

§3327. Personal action to recover debt

This chapter does not impair or affect the right of any claimant that possesses a lien to maintain a personal action to recover that debt against a processor, either in an action to foreclose the claimant's lien or in a separate action. The claimant is not required to state in an affidavit to procure an attachment that the claimant's demand is not secured by a lien. [RR 2023, c. 2, Pt. C, §77 (COR).]

1. Collections credited to claims. The judgment, if any, which is obtained by the plaintiff in such personal action, or personal judgment which is obtained in such lien action, does not impair or merge any lien right or claim which is held by such plaintiff. Any money which is collected on the judgment shall be credited on the amount of such lien or claims in any action which is brought to enforce the lien or in any action which is filed pursuant to this chapter by the commissioner. [PL 1975, c. 725 (NEW).]

2. Posting of bonds. In an action that is filed by any such lien claimant, the defendant processor may file with the court in which the action is pending a surety bond which is approved by such court in an amount that is sufficient to cover the demand of plaintiff's complaint, including the costs, whereupon the court may order the release of a portion or the whole of any product or processed product upon which the lien of plaintiff has attached. [PL 1975, c. 725 (NEW).]

3. Presentation of evidence to court. The processor may also, on motion duly noticed, introduce evidence to the court before whom any such action is pending to the effect that the processor has sufficient security or money on deposit with the commissioner to protect the lien or other rights of plaintiff. If the processor does so, the court may order the release of a portion or the whole of the product upon which the lien of plaintiff is attached and deny to plaintiff any recovery in that action. Such action by the court does not prejudice any other rights or remedies that are possessed by the plaintiff. [RR 2023, c. 2, Pt. C, §78 (COR).]

SECTION HISTORY

PL 1975, c. 725 (NEW). RR 2023, c. 2, Pt. C, §§77, 78 (COR).

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