

**359.230 Enforcement of lien against occupant in default -- Requirements prior to conduct of sale -- Redemption by occupant -- Application of proceeds -- Rights of purchaser -- Limitation on liability of operator.**

- (1)
  - (a) If the occupant is in default for a period of more than forty-five (45) days, the operator may enforce a lien by selling the property stored in the leased space at a public or private sale, for cash.
  - (b) Proceeds shall then be applied to satisfy the lien, with any surplus disbursed as provided in subsection (5) of this section.
- (2) Before conducting a sale under subsection (1) of this section, the operator shall:
  - (a) Notify the occupant of the default by regular mail at the occupant's last known address;
  - (b) Send a second notice of default by certified mail to the occupant at the occupant's last known address which includes:
    1. A statement that the contents of the occupant's leased space are subject to the operator's lien;
    2. A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges which shall become due before the date of sale, and the date those additional charges shall become due;
    3. A demand for payment of the charges due within a specified time, not less than fourteen (14) days after the date of the notice;
    4. A statement that unless the claim is paid within the time stated, the contents of the occupant's leased space shall be sold at a specified time and place; and
    5. The name, street address, and telephone number of the operator, or his or her designated agent, whom the occupant may contact to respond to the notice; and
  - (c) At least three (3) days before the sale, advertise the time, place, and terms of the sale in a newspaper of general circulation in the jurisdiction where the sale is to be held.
- (3) At any time before a sale under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.
- (4) The sale under this section shall be held at the self-service storage facility or the location of the self-contained storage unit where the personal property is stored.
- (5) If a sale is held under this section, the operator shall:
  - (a) Satisfy the lien from the proceeds of the sale;
  - (b) Hold the balance, if any, for delivery to any other recorded lienholders who present claims within sixty (60) days. Notwithstanding Article 9 of KRS Chapter 355, claims shall be satisfied on a first come first served basis; and
  - (c) Deliver, upon expiration of sixty (60) days, the balance of any remaining proceeds to the occupant.

- (6) A purchaser in good faith of any personal property sold under KRS 359.200 to 359.250 takes the property free and clear of any rights of:
  - (a) Persons against whom the lien was valid; and
  - (b) Other lienholders.
- (7) If the operator complies with the provisions of KRS 359.200 to 359.250, the operator's liability:
  - (a) To the occupant shall be limited to the net proceeds received from the sale of the personal property;
  - (b) To other lienholders shall be limited to the net proceeds received from the sale of any personal property covered by that other lien; and
  - (c) To the occupant or valid lienholders shall be relieved upon full distribution of proceeds in accordance with the provisions of KRS 359.200 to 359.250.
- (8) If an occupant is in default, the operator may deny the occupant access to the leased space.
- (9) (a) Unless otherwise specifically provided, all notices required by KRS 359.200 to 359.250 shall be sent by certified mail.
  - (b) 1. Notices sent to the operator shall be sent to the operator's principal office, as listed on the rental agreement.
  - 2. Notices to the occupant shall be sent to the occupant at the occupant's last known address.
  - (c) Notices shall be deemed delivered when deposited with the United States Postal Service, properly addressed as provided in paragraph (b) of this subsection, with postage paid.
- (10) Provided, however, unless the rental agreement specifically provides otherwise and until a lien sale under KRS 359.200 to 359.250, the exclusive care, custody, and control of all personal property stored in the leased space shall remain vested in the occupant.

**Effective:** July 15, 2008

**History:** Amended 2008 Ky. Acts ch. 3, sec. 4, effective July 15, 2008. -- Created 1988 Ky. Acts ch. 360, sec. 4, effective July 15, 1988.

**Legislative Research Commission Note** (9/20/96). A reference to "this Act" in subsection (7) of this statute was overlooked in the initial codification of this statute and has been changed to the range of statutes created by 1988 Ky. Acts ch. 360 under KRS 7.136(1)(f).