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Chapter 1. General provisions

§ 1-1. Definitions

- (1) A lien means a special right to seek satisfaction of a claim in specific property (the attached property).
- (2) A non-possessory lien means a lien where the owner is not deprived of control over the attached property.
- (3) A possessory lien means a lien where the owner is deprived of control over the attached property.
- (4) A real property register means a land register, ship register, aircraft register and similar registers classified according to the property to which the rights pertain.
- (5) The moveable property register means the National Register of Rights in Moveables.

§ 1-2. Directory rules

Effect of other laws

- (1) The rules of this Act may be set aside by agreement except as otherwise provided or appearing from the context.
- (2) By agreement a lien may be validly created only where authorized by this Act or by other statute.
- (3) This Act is superseded by rules of liens in other statutes, including rules concerning liens on moveable property that can be registered in a register of ships or other real property registers.
- (4) That a lien acquires legal protection under this Act does not prevent the acquisition of rights under the Act of 2 June 1978 No. 37 concerning the acquisition of moveables in good faith, except as otherwise explicitly provided by statute.

§ 1-3. Creation of liens.

- (1) A lien may not be validly attached as a whole to all the present or future property of the lienee.
- (2) When a right cannot be assigned, or can be assigned only on certain conditions, the same limitation applies in the matter of attaching a lien to the right.

§ 1-4. Specification of the lien claim.

- (1) If an agreed lien acquires legal protection by registration in a register of real property or in the moveable property register, such protection is conditional on the amount or the maximum amount to be secured by the lien being specified in the document which serves as evidence of the lien.
- (2) The amount shall be specified in Norwegian money or in foreign money for which a <sup>stock</sup> exchange rate is normally quoted in Norway.

§ 1-5. Special rules concerning claims for costs, interest etc.

- (1) The provision of § 1-4 first paragraph above does not apply to claims for
  - a) costs of enforcing the lien claim,
  - b) interest which has been earned later than two years before demand was filed under §§ 109 or 176 b of the Enforcement Act or similar legal steps to convert the property into money were taken by a creditor who carries out a forced sale, or later than two years before public composition or bankruptcy proceedings were opened against the owner,
  - c) land duties which fell due later than two years before the events mentioned in b) above,
  - d) premium for fire insurance and other customary property insurance for the period later than one year before the

events mentioned in b) above, when the lienholder has paid the premium for the owner.

- (2) Claims as mentioned in the preceding paragraph are comprised under the lien securing the principal claim except as otherwise provided in the creation of the lien.

§ 1-6. Yield from the property

- (1) In the case of non-possessory liens the owner has the right to the yield from the attached property.
- (2) The person holding a lien on securities, redemption papers or non-negotiable money/<sup>claims</sup> can collect and receive interest, dividends and instalments which fall due during the period of the lien. The amounts received by the lienholder may be employed by him to pay matured interest on the lien claim and matured parts of the principal. Any excess amounts may be demanded by the owner from the lienholder. If the attached paper or claim is to be honoured, the lienholder may receive and keep the paid amount insofar as necessary to secure also the unmatured parts of the lien claim. A lien on shares comprises also new shares that are issued free.
- (3) The provisions of the two preceding paragraphs are applicable only except as otherwise provided by agreement, distraint provisions or other statutory rules. The last preceding paragraph involves no amendment of § 112 third paragraph of the Insurance Agreements Act of 6 June 1930 (No. 20).

§ 1-7. Right of use, maintenance and insurance obligation

- (1) In the case of non-possessory liens the owner has the right to use the attached property in the usual manner except as otherwise provided by agreement, distraint provisions or other statutory rules.
- (2) In the case of non-possessory liens the lienee is responsible for the proper care and maintenance of

the attached property, so that the lienholder's security is not reduced.

- (3) If moveable property charged with a possessory lien has been delivered to the lienholder, he is responsible for such care and supervision of the property as is required under the circumstances. He may not use the property for his own purposes unless such use has been agreed or is justified on other legal grounds.
- (4) In the case of liens in the form of contractual mortgages of real property, operating accessories or stocks of goods, the mortgagor is obliged to maintain fire and other property damage insurance to the customary extent.

§ 1-8. Risk and liability for loss of or damage to the attached property.

