

CHAPTER 226

CROP LIENS

*Ordinances Nos. 12 of 1904, 3 of 1905, 36 of 1933, 2 of 1935,
2 of 1945, 19 of 1954, 8 of 1957, 7 of 1966, 37 of 1966,
13 of 1968, Act No. 4 of 1975.*

AN ACT TO REGULATE THE CREATION OF LIENS FOR ADVANCES ON
CROPS

[2nd November, 1904.]

Short title

1. This Act may be cited as the Crop Liens Act.

Interpretation

2. In this Act, the term "agricultural produce" includes sugar-cane, cotton, coffee, tea, cacao, coconuts, copra, tobacco, rice, maize, bananas, vanilla, peanuts, potatoes, pineapples, yaqona, kumalas, tomatoes and any other agricultural product from time to time declared by the Minister by notification in the Gazette to be within its meaning. (*Amended by 2 of 1945, s. 33.*)

Form of agreement for advance on security of crop or to secure payment of a debt.

3.—(1) Any agreement whereby a person (hereinafter called the lienee) agrees to advance moneys or supply goods to another (hereinafter called the lienor) upon the security of the lienor's crop or crops of agricultural produce growing or to be grown or whereby such crop or crops is or are made the security for the payment of a debt from the lienor to the lienee or for any liability undertaken by the lienee for the lienor, or for other valuable consideration, shall be in the form given in the Schedule or as near thereto as circumstances may permit, and shall be registered by the Registrar of Deeds in a separate alphabetical register to be kept for that purpose which shall be open to inspection by the public.

Every agreement shall be attested by—

- (a) the Registrar or Deputy Registrar of Titles; or
 - (b) a magistrate; or
 - (c) the Commissioner of a division or a district officer; or
 - (d) a barrister and solicitor of the Supreme Court of Fiji; or
 - (e) a commissioner for oaths of the Supreme Court of Fiji; or
 - (f) a notary public; or
 - (g) a justice of the peace; or
 - (h) any fit and proper person specially appointed by the Registrar of Titles, who must, before it is executed, explain the agreement to the lienor and satisfy himself that the lienor appeared to understand the meaning of the same.
- (*Amended by 2 of 1945, s. 33, 7 of 1966, s. 24, and 4 of 1975 s. 2.*)

Creation of preferable lien on crop

(2) The lienee, whether the advance be made or the debt be incurred or the goods be supplied before, at or after the date of the agreement, shall from the date of the registration of the agreement as aforesaid, have a preferable lien upon, and be entitled to, the whole of the crop or crops given as security, whether the same be then or be intended to be thereafter sown or grown, and the produce thereof or the proceeds thereof if and when sold and converted into money, and until the repayment of the advance or liquidation of the debt with interest (if any) the possession of the crop or crops and the produce or the proceeds thereof as aforesaid by the lienor or by any person or persons on his account or for his use or benefit shall, for all intents and purposes, be deemed to be the possession of the lienee.

Lien not to be extinguished by sale, etc., of land whereon crop growing

4. A lien given and created under the provisions of this Act shall not be extinguished or otherwise impaired by any subsequent sale, mortgage or encumbrance of or upon the land whereon the crop or crops is or are growing or situate, nor by the death or insolvency of the lienor.

Power of sale of crop

5. If the lienor, his executors, administrators or assigns neglect or refuse either to pay the whole of the advance or to liquidate the debt with interest (if any), according to the terms of the agreement, or to give up the crop or crops to the lienee or otherwise to conform to the terms of the agreement, the lienee, his executors, administrators or assigns, may enter into possession thereof and cultivate until maturity and reap and carry away and sell the same, and apply the proceeds thereof to the repayment of the advance or the liquidation of the debt with interest (if any) and of all expenses incurred in so doing, and shall pay the balance (if any) to the lienor, his executors, administrators or assigns:

Provided that if the lienor is a leaseholder or tenant, the lienee shall, before reaping or carrying away or selling the crop or crops or any part thereof growing or situate upon land in respect whereof the lienor is then indebted to his landlord for rent, pay to the landlord the rent then due, and may, before paying the balance (if any) of the proceeds of sale of the security to the lienor, repay himself therefrom the sum so paid for rent.

Duration of lien

6.—(1) A lien under the provisions of this Act shall continue in force for the period specified in the agreement whereby the same is created, and may be created for any period not exceeding five years, anything in the Bills of Sale Act to the contrary notwithstanding. (*Amended by 4 of 1975, s. 3.*) (Cap. 225.)

Entry of satisfaction of lien

(2) The Registrar of Deeds shall, at any time when so requested by both parties to the agreement, enter satisfaction thereof in the register in the manner prescribed by section 17 of the Bills of Sale Act. (Cap. 225)

Fees

7. There shall be paid to the Registrar of Deeds for every entry in the prescribed register a fee of fifty cents, and for every search made in the register a fee of ten cents. These fees shall be paid into the Consolidated Fund.

(*Amended by 19 of 1954, s. 2.*)

Penalty for lienor's defeating lienee's security

8. Any lienor and any agent of a lienor who sells or delivers a crop or the produce or proceeds thereof without the written consent of the lienee of that crop, or who by any other means deprives the lienee of the crop and its produce or the proceeds thereof, or directly or indirectly defeats, invalidates or impairs the security of the lienee, shall be guilty of a misdemeanour and be liable on conviction to a fine not exceeding treble the amount of the loss sustained by the the lienee or to imprisonment for a term not exceeding three years.

(Amended by 37 of 1966, s. 65.)

Bills of Sale Act not to apply

9. The provisions of the Bills of Sale Act shall be deemed not to apply to any agreement already made or that may hereafter be made under the provisions of this Act. *(Inserted by 3 of 1905, s. 3.)* *(Cap. 225)*

Time for registration Priority of registered liens

10. An agreement made under the provisions of this Act shall be registered within twenty-one days of its being signed by the lienor, and, in case two or more agreements are made comprising in whole or in part the same crop or crops, they shall have priority in the order of their registration.

(Inserted by 3 of 1905, s. 4.)

THE SCHEDULE

(Section 3)

(Amended by 7 of 1966, s. 24 and 4 of 1975 s. 4.)

FORM OF AGREEMENT

I, A. B. of, etc. [*address and description*] in consideration of [*here state the consideration*] hereby give to [*state lienee's name, address, and description, if already described insert "the said C. D."*] a lien on my crop(s) of [*name the agricultural produce*] growing or to be grown on land situate at _____ in Fiji and known as _____ up to _____ day of _____, 19 _____.

[Here insert any other stipulations or conditions.]

In witness whereof I have hereunto set my hand this _____ day of _____, 19 _____, in the presence of _____ *(Signature of lienor.)*

I hereby certify that I have explained the above agreement to A. B. and he appeared to me fully to understand the same.

(Signed)
(A person holding one of the qualifications or positions referred to in subsection (1) of section 3.)

CHAPTER 226

CROP LIENS

Notice 18th Nov. 1966 [in force 2nd Dec. 1966.]

SECTION 2—DECLARATION OF AGRICULTURAL PRODUCE

Made by the Governor

The following shall be agricultural produce within the meaning of the Act:—
Broom corn, cassava, dalo, dalo-ni-tana, ginger, onions, passionfruit,
sorghum, water-melons, yams.

Controlled by Ministry of the Attorney-General