

A Forgotten Tool for Commercial Landlords - Statutory Landlord's Liens

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The laws of Iowa give commercial property lessors/landlords an often forgotten tool to use when a tenant owes rent and other monthly lease expenses defined as "rent" under the lease agreement. This tool is called a statutory landlord's lien and can be used by landlords to enforce their rights.

In short, a landlord's lien acts as security for a tenant's rent. To enforce a landlord's lien, a landlord must file a lawsuit, a short, basic, petition, along with a short motion asking for immediate enforcement of the lien. Once the court grants the motion, the lien is enforced through the sheriff's office serving or executing upon the lien by either seizing the tenant's personal property or the sheriff allowing the landlord to switch the locks on the leased premises so that the personal property cannot be removed by the tenant. This obviously entails some attorney's fees and court costs, so a commercial landlord generally pursues this course of action only in certain situations:

- (i) The leased premises contains a good amount of personal property able to be sold at a sheriff's sale in the amount of the rent due or is otherwise valuable to the landlord in some way, including in terms of finding a suitable replacement tenant, who may be able to utilize such property; and
- (ii) The landlord has time for the preparation and filing of the lawsuit and obtaining relief from the court before the tenant may attempt to remove the personal property or before the tenant is practically able to remove the personal property. This process can take anywhere between a few days to a few weeks.

Obtaining a court order prohibits the tenant from moving out any personal property because the landlord has a lien upon the covered personal property. This tool is commonly used when the tenant operates a restaurant or bar because restaurant equipment, tables, tvs, dishes/pans/glasses, chairs, etc. are things that can be easily sold for a good amount of money to recoup the lost rent and/or can be utilized by the next tenant.

Below are certain other facts regarding landlord liens:

- All personal property of the tenant which has been used or kept (and which is not exempt from execution) is covered¹. This includes all personal property regardless of whether or not the personal property is affixed or attached to the leased building².
- A landlord's lien rights start at the commencement of the lease upon all property on the premises and upon all other property of the tenant brought into the premises³.
- The lien may be enforced through an action to recover rents, and is the same as any other lien case, except that bond is not required⁴.
- If the tenant's covered personal property is purchased by a third-party, the landlord can actually file a suit against that purchaser, as well as the tenant, for a conversion/theft claim, unless the landlord has waived his lien or is stopped from enforcing it⁵.
- The landlord's lien is limited to only the amount of rent due under the terms of the lease⁶. In the event that taxes were included in the lease, taxes can also be included in the lien⁷.

If you have any questions, please feel free to contact us.



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¹ Iowa Code § 570.1 (2001)

² *Grant v. Whitwell*, 9 Iowa 152, 154-56 (1852).

³ *Martin v. Stearn*, 3 N.W. 92, 94 (Iowa 1879).

⁴ Iowa Code § 5701.5 (2001).

⁵ *Sensibar v. Hughett*, 288 N.W. 674, 675 (Iowa 1939); *Blake v. Chas. Conselman & Co.*, 63 N.W. 679, 680 (Iowa 1895).

⁶ Iowa Code § 570.5 (2001).

⁷ *Britton v. Western Iowa Co.*, 9 F.2d 488, 491 (8th Cir. Iowa 1925).