- (1) If the attached property is accidentally lost or damaged, the owner sustains his loss and the lienholder the loss of lien security.
- (2) The owner and lienholder are liable to each other only to the extent resulting from general liability rules or specific legal grounds.

§ 1-9. Claims coming prematurely due

- (1) Besides on the normal due date the lienholder may require the lien claim to be paid
  - a) when a major default has been committed on the obligation to pay interest and instalments of principal,
  - b) when the attached property is put up for forced auction or necessary auction,
  - c) when public composition or bankruptcy proceedings are opened against the debtor or owner of the attached property,
  - d) when the owner or lienee abuses to a considerable extent his control over the attached property or otherwise

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neglects to a considerable extent his obligations under § 1-7 above.

- e) when the attached property is accidentally lost or damaged and this causes the lien security to be considerably reduced.
- (2) Before payment can be demanded under the rules of the preceding paragraph d) or e) above, the lienholder shall give the owner and lienee reasonable notice to remedy the situation unless it would be hazardous to wait.
- (3) Where an agreement creating a lien provides other grounds than those mentioned in (1) above for causing the claim to come prematurely due, they may be wholly or partially set aside if it would be unreasonable or contrary to sound business practice to enforce them.

§ 1-10 Assignment and attachment of a lien

- (1) The lienholder has in relation to the owner the right to assign the lien and to attach it, except as otherwise agreed or follows from the circumstances.
- (2) If the claim which is secured cannot be assigned, the lien securing it is likewise non-assignable.
- (3) The assignee or sub-lienholder does not acquire greater rights in respect of the owner of the attached property than those enjoyed by the lienholder except as otherwise provided by the rules concerning acquisition of rights in good faith.

§ 1-11 Assignment of attached property etc.

- (1) A lien does not prevent the assignment of the attached property except as otherwise provided by agreement, distraint provisions or other statutory rules. The separate assignment of parts of an attached object or of accessories is subject to the consent of the lienholder unless such assignment is evidently immaterial to the lienholder's security.

- (2) The provisions of (1) above apply similarly to voluntary transactions other than assignment.
- (3) Liens on operating accessories and stocks of goods are subject to the provisions of §§ 3-7 and 3-13, and sales liens are subject to the provisions of § 3-16 below.

§ 1-12. Joint lien

- (1) When two or more independent items of property which belong to the same owner or to different owners are attached with liens for the same claim, the lienholder may seek satisfaction of his entire claim in the attached item or items of his choice, except as otherwise provided by agreement, distraint provisions or other statutory rules.
- (2) If the lienholder has obtained satisfaction in one of the attached items for a larger part of the lien claim than should fall to this item under the legal relations between the parties, the other holders of liens on the item, and the owner if appropriate, may for the excess part enter into the lien on the other attached items.

§ 1-13. Ranking of liens

When two or more persons have liens on the same property, the first attached lien ranks first except as otherwise agreed or provided by the rules of legal protection.

§ 1-14. Acquisition of liens

- (1) When a lienholder has taken steps to enforce his lien claim by demand under the Enforcement Act or by request for forced sale or delivery under §§ 10 through 13 of the Hire Purchase Act of 21 July 1916 (No.9), the other lienholders may acquire his lien by paying his claim in full.
- (2) If two or more lienholders intend to acquire the lien, the first-ranking lienholder takes precedence. A lower ranking lienholder may not acquire the lien of a higher

ranking lienholder who prefers to acquire his lien instead.

- (3) If none of the lienholders intend to acquire the lien, the owner of the attached property may acquire it if he is not the main debtor of the lien claim.

§ 1-15. Time periods.

For the purpose of reckoning time periods under this Act, the rules of §§ 146, 148 and 149 of the Courts Act will similarly apply.

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Chapter 2. Contractual mortgage on real property

§ 2-1. Rights that can be mortgaged

- (1) Ownership and special rights in real property or unspecified parts of real property may be mortgaged under the rules of this chapter.
- (2) A physical part of real property or lease of such part may not be separately mortgaged until the competent authority has issued the necessary separation or lease permit.

§ 2-2. Property comprised under the mortgage

- (1) Except as otherwise agreed, real property mortgage comprises:
- a) the land,
  - b) houses and other buildings and plant on the land which the mortgagor owns or which he or later owners construct there,
  - c) such moveables as are normally regarded as accessories in the purchase and sale of that kind of property, and
  - d) participations, rights of use, easements and the like that pertain to the mortgaged property.

