

LAW REFORM COMMISSION OF BRITISH COLUMBIA

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Backgrounder

LRC 137—Report on the Woodworker Lien Act

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The *Woodworker Lien Act* is a statute that was first enacted in 1888 to protect wage earners in the forest industry. The Act is intended to entitle workers in the forest industry to secure payment of wages owed by filing a lien, which is a form of security interest that is registered against property. Since its enactment the Act has not been systematically reviewed or analyzed, and both the language used and the practices prescribed within it are in need of an update.

The *Woodworker Lien Act* entitles “wage earners” who are not corporations to file liens for “labour and services” against “logs or timber” arising out of the work. The lien must be filed with the registry of the Supreme Court within 30 days of the work, and it is given high priority. A complex set of enforcement rules is included in the Act, and it includes a requirement that persons making payments under certain logging contracts check the payroll records of the company and retain any unpaid wages for any workers.

The Commission performed a survey of registries in British Columbia to determine how the liens were being used in practice. In most registries the volume of filings was not very high, although the values claimed by the liens were quite large in some cases. There was no standard registry practice across the province to deal with these types of liens, and subsequently prospective buyers of logs or timber could not do a proper search. The liens themselves were claimed primarily in respect of timber harvesting, and were often claimed by persons ineligible under the Act.

The language in the Act is obscure and many important issues are neglected. There is a large gap between the law set out in the statute and the practice, and the enforcement procedures are wildly out of date. The provisions concerning payroll receipts are unworkable. Lastly, the Act was created to deal with a logging industry that was very small and local, and thus is not suited to deal with British Columbia’s modern forest industry practices.

The report concludes the *Woodworker Lien Act* is beyond repair and must be completely replaced. The report includes draft legislation entitled the *Forest Work Security Act*, which is built on concepts from the *Personal Property Security Act* and designed to work in har-

mony with it. It provides for a “forest work security interest” that contractors and subcontractors would be able to claim against parties owing them money. The draft legislation attaches the security interest to the products but limits it to the immediate debtor. The remedies available under the *Personal Property Security Act* would be available to forest workers, and they would also be entitled to apply for an injunction to preserve their rights under the Act. More detailed analysis of the draft legislation is included in the commentary to its provisions.

Further Developments

There have been no further developments.