

CHAPTER 631

ENFORCEMENT AND SALE GENERALLY

§4001. Sale

Whoever has a lien on personal property in that person's possession which is not covered by Title 11, Article 9-A may enforce it by a sale thereof in the manner provided for in the contract creating such lien, if in writing, or as hereinafter provided for in this chapter. [PL 1999, c. 699, Pt. D, §8 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

SECTION HISTORY

PL 1999, c. 699, §D8 (AMD). PL 1999, c. 699, §D30 (AFF).

§4002. Complaint filed; contents

The person claiming the lien may file, in the Superior Court in the county where he resides a complaint briefly setting forth the nature and amount of his claim, a description of the article possessed and the names and residences of its owners, if known to him, and a prayer for enforcement of his lien.

§4003. Attachments have precedence; enforcement on death or insolvency

Actions to enforce any of the liens before named have precedence over attachments and encumbrances made after the lien attached and not made to enforce a lien, and may be maintained although the employer or debtor is dead and his estate has been represented insolvent. His executor or administrator may be summoned and held to answer to an action brought to enforce the lien. The complaint must show that the action is brought to enforce the lien; but all the other forms and proceedings therein shall be the same as in other actions.

§4004. Service on owners; known

If the names of the owners are set forth in the complaint, service shall be made as in other actions.

§4005. -- unknown

If the identity or whereabouts of the owners are not known, notice shall be given by publication as in other actions where publication is required.

§4006. Appearance by owner

In all lien actions, when the labor or materials were not furnished by a contract with the owner of the property affected, such owner may voluntarily appear and become a party to the action. If he does not so appear, such notice of the action as the court orders shall be given him and he shall then become a party to the action. Any person interested in the article as owner, mortgagee or otherwise may appear and defend. Questions of fact at the instance of either party shall be submitted to a jury on an issue framed under the direction of the court.

§4007. Bond for costs

If, in the opinion of the court, the article on which the lien is claimed is not of sufficient value to pay the plaintiff's claim with the probable costs of suit, the court may order the defendant to give bond to the plaintiff, with sufficient sureties approved by the court, to pay such costs as are awarded against him, so far as they are not paid out of the proceeds of the articles on which the lien is claimed.

§4008. Sale on court order

After trial and final adjudication in favor of the plaintiff, the court may order any competent officer to sell the article on which the lien is claimed, as personal property is sold on execution, and out of the

proceeds, after deducting his fees and the expenses of sale, to pay to the plaintiff the amount and costs awarded him, and the balance to the person entitled to it, if he is known to the court, otherwise into court.

§4009. Disposal of proceeds

Money paid into court may be paid over to the person legally entitled to it, on motion and order of the court. If it is not called for at the first term after it is paid into court, it must be presumed unclaimed and disposed of according to Title 33, chapter 45. [PL 2019, c. 498, §7 (AMD).]

SECTION HISTORY

PL 1979, c. 641, §2 (AMD). PL 2003, c. 20, §T6 (AMD). PL 2019, c. 498, §7 (AMD).

§4010. Judgment; discontinuance as to any defendant; costs

In any such action, judgment may be rendered against the defendant and the property covered by the lien, or against either, for so much as is found due by virtue of the lien. If the amount due exceeds the amount so covered, then a separate execution shall be issued to the plaintiff against the defendant for such excess and the plaintiff may discontinue as to any defendant. The court may apportion costs as justice requires.

§4011. Discharge

All liens named herein may be discharged by tender of the sum due made by the debtor or owner of the property or his agents.

§4012. Priority

A security interest perfected in accordance with Title 11 has priority over any lien created or referred to by this Title unless the person claiming the lien has possession of the goods subject to the lien. [PL 1965, c. 306, §3 (NEW).]

SECTION HISTORY

PL 1965, c. 306, §3 (NEW).

§4013. Removal of lien

1. Removal within 60 days. Unless a specific time period is otherwise provided, a holder of a lien against property issued pursuant to the laws of this State shall remove the lien within 60 days of satisfaction or discharge of the lien by the debtor or owner of the property or agent of the debtor or owner.

[PL 2015, c. 210, §1 (NEW).]

2. Liability. A holder of a lien, other than the State, a municipality or other governmental entity, who fails to remove a lien as provided in subsection 1 is liable to the debtor or owner of the property for reasonable attorney's fees and costs incurred to cure the lien as a result of the failure to remove the lien.

[PL 2015, c. 210, §1 (NEW).]

3. Application. This section does not apply to a financing statement or other record governed by Title 11.

[PL 2015, c. 210, §1 (NEW).]

SECTION HISTORY

PL 2015, c. 210, §1 (NEW).

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