- (2) In business operations, operating accessories to the property may be mortgaged together with the property under the rules of §§ 3-4 through 3-7 below.

§ 2-3. Property comprised under the mortgage on a lease of land and houses thereon etc.

- (1) The mortgage on a lease of land and houses thereon etc. shall comprise
- a) all rights of the mortgagor under the lease contract, and
  - b) houses and other buildings and plant on the land which the mortgagor owns or which he or a later lessee constructs there.
- (2) The rules of § 2-2 (1)c) and (2) apply similarly.
- (3) Also applicable is § 17 third and fourth paragraphs of the Land Lease Act of 30 May 1975 (No.20).

§ 2-4. Mortgage of owner section

The mortgage of an owner section in a building comprises

- a) the section of the building which the mortgagor owns or has an exclusive right to use, and
- b) the mortgagor's share of the ownership or lease of the land and pertaining common facilities of whatever kind.

§ 2-5. Legal protection

- (1) Mortgage rights as mentioned in this chapter acquire legal protection by registration in the land register. The mortgaged property remains in the possession of the owner except as otherwise agreed, see § 2-6 below.
- (2) A lien which is created on a real property mortgage and which is evidenced by a negotiable promissory note or



redemption paper acquires legal protection under the rules of § 4-1 or 4-2 below.

- (3) Liens which are created on the lease of a dwelling and which are evidenced by a security document or redemption paper are subject to the provisions of § 4-3 below.

§ 2-6. Mortgagee's operation of the property

- (1) The mortgagee may under agreement take over possession of the property and operate it for account of the mortgagor. In such case the provisions of § 176 (c) and § 176 (d) of the Enforcement Act will similarly apply.
- (2) The mortgagee may under agreement alternatively operate the property for his own account so that the yield thereof takes the place of interest on the mortgage debt. In such case the provisions of § 176 (c) first paragraph and 176 (d) of the Enforcement Act will similarly apply.
- (3) Agreements under this section may not be implemented in conflict with the concession laws.

§ 2-7. Assumption of mortgage debt

- (1) When the owner intends to assign or has assigned a mortgaged property with an obligation for the new owner to assume liability for the mortgage debt, he may request the creditor to consent to a named new owner replacing him as personal debtor of the mortgage debt.
- (2) If the creditor has given such written consent, the assigner is released from his liability and the new owner becomes liable to the creditor from the date the consent reached the assignor or the new owner, or from the date of the assumption of the debt according to the assignment contract, whichever date occurs later. If the latter date occurs more than one year after the creditor gave his consent, the consent becomes ineffective except as otherwise agreed.

- (3) If the creditor fails to give his written consent within one month from receiving the request, the mortgage debt may be paid at one month's written notice, given after a binding agreement has been made to assign the mortgaged property. This right lapses if the payment notice is not given within one year from the creditor's receipt of the request, and the mortgage debt is thereafter paid in accordance with the notice that was given.
- (4) The provisions of this section may not be set aside by agreement to the disadvantage of the assigner and assignee.

### Chapter 3. Contractual liens on moveable property

#### § 3-1. The main rule of the legal protection

Subject to the exceptions contained in this chapter or separate statute, contractual liens on moveable property can only acquire legal protection under the rules of § 3-2 below.

#### § 3-2. Possessory liens

- (1) Possessory liens may be created by agreement on moveables that can not be entered in a real property register. The exception for registrable moveables does however not prevent a possessory lien from being imposed on accessories of such moveables.
- (2) Possessory liens acquire legal protection by delivery of the attached property to the lienholder or other person who undertakes to possess the property on behalf of the lienholder, so that the owner himself does not have control thereof. For this purpose, delivery of the actual attached property may be replaced with similar effect by delivery of the key of the room in which the property is stored, or similar measures that deprive the owner of control over the attached property.
- (3) If at the time the lien is created the attached property

is in the possession of a person other than the owner, the possessory lien alternatively acquires legal protection when the possessor is notified of the lien and informed that the owner is deprived of control over the property.

- (4) A lien created on a possessory lien acquires legal protection by delivery of the attached property to the sub-lienholder. The rules of (2) and (3) above will similarly apply.

§ 3-3. Liens on registrable moveables.

