

§4252. Liability of officer attaching encumbered property

When personal property, attached on a writ or seized on execution, is claimed by virtue of a security interest, mortgage, pledge or lien, the claimant shall not bring an action against the attaching officer therefor: [PL 1967, c. 213, §6 (AMD).]

1. Notice. Until he has given him at least 48 hours' written notice of his claim and the true amount thereof; or

2. Payment. If the officer or creditor within that time discharges the claim by paying same or tendering the amount due thereon; or

3. Property restored. If the officer within that time restores the property; or

4. Claimant to answer. Where the property was attached on a writ or seized on execution while in the hands or possession of the debtor, the attaching creditor within that time summons the claimant to answer in the same action such questions as may be put to him relative to the consideration, validity and amount due secured by such security interest, mortgage or lien. [PL 1971, c. 622, §55-A (AMD).]

Such summons may be in substantially the following form:

Summons to Claimant

State of Maine

....., SS.

A.B., Plaintiff

v.

C.D., Defendant

E.F., Claimant

Superior Court

Civil Action, File Number

Summons

You are hereby summoned and required to appear at our Court, to be held at, on the day of in an action between, plaintiff, and, defendant, in which the following described property, claimed by you as secured party, was attached as the property of said defendant; viz.,, and there to answer in such action, such questions as may be put to you relative to the consideration, validity and amount justly due secured by such security, and abide the judgment of the court thereon.

If you fail to appear and answer, you will thereby waive the right to hold said property under the claimed security.

(Signed)

Clerk of said Superior Court

(Seal of the Court)

Dated [PL 1967, c. 213, §6 (AMD).]

Such summons, when property is attached on the writ, shall be returnable to the court to which the writ is returnable not less than 10 days nor more than 60 days after service thereof, and when property is seized on execution such summons shall be made returnable to the court issuing such execution on any day fixed by the court not less than 10 days nor more than 60 days thereafter. Service in either case shall be by copy of such summons. If in either case the secured party or claimant fails to appear and answer, or after hearing fails to establish his claim under such security interest, pledge or lien, he thereby waives the right to hold the property thereon. [PL 1967, c. 213, §6 (AMD).]

SECTION HISTORY

PL 1967, c. 213, §6 (AMD). PL 1971, c. 622, §§55-A (AMD). PL 1971, c. 622, §55-A (AMD).

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