



TO LIEN OR NOT TO LIEN: RECOVERY FOR UNPAID EQUINE RELATED SERVICES

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Horses fill our lives with joy, excitement, and never-ending financial woes. The board bills, breeding charges, training expenses, veterinary costs, and farrier fees, however, sustain businesses in the horse industry. These services, left unpaid, can lead to the ultimate demise of a boarding or training operation, veterinarian's practice, or any other equine related facility.

The law, therefore, provides businesses a means of collecting unpaid bills from horse owners and dictates required enforcement procedures. It is not only important for businesses to understand their rights and the collection requirements, but horse owners familiar with liens, when they attach, and the enforcement proceedings, may reduce the likelihood of losing their horse to a collection sale.

This article does not offer legal advice or specify all the legal rights and remedies of equine related liens. With the interests of both service providers and horse owners in mind, this article introduces statutory liens for equine related services in Illinois and answers frequently asked questions about lien attachment, enforcement, and the rights of horse and stable owners in the process.

What is a lien?

A lien is a right in property to secure the payment of a debt. In theory, equine related liens give service providers the right to sell a client's horse and apply the proceeds of the sale to satisfy the delinquent bill and any sale expenses. The surplus of the sale proceeds, if any, could be distributed any additional lien holders and the owner himself.

What types of liens are available?

Each state offers its own specific lien rights, and the means by which those rights are enforced. Illinois provides four equine service related liens: Farrier Liens, Breeder Liens, Stable Keeper Liens, and Agister's Liens.

- Farrier and breeder liens are for unpaid shoeing or breeding costs.
- A stable keeper's lien is for delinquent management, protection, control, or other horse care bills. The stable keeper may or may not be the owner of the facility where the horse is boarded. This lien may apply to a training or boarding facility, a veterinarian hospital, or any other business taking care of another's horse.
- An agister's lien applies to anyone who receives and pastures horses for a fee. Therefore, if a facility merely provides land for pasture boarding, the owner is entitled to the charges due for keeping, pasturing, and feeding the horses.

What is the difference between a stable keeper's lien and an agister's lien?

As a practical matter, agister's liens typically apply to cattle and other livestock, while the stable keeper's lien is more appropriately applied to domestic horses. The stable keeper's lien is broader than the agister's lien in that it

may cover expenses for medical services, training fees, or other costs associated with the horse beyond mere feeding and pasturing.

How must a stable keeper or agister care for the horse until his lien is enforced?

In the absence of other contractual terms, the agister or stable keeper must exercise reasonable care of the animals in keeping, feeding, sheltering, and otherwise caring for the horses committed to his custody. He is not liable as an insurer of the animals, however, he is responsible for loss or injury to animals resulting from his negligence in furnishing inadequate or improper food or water.

When does a lien attach to the horse?

Specific statutes dictate when a lien attaches to a horse. The Horseshoers Lien Act requires the farrier to file a specifically written claim in the county recorder's office within six months after showing the horse to secure the benefits of a lien. The Stallion and Jack Service Lien Act requires a stallion owner to file his written claim within 24 months after a mare has been served by his stallion. Stable Keeper's and Agister's Liens are possessory liens, meaning, there is a right to collect payment while the horse is in the possession of the service provider. A lien is defeated if the horse is returned to the client while the bill remains due.

How is a lien enforced?

The statutes also dictate how to enforce lien rights. The Horseshoer's Lien Act and the Stallion and Jack Service Lien Act entitle a lien holder to file a complaint in court to foreclose their lien against the person who is responsible for the service payment. The foreclosure proceedings may then proceed to a public sale of the horse. Any sale under the Horseshoer's Lien Act or the Stallion and Jack Service Lien Act are subject to redemption by the owner for 30 days after the day of sale. The stable keeper's and agister's liens do not provide for foreclosure proceedings. Rather, a public sale of the horse is permitted after giving adequate notice of the sale to the owner. Sale of the horse to satisfy a stable keeper or agister lien, in conformity with the statutory requirements, bars any action against the lienholder for the recovery of the horse or its value.

What happens if a lien is improperly enforced?

Lien laws in each state may differ. Improper lien enforcement proceedings can result in civil penalties and possible criminal charges for conversion, a legal term for taking another person's property without the right to do so. Therefore, consult a lawyer knowledgeable of the equine related lien laws and procedures in your state before attempting to enforce your rights as a creditor or protect your rights as a debtor.

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