- (1) Liens on moveables that can be entered in a real property register and accessories of such moveables acquire legal protection by being entered in the proper register.
- (2) The rules of § 2-7 above concerning the assumption of mortgage debt apply similarly in the assignment of such moveables.

Liens on operating accessories

§ 3-4. The property comprised under the lien

- (1) Business enterprises may create non-possessory liens on operating accessories that are used in or are designed for their business operations. Such liens are created together with liens on ownership of or a registered and assignable right to use the real property or properties to which the business relates.
- (2) Operating accessories are
- a) machinery, implements, tools, furnishings and other equipment,
  - b) rights in trademarks, patents and designs and acquired copyright,
  - c) mineral exploitation rights under the Mining Act of 30 June 1972 (No.70).

- (3) Liens on operating accessories which are attached with a sales lien, or which the lienee has only an assignable right to use, comprise the rights of the lienee at any time in those accessories.
- (4) Liens on operating accessories do not comprise objects that can be attached under §§ 3-3, 3-8, 3-9 or 3-10 below.
- (5) The lien comprises the operating accessories in their entirety, as they are at any time. If the lienee's business operations consist of several divisions, which are operationally separate and relate to different properties, the operating accessories of each division may be separately attached with liens.

#### § 3-5. Business enterprises

For this purpose, business enterprises are

- a) individuals and corporations that are entered in a company register or other register as provided by regulations issued by the King.
- b) other kinds of business enterprises insofar as provided by regulations issued by the King.
- c) hospitals, nursing homes, schools, universities, museums, sports and leisure time institutions and other institutions of a social, charitable or similar nature, even if operated as non-profit enterprises, insofar as provided by regulation issued by the King.

#### § 3-6. Legal protection

- (1) Liens on operating accessories acquire legal protection by being registered together with the mortgage on the ownership of or right to use the real property or properties.

- (2) Registration of a lien on operating accessories only provides legal protection to the extent that the conditions for validly creating a lien under §§ 3-4 and 3-5 above have been satisfied.

§ 3-7. Assignment of attached operating accessories

- (1) The lienee may replace or assign attached operating accessories wherever such acts are in accordance with proper operation and do not considerably reduce the lienholder's security.
- (2) When the lienholder has taken steps to enforce the lien claim by serving a demand under §§ 109 or 176 (b) of the Enforcement Act, the lienee may not replace or assign attached operating accessories without the consent of the lienholder.
- (3) When accessories are sold in accordance with the rules of (1) and (2) above and the seller no longer has control thereof, the lien lapses. If the sale was made in violation of these rules, the lien ranks after any rights acquired under the Act of 2 June 1978 (No.37) concerning the acquisition of moveables in good faith.

§ 3-8. Liens on motor vehicles and construction machines

- (1) Business enterprises may create non-possessory liens - combined or individual - on motor vehicles that are used or intended for use in the business operation, and mobile construction machines that are used or intended for use in the enterprise's contractor business.
- (2) The lien acquires legal protection by being registered on the owner's sheet in the moveable property register.
- (3) A lien created on liens in motor vehicles and construction machines acquire legal protection in the same manner. If the lien is evidenced by a negotiable promissory note

or a redemption paper, however, the rules of § 4-1 or § 4-2 below will be applicable.

- (4) The King may by regulation define the meaning of motor vehicle or construction machine for this purpose, and provide how the motor vehicles and machines shall be identified.
- (5) The provisions of § 3-4 (3), § 3-5 and § 3-6 (2) will similarly apply. In the case of a combined lien on all the lienee's motor vehicles or construction machines, the provisions of § 3-4 (1) and § 3-7 will similarly apply.

§ 3-9. Liens on implements and tools, livestock, crops etc. in agriculture.

- (1) Moveables that are used or intended for use in agricultural operations but which are not accessories to real property, and goods that are produced in the operations, can be separately attached with non-possessory liens.
- (2) Such moveables comprise:
  - a) machines, implements, tools and other equipment except motor vehicles as mentioned in § 3-8 above,
  - b) crops and other harvested yield,
  - c) livestock, including tame reindeer, furred animals, poultry, fry and fingerlings and farmed fish,
  - d) seed grain, fertilizer, fuel and other consumables for the operation,
  - e) packaging for the products of the operation.
- (3) The lien acquires legal protection by being registered on the owner's sheet in the moveable property register.
- (4) The King may by regulation define agricultural operations

for the purpose of these provisions.

