

No. 172, S.]

[Published May 4, 1891.

CHAPTER 321.

AN ACT to amend section 3315, of chapter 143, of the revised statutes, entitled "Of liens," as amended by chapter 312, laws of 1885, and chapter 535, laws of 1887, and chapter 333, laws of 1889.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Amends sec.
3315, R. S. 1878,
as amended.

Lien of
mechanics and
material men.

SECTION 1. Section 3315, of the revised statutes as amended by chapter 312, of the laws of 1885, chapter 535, of the laws of 1887, and chapter 333, of the laws of 1889, is hereby amended by inserting after the word "lien" where the same occurs in the fourteenth line of section 1, of said chapter 333, the words, "if to be found in the county and if said owner or agent cannot be found in such county, by filing a notice in writing in the office of the clerk of the circuit court of said county," so that said section 3315, when so amended shall read as follows: Section 3315. Every person who, as sub-contractor of a principal contractor or as employe of any contractor or sub-contractor, performs any work or labor for, or furnishes any materials to a principal contractor or sub-contractor, in any of the cases mentioned in the preceding section, shall be entitled to the lien and remedy given by this chapter, if, within sixty days after performing such work or labor or furnishing such materials, he shall give notice in writing, to the owner or his agent, of the property to be affected by such lien, if to be found in the county, and if said owner or agent cannot be found in such county, by filing a notice in writing, in the office of the clerk of the circuit court of said county, setting forth that he has been employed by such principal contractor or sub-contractor, to perform or furnish, and has performed or furnished such work, labor or material, with a statement of the labor performed, or the materials furnished, and the amount due therefor from such principal contractor or sub-contractor,

and that he claims the lien given by this chapter. In all cases where a lien shall be filed under the provisions of this chapter, by any person other than the principal contractor, it shall be the duty of the principal contractor to defend any action brought thereupon at his own expense, and during the pendency of such action the owner may withhold from the contractor the amount of money for which such lien shall be filed; and in case of judgment against the owner or his property, upon the lien, he shall be entitled to deduct from any amount due by him to the contractor, the amount of such judgment and costs, and if he shall have settled with the contractor in full, shall be entitled to recover back from the principal contractor any amount so paid by the owner, for which the principal contractor was originally liable. And any contractor or sub-contractor who shall purchase materials on credit, and represent at the time of the purchase that the same are to be used in a designated building or other improvement, and shall thereafter use or cause to be used, the said material in the construction of any building or improvement other than that designated, without the written consent of the person from whom the materials were purchased with intent to defraud such persons, shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by imprisonment in the county jail not more than three months, or by a fine not exceeding three hundred dollars.

SECTION 2. All acts and parts of acts inconsistent with the foregoing section are hereby repealed.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved April 20, 1891.