

§3-1309. Enforcement of lost, destroyed or stolen instrument

(1). A person not in possession of an instrument is entitled to enforce the instrument if:

(a). The person was in possession of the instrument and entitled to enforce it when loss of possession occurred; [PL 1993, c. 293, Pt. A, §2 (NEW).]

(b). The loss of possession was not the result of a transfer by the person or a lawful seizure; and [PL 1993, c. 293, Pt. A, §2 (NEW).]

(c). The person can not reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts can not be determined or it is in the wrongful possession of an unknown person or a person that can not be found or is not amenable to service of process. [PL 1993, c. 293, Pt. A, §2 (NEW).]

[PL 1993, c. 293, Pt. A, §2 (NEW).]

(2). A person seeking enforcement of an instrument under subsection (1) must prove the terms of the instrument and the person's right to enforce the instrument. If that proof is made, Section 3-1308 applies to the case as if the person seeking enforcement had produced the instrument. The court may not enter judgment in favor of the person seeking enforcement unless it finds that the person required to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument. Adequate protection may be provided by any reasonable means.

[PL 1993, c. 293, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 1993, c. 293, §A2 (NEW).

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