- (5) The provisions of § 3-4 (3) and (5), § 3-6 (2), § 3-7 and § 3-8 (3) will similarly apply.

§ 3-10. Liens on fishing gear

- (1) Moveables that are used or intended for use in commercial operations conducted from fishing, whaling or sealing vessels, but which are not accessories of a vessel, may be separately attached with non-possessory liens.
- (2) The lien acquires legal protection by being registered on the owner's sheet in the moveable property register.
- (3) The provisions of § 3-4 (3) and (5), § 3-6 (2), § 3-7 and § 3-8 (3) above will similarly apply.

Liens on stocks of goods (Inventory mortgage)

§ 3-11. The property comprised under the lien

- (1) Business enterprises may create non-possessory liens on their stocks of goods used in the business.
- (2) Stocks of goods are the enterprise's stocks of
- a) raw materials, unfinished and finished goods and merchandise,
  - b) fuels and other consumables,
  - c) packaging for the products of the enterprise.
- (3) The lien must comprise the lienee's stocks in their entirety or a specific part thereof which is operationally separate from the rest and appears as an independent unit according to the situation of the stocks or the said part thereof at any time. The King may issue regulations concerning the right to create liens on part of stocks.

(4) Liens on stocks of goods do not comprise objects that can be attached with liens under §§ 3-3, 3-8, 3-9 or 3-10.

(5) The provisions of § 3-4 (3) and § 3-5 will similarly apply.

§ 3-12. Legal protection

(1) Liens on stocks of goods acquire legal protection by being registered on the owner's sheet in the moveable property register.

(2) The provisions of § 3-6 (2) and § 3-8 (3) will similarly apply.

§ 3-13. Assignment of attached goods

(1) Goods of attached stocks may be freely assigned within the limits of the lienee's normal business operations.

(2) When the lienholder has taken steps to enforce the lien claim by written demand under § 229 (b) second paragraph of the Enforcement Act, the lienee may not assign goods of attached stocks without the consent of the lienholder.

(3) The provisions of § 3-7 (3) will similarly apply.

Sales liens.

§ 3-14. The claims that may be secured

In connection with the sale of moveable objects a lien may by agreement be imposed on said objects as security for

a) the sellers's claim on the purchase price with the addition of interest and costs, or

b) loans which a third party has granted to the buyer for full



or partial payment of claims as mentioned in a) above, and which the lender paid out direct to the seller.

§ 3-15. The objects that can be charged with liens.

- (1) A sales lien may not be agreed under the rules of §§ 3-14 through 3-22 on moveables that can be entered in a real property register. The exception for registrable moveables does however not prevent a sales lien from being imposed on accessories of such moveables.
- (2) Nor may sales liens be agreed on objects which the buyer has the right to resell before they have been paid, except where the object can be resold after processing or as an accessory or part of a main object.
- (3) The King may by regulation except certain objects or kinds of goods from the sales lien system, stipulate a minimum money amount and otherwise issue such provisions as are considered necessary, in particular for the purpose of coordinating them with the rules concerning purchases on credit and on instalment terms.

§ 3-16. Prohibition against resale or attachment.

Objects that are charged with a sales lien may not be assigned or attached with possessory liens except with the consent of the holder of the sales lien.

§ 3-17. Legal protection

- (1) In consumer purchases, any sales lien agreement must in order to acquire legal protection be made in writing and at the latest at the same time as the sold object is delivered to the buyer.
- (2) In other purchases than consumer purchases a sales lien must in order to acquire legal protection be agreed at the latest at the same time as the sold object is delivered to the buyer. If the agreement is not made in writing, it must be confirmed in writing by either party without undue delay after the delivery.

- (3) A sales lien on a motor vehicle which is registered according to the rules of § 15, cf. § 16 of the Road Traffic Act of 18 June 1965 (No. 4) must in order to acquire legal protection moreover be entered on the buyer's sheet in the moveable property register. The sales lien will thereby also be protected against any legal acquisition under the Act of 2 June 1978 (No. 37) concerning the acquisition of moveables in good faith.
- (4) The agreement must specify the objects to be comprised under the lien and the purchase price or the purchase loan the lien is to secure. When several objects have been bought with a sales lien as a whole, the lien is regarded as a charge on all the objects as security for the total owed by the buyer.
- (5) If a sales lien has been agreed both for the seller's claim and for a purchase loan that a third party has granted to the buyer, the two liens will rank equally except as otherwise provided in the agreement.

