

Chapter 60.10 RCW
PERSONAL PROPERTY LIENS—SUMMARY FORECLOSURE

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RCW 60.10.010 Definitions. As used in this chapter:

(1) The term "lien debtor" means the person who is obligated, owes payment or other performance. Where the lien debtor and the owner of the collateral are not the same person, the term "lien debtor" means the owner of the collateral.

(2) "Collateral" means the property subject to a statutory lien.

(3) "Lienholder" means a person who, by statute, has acquired a lien on the property of the lien debtor, or such person's successor in interest.

(4) "Secured party" has the same meaning as used in Article 9A of the Uniform Commercial Code (Title 62A RCW). [2001 c 32 § 3; 1969 c 82 § 2.]

Effective date—2001 c 32: See note following RCW 62A.9A-102.

Judicial foreclosure of personal property liens: RCW 60.10.023.

RCW 60.10.020 Methods of foreclosure. Any lien upon personal property, excluded by *RCW 62A.9-104 from the provisions of the Uniform Commercial Code (Title 62A RCW), may be foreclosed by: (1) An action in the district court having jurisdiction in the district in which the property is situated in accordance with RCW 60.10.023, if the value of the claim does not exceed the jurisdictional limit of the district court provided in RCW 3.66.020; or (2) an action in the superior court having jurisdiction in the county in which the property is situated in accordance with RCW 60.10.023, if the value of the claim exceeds the jurisdictional limit of the district court provided in RCW 3.66.020; or (3) summary procedure as provided in this chapter. [1995 c 62 § 5; 1991 c 33 § 3; 1969 c 82 § 3.]

***Reviser's note:** Article 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see Article 62A.9A RCW.

Effective date—1991 c 33: See note following RCW 3.66.020.

RCW 60.10.023 Judicial foreclosure of personal property liens.

The provisions of chapter 61.12 RCW, so far as they are applicable, govern in actions for the judicial foreclosure of liens on personal property excluded by *RCW 62A.9-104 from the provisions of the Uniform Commercial Code, Title 62A RCW. The lienholder may proceed on the lien; and if there is a separate obligation secured by the lien, the lienholder may bring suit on the obligation. If the lienor proceeds on the obligation, the court shall, in addition to entering a decree foreclosing the lien, render judgment for the amount due on the obligation. The decree shall direct the sale of the lien property, and if there is a judgment on an obligation and the proceeds of the sale are insufficient to satisfy the judgment, the sheriff is authorized to proceed under the same execution and levy on and sell other property of the lien debtor, not exempt from execution, for the sum remaining unsatisfied.

Redemption rights and the rights and interest of a purchaser for value under this section are governed by RCW 60.10.040 and 60.10.050. [1995 c 62 § 1; 1969 c 82 § 1. Formerly RCW 61.12.162.]

***Reviser's note:** Article 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see Article 62A.9A RCW.

RCW 60.10.027 Judicial foreclosure of a security interest. The provisions of chapter 61.12 RCW, so far as they are applicable, shall also be available to a secured party seeking to enforce a security interest by judicial proceedings as authorized by *RCW 62A.9-501(1). In such a proceeding, the court shall enter a judgment foreclosing the security interest and shall render judgment for the amount due on the secured obligation. The decree shall direct the sale of property that is subject to the foreclosed security interest and is within the court's jurisdiction, and if the proceeds of sale are insufficient to satisfy the judgment, the sheriff is authorized to proceed under the same execution and levy on other property of the judgment debtor, not exempt from execution, for the sum remaining unsatisfied.

The rights and interest of a purchaser for value are governed by RCW 60.10.040 except as otherwise provided in Title 62A RCW. [1995 c 62 § 2.]

***Reviser's note:** Article 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see Article 62A.9A RCW.

RCW 60.10.030 Notice and sale—Priorities—Sale procedure—Surplus—Deficiency—Obligation of lienholder. (1) A lien foreclosure authorized by RCW 60.10.020 may be summarily foreclosed by notice and sale as provided herein. The lienholder may sell, or otherwise dispose of the collateral in its then condition or following any commercially reasonable preparation or processing. The proceeds of disposition shall be applied in the order following to

(a) the reasonable expenses of retaking, holding, preparing for sale, selling and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;

(b) the satisfaction of indebtedness secured by the lien under which the disposition is made;

(c) the satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the lienholder, the holder of a subordinate security interest must seasonably furnish reasonable proof of his or her interest, and unless that is done, the lienholder need not comply with that demand.

