

554.7210 Enforcement of warehouse operator's lien.

1. Except as provided in subsection 2, a warehouse operator's lien may be enforced by public or private sale of the goods in block or in parcels, at any time or place and on any terms which are commercially reasonable, after notifying all persons known to claim an interest in the goods. Such notification must include a statement of the amount due, the nature of the proposed sale and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the warehouse operator is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the warehouse operator either sells the goods in the usual manner in any recognized market therefor, or if the warehouse operator sells at the price current in such market at the time of the warehouse operator's sale, or if the warehouse operator has otherwise sold in conformity with commercially reasonable practices among dealers in the type of goods sold, the warehouse operator has sold in a commercially reasonable manner. A sale of more goods than apparently necessary to be offered to insure satisfaction of the obligation is not commercially reasonable except in cases covered by the preceding sentence.

2. A warehouse operator's lien on goods other than goods stored by a merchant in the course of the merchant's business may be enforced only as follows:

a. All persons known to claim an interest in the goods must be notified.

b. The notification must be delivered in person or sent by registered or certified letter to the last known address of any person to be notified.

c. The notification must include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than ten days after receipt of the notification, and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place.

d. The sale must conform to the terms of the notification.

e. The sale must be held at the nearest suitable place to that where the goods are held or stored.

f. After the expiration of the time given in the notification, an advertisement of the sale must be published once a week for two weeks consecutively in a newspaper of general circulation where the sale is to be held. The advertisement must include a description of the goods, the name of the person on whose account they are being held, and the time and place of the sale. The sale must take place at least fifteen days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement must be posted at least ten days before the sale in not less than six conspicuous places in the neighborhood of the proposed sale.

3. Before any sale pursuant to this section any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section. In that event the goods must not be sold, but must be retained by the warehouse operator subject to the terms of the receipt and this Article.

4. The warehouse operator may buy at any public sale pursuant to this section.

5. A purchaser in good faith of goods sold to enforce a warehouse operator's lien takes the goods free of any rights of persons against whom the lien was valid, despite noncompliance by the warehouse operator with the requirements of this section.

6. The warehouse operator may satisfy the warehouse operator's lien from the proceeds of any sale pursuant

to this section but must hold the balance, if any, for delivery on demand to any person to whom the warehouse operator would have been bound to deliver the goods.

7. The rights provided by this section shall be in addition to all other rights allowed by law to a creditor against the creditor's debtor.

8. Where a lien is on goods stored by a merchant in the course of the merchant's business the lien may be enforced in accordance with either subsection 1 or 2.

9. The warehouse operator is liable for damages caused by failure to comply with the requirements for sale under this section and in case of willful violation is liable for conversion.

[R60, § 18991904; C73, § 21772181; C97, § 31303133; S13, § 3131, 3138-a33, -a35, -a36; C24, 27, 31, § 9693, 9695, 9696, 9741, 1032710330, 1033310335; C35, § 9693, 9695, 9696, 9751-g24, 1032710330, 1033310335; C39, § **9646, 9693, 9695, 9751.24, 10327, 10330, 1033310335**; C46, 50, 54, 58, 62, § 542.33, 542.35, 542.36, 543.24543.26, 575.3575.6, 575.9575.11; C66, 71, 73, 75, 77, 79, 81, § 554.7210]