§ 3-18. Sales lien on parts and accessories

- (1) Sales liens on parts or accessories of real property have without registration legal protection against prior encumbrances on the property.
- (2) Against later rights, voluntarily created in good faith in the property, and against the owner's creditors, a sales lien on parts or accessories is effective only when the lien has legal protection under the rules of registration. The registration is entered on the property's sheet in the land register.
- (3) The provisions of the two preceding paragraphs apply similarly to sales liens on parts or accessories of a main object that can be entered in a real property register.
- (4) When a lien on real property or other main object must rank after a sales lien on a part or accessory,

then the lien shall apply to the right which the lienee has at any time in the part or accessory.

§ 3-19. Joined with other objects

The sales lien becomes inoperative if the sold object is combined with a real property or other main object in such manner that to separate it would be disproportionately costly or involve an unreasonable loss of value.

§ 3-20. Processing and improvement

A sales lien becomes inoperative if the sold object, by processing or improvement, has undergone a not insignificant change of nature or value after having been delivered to the buyer.

§ 3-21. Time limitation

- (1) A sales lien becomes in any case inoperative one year after the agreed due date of the claim which the lien is to secure, and at the latest five years after the object was delivered to the buyer. If the purchase price or loan is payable by instalments, the one year period runs from the due date of the last instalment.
- (2) The periods mentioned in the preceding paragraph are interrupted if and when the lienholder demands payment under Chapter 11 of the Enforcement Act or seeks to recover the object by legal action or under the rules of § 10 through 13 of the Hire Purchase Act of 21 July 1916 (No.9). The provisions of § 3(3), § 10, § 21 (1) and § 22 (1), cf. § 15 (1) and (2) and § 17 (1) and (2) of the Statute of Limitations of 18 May 1979 (No. 18) will similarly apply wherever appropriate.

§ 3-22. Rights equivalent to a sales lien

- (1) If the seller or the creditor of a purchase loan has title retention in the object until the purchase price or loan is fully paid, or has the right to recover the object in the event of non-payment, the provisions concerning sales lien agreements will be applicable.

- (2) A lease contract or similar agreement which in reality serves to secure a sales price will be regarded as a sales and sales lien agreement, if it is the intention that the lessee shall become the owner of the object after having paid a certain number of instalments. Even where the lessee does not have the right to acquire ownership, the provisions of § 3-15 (1) and (3) and §§ 3-16 : 3-20 will similarly apply. For the purpose of the condition in § 3-17 (4) it is sufficient that the rental objects, rental period and the periodical rent payments are mentioned.

Chapter 4. Contractual lien on securities, non-negotiable money claims etc.

§ 4-1. Securities

- (1) Securities may be attached with possessory liens. The provisions of § 3-2 (2) through (4) above will similarly apply.
- (2) Securities are for this purpose negotiable promissory notes and similar documents, share certificates and life policies.

§ 4-2. Redemption paper

- (1) A claim or right evidenced by a redemption paper which is not a security can be attached with liens.
- (2) The lien acquires legal protection under the possessory lien rules of § 3-2 (2) and (3) above, when notification has also been given to the debtor named in the paper under the rules of § 4-5 below. Any lien attached to these lien rights acquires legal protection in the same manner.

§ 4-3. Lease of dwelling

- (1) Liens on a dwelling lease which is connected with a security acquires legal protection according to the rules of § 4-1 above.
- (2) Liens on a dwelling lease connected with a redemption paper which is not a security acquires legal protection under the rules of § 4-2 above.

Non-negotiable money claims

§ 4-4. Which non-negotiable money claims can be attached

- (1) Non-negotiable money claims on a named debtor may be attached with liens. So may non-negotiable money claims that will arise against a named debtor in a specifically mentioned legal situation.
- (2) Non-negotiable money claims are for this purpose money claim that are not evidenced by any security or redemption paper.

§ 4-5. Legal protection

- (1) Liens on non-negotiable claims acquire legal protection when the debtor is notified of the lien, whether by the lienee or by the lienholder.
- (2) Liens on such lien rights acquire legal protection in the same manner.

