian case has been found that specifically states this proposition.

26. A right of retention is the only right conferred by a common law possessory lien. The lienholder acquires no property rights in the goods and, unless authorized by an enactment, has no right to sell the goods to satisfy the claim.

27. Freight is payable to the person with whom the contract of affreightment is made. As such, freight is usually payable to the shipowner (tugboat owner) when the goods are ready for delivery. However, if the shipowner sells or assigns the craft to someone else prior to the completion of the contract, the right to freight transfers to the new owner or the assignee. If the shipper contracts with a charterparty instead of the shipowner to carry the goods, whether the charterer or the shipowner is entitled to freight depends on the contract between them. For an in depth analysis of the law of carriage, see Ridley, J., *The Law of the Carriage of Goods by Land, Sea and Air* (6th ed., 1982) and Carver, T.G., *Carver's Carriage By Sea* (13th ed. 1982).

28. See, *Fox v. Nath*, (1861) 6 H.&N. 630, 158 E.R. 260.

29. See *Pigeon River Lumber Co. v. Mooring*, (1909) 13 O.W.R. 190, 196. See also Tetley, *Maritime Liens and Claims* (1985) at 334. But if the cargo is placed in the custody of a warehousekeeper or a wharfinger, with written notice that it is to remain subject to the lien, the cargo remains bound by it. See *Canada Shipping Act*, R.S.C. 1985, c. S-9, s. 597.

CHAPTER II: THE LEGAL BACKGROUND

and timber products are not “carried on board” the tow. They *form* the tow. Analytically, the towage of a log boom appears to be in the nature of a simple towage contract, rather than a contract for freight.³⁰

In summary, tugboat operators who have contracted to tow logs and timber products have, at the very least, a statutory right *in rem* to secure payment. If the operator also supplies the vessel towed, such as a barge, the contract will also result in a claim for “freight” and a carrier's lien. There is also some authority that “freight” and a carrier's lien may be claimed for the towage of logs or timber in the form of a boom.³¹

D. Conclusion

Rights under the *Tugboat Worker Lien Act* do not appear to constitute a significant addition to the rights enjoyed by tugboat owners under the general law. Apart from the Act a tugboat owner may have a maritime “carrier's lien” and be entitled to claim a statutory right “in rem” for the towage. We also understand that most contracts for towage provide for consensual security. The standard form contract used by one of the major towboat firms in the Vancouver area contains the following provision:

15. LIEN

In addition to its *in personam* rights and regardless of when freight is to be paid, the Carrier shall have a general lien on the goods or any part thereof, whether or not the services under his Contract of Carriage have been completed and a right to sell such goods by any means for freight, dead freight, demurrage, detention, salvage, average, duties, fines or penalties and for all other charges and expenses whatsoever, which are for account of the goods or of the Shipper, and Shipper. This lien may be exercised notwithstanding the Carrier has parted with possession of the goods and the Carrier shall at all times stand authorized by the Shipper to give such notices to any persons for the time being in possession of the goods as may be required to give effect to these provisions.

A repeal of the Act, as proposed in the Working Paper, would not leave tugboat operators without a remedy for unpaid towage costs.

30. A handful of older cases dating from the turn of the century suggest that the towage of booms of logs or timber can give rise to a claim for “freight” and the possessory carrier's lien associated with it. See *Pigeon River Lumber Co. v. Mooring*, (1909) 13 O.W.R. 190; *Prembo v. Pacific Slope Lumber Co.*, (1915) 7 W.W.R. 1195; *Pacific Towing Co. v. Morris*, (1904) 11 B.C.R. 173. Whether a modern court would arrive at a similar conclusion is uncertain.

31. *Ibid.*

CHAPTER II: THE LEGAL BACKGROUND

This conclusion is reinforced by the fact that the Act seems to be little used in practice. A survey of 33 Supreme Court registries was carried out to ascertain the volume of filings under the *Tugboat Worker Lien Act* for the years 1989, 1990 and 1991. Only a single filing was reported. A lien was filed in the Vancouver registry in 1990. This suggests to us that the Act is not extensively relied on by those in the tugboat industry.

CHAPTER III

CONSTITUTIONAL CONSIDERATIONS

A. Introduction

The legislative competence of a provincial government to enact the *Tugboat Worker Lien Act* is far from clear.¹ The province cannot, of course, enact a statute beyond the legislative competence given to it by the *Constitution Act*.² Sections 91 and 92 of that Act set out the distribution of legislative powers between the provincial and federal governments. To be constitutionally valid, the *Tugboat Worker Lien Act* must rest on one of the classes of subject assigned to the provinces in section 92. Provisions in the *Constitution Act* dealing with navigation and shipping, forestry, and property and civil rights may all be relevant to the validity of the *Tugboat Worker Lien Act*.