(2) The lienholder must account to the lien debtor for any surplus, and, unless otherwise agreed, the lien debtor is not liable for any deficiency.

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable which shall be construed as provided in RCW 60.10.070. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the lienholder to the lien debtor, by first-class mail, and registered or certified mail, and except in the case of consumer goods to any other person who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the lien debtor in this state or who is known by the lienholder to have a security interest in the collateral. The lienholder may buy at any public sale and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations he or she may buy at private sale. Before accepting any bid or offer for purchase, the lienholder shall inform the bidder or purchaser of the existence of any prior lien or security interest in the collateral, and the identity of the holder of the prior lien or security interest. If the lienholder does not know this information, he or she shall advise the prospective purchaser of that. [2006 c 283 § 3; 1969 c 82 § 4.]

Effective date—2006 c 283: See note following RCW 60.08.080.

RCW 60.10.040 Rights and interest of purchaser for value—Certificates of title. When a lien is foreclosed in accordance with the provisions of this chapter, the disposition transfers to a purchaser for value all of the lien debtor's rights therein, discharges the lien under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights and interests even though the lienholder fails to comply with the requirements of this chapter:

(1) In the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he or she does not buy in collusion with the lienholder, other bidders, or the person conducting the sale; or

(2) In any other case, if the purchaser acts in good faith.

The purchaser takes subject to any security interest or lien that is superior to the lien under which the sale is made. In the case of property that is subject to a certificate of title, the department of licensing and the department's agents and subagents shall not transfer title through this process unless the new certificate of title reflects the security interest that is superior to the lien under which the sale is made. If a new certificate of title is issued that does not reflect the security interest that is superior to the lien under which the sale is made, the holder of such interest may request and obtain from the department of licensing a replacement certificate of title reflecting such security interest, and showing the purchaser as the registered owner. The department of licensing shall notify the purchaser of the issuance of any replacement title. [2006 c 283 § 4; 1995 c 62 § 6; 1969 c 82 § 5.]

Effective date—2006 c 283: See note following RCW 60.08.080.

RCW 60.10.050 Redemption. At any time before the lienholder has disposed of collateral or entered into a contract for its disposition under this chapter, the lien debtor or any other secured party may redeem the collateral by tendering fulfillment of all obligations to the holder that are secured by the collateral as well as the expenses reasonably incurred by the lienholder in holding and preparing the collateral for disposition, in arranging for the sale, and for reasonable attorneys' fees and legal expenses. [1995 c 62 § 7; 1969 c 82 § 6.]

RCW 60.10.060 Noncompliance with chapter—Rights of lien debtor. If it is established that the lienholder is not proceeding in accordance with the provisions of this chapter disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the lien debtor or any person entitled to notification or whose security interest has been made known to the lienholder prior to the disposition has a right to recover from the lienholder any loss caused by a failure to comply with the provisions of this chapter. The lien debtor has a right to recover in any event an amount not less than ten percent of the original lien claimed. [1969 c 82 § 7.]

RCW 60.10.070 "Commercially reasonable." As used in this chapter, "commercially reasonable" shall be construed in a manner consistent with the following:

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 lienholder is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the lienholder either sells the collateral in the usual manner in any recognized market therefor or if he or she sells at the price current in such market at the time of his or her sale or if he or she has otherwise sold in conformity with reasonable commercial practices among dealers in the type of property sold he or she has sold in a commercially reasonable manner. A disposition which has been approved in any judicial proceeding or by any bona fide creditors' committee or representative

of creditors shall conclusively be deemed to be commercially reasonable, but this sentence does not indicate that any such approval must be obtained in any case nor does it indicate that any disposition not so approved is not commercially reasonable. [2012 c 117 § 133; 1969 c 82 § 8.]