§ 4-6. Control over attached claims

- (1) Except as otherwise agreed, the lienholder has the same right in relation to the debtor and the same right to dispose lawfully of the attached claim as has the lienee himself.
- (2) The creditors of the lienholder may only dispose of the attached claim to the extent necessary to cover the claim which the lien is to secure.

- (3) The provisions of §§ 25 through 28 of the Promissory Notes Act of 17 February 1939 (No.1) will similarly apply to the attachment of non-negotiable claims.

§ 4-7. Limitation of the lienholder's control

Any agreement which bars, limits or imposes conditions on the lienholder's right to dispose lawfully of an attached non-negotiable claim may only be invoked against his creditors and legal successors, and against the debtor if the latter has been notified of the contents of the agreement.

§ 4-8. Settlement where an attached claim is assigned

- (1) If the lienholder assigns without good reason an attached non-negotiable claim before it matures, the nominal amount of the claim shall be applied in the settlement between him and the lienee, provided the nominal amount is greater than the assignment price. In all other cases the assignment price shall be applied for the purpose of the settlement.
- (2) The provision of the preceding paragraph may be set aside by agreement only in connection with an actual assignment.

§ 4-9. Assignment for security purposes

The provisions of § 4-6 (2), § 4-7 and § 4-8 will similarly apply when ownership of a non-negotiable claim has been assigned for security purposes, so that a final settlement is to be made between the parties in the assignment contract.

§ 4-10. Factoring

- (1) A business enterprise may conclude an agreement to assign, assign for security purposes or attach the non-negotiable money claims which it has or acquires in its business or a specific part thereof. It is not necessary to name the debtors.
- (2) An agreement as mentioned in the preceding paragraph acquire le protection by being entered in the enterprise's sheet

in the moveable property register.

Rights under such agreement may however not be invoked against those who have acquired in prudent good faith a competing right to a claim which is comprised under the agreement and who have acquired legal protection of their acquisition under § 4-5 above or under § 29 of the Promissory Notes Act of 17 February 1939.

- (3) The provisions of §§ 3-5, 4-6, 4-7 and 4-8 will similarly apply to agreements under the present section. The provision of § 1-4 does not apply.

#### Chapter 5. Lien by distraint.

##### § 5-1. The scope of this chapter

The rules of this chapter apply to

- a) liens created by distraint levied by the seizure authorities;
- b) liens created by a court of law on assets that are placed under the administration of the court, to secure the claim of a spouse, heir, legatee or creditor following the division of the assets.

##### § 5-2. Distraint on real property

- (1) A distraint on ownership or any special right in real property or unspecified part thereof acquires legal protection by being entered in the land register.
- (2) The provisions of § 2-1 through 2-4 above will similarly apply.
- (3) Distraints on dwelling leases connected with a security or redemption paper are subject to the provisions of § 5-8 above.

##### § 5-3. Distraint on registrable moveables

- (1) Distraint on moveables that can be entered in a real property register and accessories of such moveables acquires legal protection by being entered in the proper register.

(2) The preceding paragraph shall not be deemed to amend § 255 third paragraph of the Maritime Act.

§ 5-4. Distraint on operating accessories and stocks of goods

- (1) A distraint on a business enterprise's real property or on its registered and transferable right to use real property, together with operating accessories, acquires legal protection by being entered on the real property's sheet in the land register. The provisions of § 3-4 and 3-5 above will similarly apply.
- (2) A distraint on individual units of the operating accessories acquires legal protection according to the rules of § 5-6 or 5-9 below.
- (3) A distraint on a business enterprise's stocks of goods acquires legal protection by being entered on the distrainee's sheet in the moveable property register. The provisions of § 3-11 above will similarly apply.

§ 5-5. Distraint on motor vehicle

A distraint on a motor vehicle which is registered according to the rules of § 15, cf. § 16 of the Road Traffic Act of 18 June 1965 (No. 4) acquires legal protection only by being entered on the distrainee's sheet in the moveable property register. The distraint is thereby also protected against legal acquisition under the Act of 2 June 1978 (No.37) concerning the acquisition of moveables in good faith.