B. Section 91(10) – Navigation and Shipping

Section 91(10) confers jurisdiction over navigation and shipping to the federal government.³ As such, the federal government enjoys legislative competence over navigable waters and the large body of maritime or admiralty law inherited from the United Kingdom, including towage.

In *B.C. Marine Shipbuilders Ltd. v. Wire Rope Industries of Canada*,⁴ the Supreme Court of Canada held that Canadian maritime law encompasses claims involving the breach of towage contracts and that the substantive law relating to the claims (*i.e.* breach of the towage contract) falls within federal legislative competence under section 91(10) of the *Constitution Act*.

On its face, the *Tugboat Worker Lien Act* appears to be invalid on the basis that only the federal government is competent to legislate with

1. In fact, members of the legislative assembly first questioned the *vires* of the legislation during the second reading of the tugboat worker lien Bill on December 11, 1924. See Appendix C.

2. *The Constitution Act*, 1867.

3. S. 91(10) does not authorize the federal government to regulate intraprovincial shipping. See Hogg, *Constitutional Law in Canada*. (2nd ed., 1985). This may have been in the back of the drafter's mind when the definition of "towage" was created. "Towage" only refers to the "transporting of logs or timber products from one place to another within the province."

4. [1981] 1 S.C.R. 363

CHAPTER III: CONSTITUTIONAL CONSIDERATIONS

respect to towage.⁵ The Act is valid only if its subject matter can be characterized as something other than towage – something that is within provincial jurisdiction.

C. Section 92A – Forestry Resources

Section 92A gives jurisdiction over nonrenewable natural resources to the provinces. As such, the provincial government enjoys legislative competence over the development, conservation and management of forestry resources in the province, including logging activities, such as towing logs to a sorting site. It might be argued that a statute dealing with towage performed in relation to logging activity is justified under section 92A even though this activity overlaps with federal jurisdiction over navigation and shipping.

D. Section 92(13) – Property and Civil Rights

Under section 92(13) the province has jurisdiction over property and civil rights. This includes the right to make laws concerning local trade. It might be argued that the regulation of the log towage industry, so far as it involves towage commencing and ending within the province, falls under provincial legislative competence.

E. Conclusion

The arguments that can be raised in support of provincial jurisdiction to enact legislation such as the *Tugboat Worker Lien Act* are unconvincing. The better view is that the Act is beyond the legislative competence of the province. Our conclusion is that, if it were subject to a serious challenge in the courts, the *Tugboat Worker Lien Act* would probably not be upheld.

5. Further, towage activity often takes place within harbours. It is fairly well settled that any legislation aimed at regulating or controlling navigation or shipping activities in a harbour is within federal legislative competence. See *Hamilton Harbour Commissioners v. City of Hamilton*, (1979) 21 O.R. (2d) 459 (Ont. C.A.); see also Hogg, *Constitutional Law of Canada*, *supra*, n. 3 at 495.

CHAPTER IV

CONCLUSION

It is our conclusion that there is little need to retain the *Tugboat Worker Lien Act*. It is seldom, if ever, used, it adds little to the other legal remedies available to tugboat operators and it would likely be struck down on constitutional grounds if seriously challenged. Moreover, the original reasons which led to the passing of the Act have disappeared. It was originally conceived as a mechanism to aid small struggling logging operators who were unable to obtain towage services. The Act is a product of economic conditions which no longer prevail. It is obsolete and should be repealed.

The Commission recommends that:

the *Tugboat Worker Lien Act* be repealed.

APPENDIX
TUGBOAT WORKER LIEN ACT

R.S.B.C. 1979, c. 417

Interpretation

1. In this Act

“logs or timber products” means logs, piles, poles, bolts, cordwood and other similar products of the forest;

“owner”, in respect of a tugboat, includes the charterer, lessee or other operator of the tugboat;

“towage” means the transporting of logs or timber products from one place to another within the Province by towing the same through the water by a tugboat, whether towed in booms, rafts or cribs, or on board scows, barges or vessels;

“tugboat” includes any vessel propelled by steam, combusive, electrical or other similar motive power, whether used exclusively in towage or not.

