

19 U.S.C. 1564

Sec. 1564. - Liens

Whenever a customs officer shall be notified in writing of the existence of a lien for freight, charges, or contribution in general average upon any imported merchandise sent to the appraiser's store for examination, entered for warehousing or taken possession of by him, he shall refuse to permit delivery thereof from public store or bonded warehouse until proof shall be produced that the said lien has been satisfied or discharged. The rights of the United States shall not be prejudiced or affected by the filing of such lien, nor shall the United States or its officers be liable for losses or damages consequent upon such refusal to permit delivery. If merchandise, regarding which such notice of lien has been filed, shall be forfeited or abandoned and sold, the freight, charges, or contribution in general average due thereon shall be paid from the proceeds of such sale in the same manner as other lawful charges and expenses are paid therefrom. The provisions of this section shall apply to licensed customs brokers who otherwise possess a lien for the purposes stated above upon the merchandise under the statutes or common law, or by order of any court of competent jurisdiction, of any State

TITLE 19--CUSTOMS DUTIES CHAPTER I--UNITED STATES CUSTOMS SERVICE,
DEPARTMENT OF THE TREASURY PART 141--ENTRY OF MERCHANDISE

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Liens for freight, charges, or contribution in general average.

(a) Definitions. The following are general definitions for the purposes of this section:

- (1) Freight. ``Freight" means the charges for the transportation of the goods from the place of shipment in the foreign country to the final destination in the United States.
 - (2) Charges. ``Charges" means the charges due to or assumed by the claimant of the lien which are incident to the shipment and forwarding of the goods to the destination in the United States, but does not include the purchase price, whether advanced or to be collected, nor other claims not connected with the transportation of the goods.
 - (3) General average. ``General average" means the liability to contribution of the owners of a cargo which arises when a sacrifice of a part of such cargo has been made for the preservation of the residue or when money is expended to preserve the whole. It only arises from actions impelled by necessity.
 - (4) Claimant. ``Claimant" means a carrier, customs broker or the successors or assigns of either.
- (b) Notice of lien. A notice of lien for freight, charges, or contribution in general average pursuant to section 564, Tariff Act of 1930, as amended (19 U.S.C. 1564), shall be filed with the port director on Customs Form 3485, signed by the authorized agent of the claimant and certified by him.
- (c) Preliminary notice of lien for contribution in general average. When the cargo of a vessel is subject to contribution in general average, a preliminary notice thereof may be filed with the port director and individual notices of lien filed thereafter. Upon receipt of a preliminary notice, the port director shall withhold release of any merchandise imported in the vessel for 2 days (exclusive of Sunday and holidays) after such merchandise is taken into Customs custody, unless proof is submitted that the claim for contribution in general average has been paid or secured.
- (d) Merchandise entered for immediate transportation. A notice of lien upon merchandise entered for immediate transportation shall be filed by the claimant with the port director at the destination.

(e) Limitations on acceptance of notice of lien. A notice of lien shall be rejected and returned with the reason for rejection noted thereon if it is filed after any of the following actions have been taken concerning the merchandise:

- (1) Release from Customs custody;
- (2) Forfeiture under any provision of law;
- (3) Sale as unclaimed or abandoned merchandise under section 491 or 559, Tariff Act of 1930, as amended (19 U.S.C. 1491 or 1559); or
- (4) Receipt and acceptance of a notice of abandonment to the Government under section 506(1) or 563(b), Tariff Act of 1930, as amended (19 U.S.C. 1506(1) or 1563(b)).

(f) Forfeited or abandoned merchandise. The acceptance of a notice of lien shall not in any manner affect the order of disposition and accounting for the proceeds of sales of forfeited and abandoned property provided for in Subpart D of part 127 and Secs. 158.44 and 162.51 of this chapter.

(f) Bond may be required. When any doubt exists as to the validity of a lien filed with the port director, he may require a bond on Customs Form 301, containing the bond conditions set forth in Sec. 113.62 of this chapter, to hold him harmless from any liability which may result from withholding the release of the merchandise.

(h) Satisfaction of lien. The port director shall not adjudicate any dispute respecting the validity of any lien, but when the amount of such lien depends upon the quantity or weight of merchandise actually landed, the port director shall hold the lien satisfied upon the payment of an amount computed upon the basis of the official Customs report of quantity and weight. In all other cases, proof that the lien has been satisfied or discharged shall consist of a written release or receipt signed by the claimant and filed with the port director, showing payment of the claim in full.

[T.D. 73-175, 38 FR 7447, July 2, 1973, as amended by T.D. 74-114, 39 FR 32023, Apr. 3, 1974; T.D. 84-213, 49 FR 41184, Oct. 19, 1984; T.D. 88-7, 53 FR 4962, Feb. 19, 1988; T.D. 97-82, 62 FR 51771, Oct. 3, 1997]