§ 5-6. Distraint on other moveables

A distraint on moveables which are not comprised under § 5-3 through 5-5 above acquires legal protection either under the possessory lien rules of § 3-2 (2) and (3) above or by being entered on the distrainee's sheet in the moveable property register.



§ 5-7. Distraint on securities, redemption papers or non-negotiable claims.

- (1) A distraint on securities acquires legal protection according to the possessory lien rules of § 3-2 (2) and (3) above.
- (2) A distraint on redemption papers that are not securities acquires legal protection according to the possessory lien rules of § 3-2 (2) and (3), provided notice has been given to the debtor according to the paper, pursuant to the rules § 4-5 above.
- (3) A distraint on non-negotiable claims acquires legal protection on being reported to the debtor for the claim. The provisions of § 25 through 28 of the Promissory Notes Act of 17 February 1939 will similarly apply.
- (4) In the cases mentioned in the preceding paragraph the distraint acquires legal protection against the distrainee's creditors also by being entered on the distrainee's sheet in the moveable property register.

§ 5-8. Distraint on dwelling lease

When a distraint can be levied on a dwelling lease connected with a security or redemption paper, § 4-3 and § 5-7 (4) above will similarly apply.

§ 5-9. Distraint on intangible right

- (1) When a distraint can be levied on a patent, trademark, design, copyright or similar right, the lien acquires legal protection against the creditors of the distrainee by being entered on the distrainee's sheet in the moveable property register.
- (2) When the distraint can be entered in a special register, it acquires legal protection against later voluntary transactions by being entered in that register.

§ 5-10. Distraint on other property

When a distraint can be levied on other property than mentioned in § 5-2 through 5-9 above, the distraint acquires legal protection by being entered on the distrainee's sheet in the moveable property register.

§ 5-11. Notification of third party

Where legal protection of a distraint is conditional on a third party being notified, such notification may be given by the lienholder or the owner of the attached property. In the case of distraint levied by the seizure authorities, moreover, the notification may be given by those authorities and in the case of estate division by the court of law.

Chapter 6. Statutory liens

§ 6-1. Statutory mortgage on real property

- (1) For tax claims under the Municipal Property Tax Act of 6 June 1975 (No.29), the municipality concerned has mortgage rights ranking prior to all other encumbrances on the property to which the tax claim refers.
- (2) A municipality and municipal agencies have the same mortgage rights for the following special property charges:
  - a) garbage removal dues under the Municipal Garbage Removal Act of 8 June 1928 (No. 1),
  - b) chimney sweeper charge under § 19 of the Fire Protection Act of 29 May 1970 (No.32),
  - c) annual water and sewage rates under the Municipal Water and Sewage Rates Act of 31 May 1974 (No.17).
- (3) Mortgage rights under the two preceding paragraphs acquire legal protection without being registered and cannot be registered. Other statutory mortgage rights on real property are subject to the same legal protection and registration rules as are other rights pertaining to real property.

§ 6-2. Statutory liens on moveable property

A statutory lien on moveables acquires legal protection without any special act for that purpose, except as otherwise provided by the statute which establishes the lien.

§ 6-3. Time limitation

- (1) A statutory lien lapses if a request for forced sale or forced use has not been filed within two years from the date on which the lien claim ought to have been paid, or if enforcement under the lien does not continue without undue delay. For registered liens the period is three years.
- (2) If the lien claim is to be paid by two or more instalments annually, the period according to the preceding paragraph commences at the time the last instalment ought to have been paid.

Chapter 7. Entry into force, transitional rules

§ 7-1. Entry into force.

- (1) This Act enters into force at the time determined by the King.
- (2) The King may decide that parts of this Act shall enter into force at a later date than the rest of the Act.

§ 7-2. Transitional rules

- (1) The rules of Chapters 1 through 5 shall apply to liens that are created after this Act (or relevant part of this Act) has entered into force.
- (2) The enforcement of earlier liens shall comply with the rules applying at any time. Earlier valid title retentions and retentions having similar effects shall for this purpose be deemed to constitute sales liens; the rules of the new § 215 (a) of the Enforcement Act will however not be applicable to previous retentions.

(3) The rules of Chapter 6 shall apply to claims that arise in the time after this Act has entered into force. Statutory mortgage rights under rules that are repealed by this Act may be enforced only in respect of claims that arise in the time before this Act enters into force.

True translation certified



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Government Authorized Translator