Towage on board foreign going vessels

2. This Act does not apply to the towage of logs or timber products on board any vessel which, at the time of the towage, is either beginning or ending a voyage to or from a place outside the Province.

Liens and rights not affected

3. Nothing in this Act affects

- (a) any lien created by virtue of the *Woodworker Lien Act*, or by virtue of any statute of Canada respecting navigation and shipping;
- (b) any rights existing by virtue of the *Bank Act* (Canada);
- (c) any lien or rights which the owner of a tugboat may have in respect of towage by virtue of common law.

Lien for towage

4. Except as otherwise provided in this Act, every owner of a tugboat who performs any towage for any person has a lien on the logs or timber products towed for the amount of money payable for the towage, which shall be deemed a first lien and has precedence over all other liens, claims, charges or encumbrances on them, whether registered or unregistered, other than debts or liens in favour of the Crown and prior liens existing under this Act.

Lapse of lien in default of filing affidavit

5. The lien shall lapse and cease to exist at the expiration of the period of 30 days after the last day on which the towage was performed, unless within that period the owner of the tugboat files or causes to be filed in the proper office prescribed in the Schedule an affidavit

APPENDIX: TUGBOAT WORKER LIEN ACT

of the owner, or of some person having a personal knowledge of the facts deposed to, setting out

- (a) the name and address of the owner claiming the lien, and the name of the tugboat by which the towage was performed;
- (b) the name and address of the person who contracted with the owner for the towage of the logs or timber products towed;
- (c) a description of the logs or timber products towed, including the registered timber marks or other marks of identification on them, if any;
- (d) the names or other descriptions of the places from and to which the towage was performed;
- (e) the last day on which the towage was performed; and
- (f) the amount of money claimed for the towage.

Lien where towage performed in stages

6. Where the towage in respect of which a lien is claimed under this Act was performed by the same owner under the same contract of towage, the lien is enforceable notwithstanding that the towage was performed by the owner in stages, at intervals, by more than one tugboat, or by different tugboats at different times; but the affidavit filed in respect of the lien pursuant to section 5 shall include full particulars of all stages, intervals and tugboats.

Enforcement of lien by action

7. (1) Where an affidavit in respect of the lien has been filed under section 5, the person entitled to the lien may enforce it by action in the Supreme Court within the territorial limits of which the towage terminated. That Supreme Court has jurisdiction to hear and determine the action, and to make orders, either before or after judgment, for the custody and sale of the logs or timber products towed for the enforcement and realizing of the lien, and generally for carrying out the intent and purpose of this Act as the court thinks proper.

(2) Unless action to enforce the lien is brought within the period of 30 days after the filing of the affidavit pursuant to section 5, the lien shall at the expiration of that period lapse and cease to exist; but if before the expiration of the period of 30 days a consent in writing, signed by the owner of the logs or timber products subject to the lien, consenting to an extension of the lien for a period named in the consent, not exceeding 60 days after the filing of the affidavit, is filed in the office in which the affidavit was filed, the existence of the lien and the time for bringing action for its enforcement shall be extended accordingly.

(3) In an action brought to enforce a lien it is a sufficient compliance with this section in respect of the party defendant to the action if the person who contracted with the owner of the tugboat for the towage of the logs or timber products is named as the defendant.

8. [Repealed 1989-40-204.]

Summary hearing

9. An action brought to enforce a lien under this Act may be disposed of summarily by a judge of the Supreme Court in Chambers without waiting for the regular sittings of the court, on terms as to notice and otherwise the judge may direct.

APPENDIX: TUGBOAT WORKER LIEN ACT

SCHEDULE

The proper office for the filing of the affidavit in respect of any lien, pursuant to section 5, shall be the office of the registrar designated in this Schedule opposite the name of the Supreme Court within the territorial limits of which the towage, out of which the lien arose, terminated, namely:

The County of Victoria –	The office of the registrar of the Supreme Court at Victoria
The County of Nanaimo –	The office of the registrar of the Supreme Court at Nanaimo
The County of Vancouver –	The office of the registrar of the Supreme Court at Vancouver
The County of Westminster –	The office of the registrar of the Supreme Court at New Westminster
The County of Yale –	The office of the registrar of the Supreme Court at Kamloops
The County of Cariboo –	The office of the registrar of the Supreme Court at Prince George
The County of Prince Rupert –	The office of the registrar of the Supreme Court at Prince Rupert
The County of East Kootenay –	The office of the registrar of the Supreme Court at Cranbrook
The County of West Kootenay –	The office of the registrar of the Supreme Court at Nelson