

RIVER IMPROVEMENT COMPANIES (EXCERPT)
Act 149 of 1869

485.123 Lien on floatables; owner unknown or without jurisdiction of court.

Sec. 23.

If the owner of such logs, timber or other floatables, cannot be ascertained, or is without the jurisdiction of the court, the proceeding to ascertain and determine the amount of such lien may be against the property, and commenced by filing the petition of said corporation, claiming such lien, in the proper court, which shall contain a statement of the nature and amount of the claim, and a description of the property seized, and that the owner of such property is unknown, or is without the jurisdiction of the court, and praying for a judgment against such property for the amount of such claim, which petition shall be verified by the oath of the president of such corporation filing the same, or its agent or attorney. The plaintiff shall thereupon, and before any trial shall be had, or judgment rendered, in such proceeding, cause a notice to be published for 4 successive weeks, at least once in each week, in some newspaper printed and circulated in such county, or if none is printed and circulated in such county, then in such other newspaper published in this state as such court shall direct, which notice shall state the title of the court, the name of the plaintiff, the name of the owner of the property taken, if known, the nature and amount of the claim, and the description of the property upon which the lien is sought to be enforced. The owner of such property shall have a right to appear and defend in such proceedings, at any time before judgment, upon such terms as the court shall direct; and in case of his appearance, an issue shall thereupon be formed as in actions of assumpsit, and all subsequent proceedings in such case shall be in accordance with the practice of such court in actions of assumpsit. If the owner shall fail to appear in such proceeding, the court may proceed ex parte, to hear, try and determine the facts alleged in such petition, and render such judgment thereon as justice may require. If judgment shall be rendered in favor of such plaintiff, the court shall thereupon order that the property covered by such lien, or as much thereof as may be necessary, be sold to satisfy the amount of such judgment, with costs.

History: 1869, Act 149, Imd. Eff. Apr. 5, 1869 ;-- CL 1871, 2738 ;-- How. 3867 ;-- CL 1897, 6743 ;-- CL 1915, 8844 ;-- CL 1929, 11779 ;-- CL 1948, 485.123