

SALE ADVERTISEMENT

108.477. Sale of occupant's property by owner: Advertisement; manner; distribution of proceeds.

1. If the declaration in opposition to the lien sale executed by the occupant is not received by the date of the sale specified in the notice mailed to the occupant, the owner may sell the property.
2. The owner shall advertise the sale once a week for 2 consecutive weeks immediately preceding the date of the sale in a newspaper of general circulation in the judicial district where the sale is to be held. The advertisement must contain:
 - (a) A general description of the personal property to be sold;
 - (b) The name of the occupant;
 - (c) The number of the individual storage space at the facility where the personal property was stored; and
 - (d) The name and address of the facility.
3. If there is no newspaper of general circulation in the judicial district where the sale is to be held, the advertisement must be posted 10 days before the sale in at least six conspicuous places near the place of the sale.
4. The sale must be conducted in a commercially reasonable manner.
5. After deducting the amount of the lien and the costs of the sale, the owner shall retain any excess proceeds from the sale on the behalf of the occupant.
6. The occupant or any person authorized by the occupant or by an order of the court may claim the excess proceeds or the portion of the proceeds necessary to satisfy the person's claim at any time within 1 year after the date of the sale. After 1 year, the owner shall pay any proceeds remaining from the sale to the treasurer of the county where the sale was held for deposit in the general fund of the county.

Comment: After sending the Notice of Lien Sale and waiting at least 14 days, the facility owner can advertise the property for sale. Timing is crucial here. While it is important to advertise in a timely manner, you do not want to rush the process and make a mistake. Before running the advertisement, check your records and verify that the statutory Notice of Lien Sale is correct and verify the date the notice was deposited with the U.S. Postal Service or sent by email. There is no point incurring the expense of advertising the lien sale unless you are certain that the prior steps were correctly performed. Also, make sure you have not received a Declaration in Opposition to Lien Sale or that the full waiting period has passed without receipt of a complaint challenging the validity of the lien. Only when you are certain that the prior notices are correct and that the advertisement of sale will run at least 14 days after the Notice of Lien Sale was sent, are you ready to place your advertisement of sale.

Now, where do you advertise? You must advertise in a newspaper of general circulation. This is a legal term. Do not assume that every newspaper in your community qualifies. The newspaper that runs your advertisements should confirm in writing that their publication is a newspaper of general circulation in the judicial district where the sale is to be held. This will usually be at your facility. Make sure the advertisement contains all the required information. The ad must contain the Occupant's name, a general description of the Occupant's property, and the number of the storage space where

the property was stored. The advertisement must also contain the name and address of the storage facility. Each time you run an ad, verify that the advertisement accurately states the name of your Occupant, and the name and address of your facility. The description of the stored property is also important, but need not be detailed. However, you must do a fairly decent inventory, if only to make sure that you know that you are not selling something of special value.

The sale must be conducted in a "commercially reasonable" manner. The commercially reasonable sale requirement means three things: (1) You must have a good idea of what you are selling; (2) You can sell the property in one or more lots; and (3) There must be an audience of willing buyers at your sale. In most instances you will be selling miscellaneous used property of low to moderate value. An auction sale, offering all the property in the space either in person or online, is the most commercially reasonable way to sell the property. However, occasionally the property will not be the usual type of property found in the spaces of delinquent customers. Special property calls for special sale procedures. For example, if the space contains several cases of cameras, you might want to contact a local photography store for an opinion on value. You may want to sell the cameras in a separate lot. "Commercially reasonable" requires that you must sell the property in a manner reasonably designed to get the most value under the circumstances. Always remember that a lien sale is a distress sale and even on the best day will not generate what a non-distress sale would fetch. In the vast majority of situations, a public auction will do, but sometimes you will need to sell the property in some other manner such as through a commercial auction house.

How the auction is handled is an important part of a facility's foreclosure process. Whether or not you use a licensed auctioneer, it is important that all of your bidders follow uniform rules and understand those rules in bidding on the particular units. It is recommended that all of your bidders sign an attendance sheet in advance of the auction which includes their name, address and phone number. It is also important that each bidder sign a form which indicates their understanding of the rules of the auction relating to payment (i.e., cash or certified funds) and removal of the property (i.e., 48 hours or it is considered abandoned). We recommend that owners have auction rules that define a "completed sale," such as a statement that the sale is not complete until the successful bidder either removes the property from the facility or rents a space at the facility to store the property.

Online lien sales are a bit different from in-person sales. One big difference is that bidders depend on you posting clear pictures of the property in the space. A picture of a boxes stacked at the front of the space will not give bidders the information they need to bid. The owner has a legal right to move property so that clear pictures of the contents of the space may be taken. It's a little more work but the pictures are the key to attracting bidders. Also, those pictures may be used as evidence if you are ever sued for wrongful sale. This will make it harder for a disgruntled delinquent Occupant to inflate the value of the property you sold. It is also important that the auction bid rules are clear on the high bidder's responsibilities such as how long he or she has to come to the facility, pay the amount owed and clear out the space. Typically, all this must happen within 48 to 72 hours of confirmation of a successful bid.

This section also explains how an owner is to deal with excess proceeds. The statute provides that the occupant or any person authorized by the occupant or by an order of the court may claim the excess proceeds or the portion of the proceeds necessary to satisfy the person's claim at any time within one (1) year after the date of the sale. After one (1) year, the owner shall pay any proceeds remaining from the sale to the treasurer of the county where the sale was held for deposit in the general fund of the county.

NEVADA DELINQUENT PAYMENT & FORECLOSURE TIMELINE

Days Past Due	Action	Legal Reference	Notice
Day One	Rent due		
Day Six	Late Fee (date stated in Rental Agreement)	NRS 108.4758	Late Letter
Day Eleven	Deny Access	NRS 108.476	
Day Fifteen	Default (by Statute) Send First Lien Notice	NRS 108.476	Verified Mail to tenant and alternate address or email
Day Thirty-Five (at least 14 days prior to sale)	Notice of Lien Sale (Send to tenant and alternate address; must include form for Declaration in Opposition to Lien Sale)	NRS 108.4763	Verified Mail or email Also send to alternate
Day Fifty (14 days after mailing Notice of Lien Sale)	First Advertisement of Sale	NRS 108.477	Public Advertisement in newspaper in judicial district where sale is held
Day Fifty-Eight (7 days after First Advertisement)	Second Advertisement of Sale	NRS 108.477	Public Advertisement in newspaper in judicial district where sale is held
Day Seventy	Conduct Lien Sale or Tow Vehicles and Boats Complete all required bookkeeping of sale	NRS 108.4763 NRS 108.478 NRS 108.4765	Send occupant written notice of proceeds/deficiency

No Sale permitted if occupant returns Declaration in Opposition of Lien Sale prior to sale. If Declaration is returned, occupant must file complaint within 21 days. If a lawsuit is not filed, the owner may conduct the sale no earlier than 31 days after receiving the Declaration.