

376.272 Marina may enforce lien on boat asserted pursuant to KRS 376.270 by civil action.

- (1) Any marina asserting a possessory lien pursuant to KRS 376.270 may enforce the lien by filing a civil action in the county in which the boat is located.
- (2) Prior to filing an action pursuant to subsection (1) of this section, the marina shall send, by certified mail, return receipt requested, notice of intent to enforce the lien to:
 - (a) All known owners at their last known address; and
 - (b) All secured parties discernible through reasonable effort. For the purposes of this paragraph, "reasonable effort" includes notice to any secured party that has:
 1. Properly perfected its security interest in the boat by having its lien indicated on a certificate of title for the boat;
 2. Properly perfected its security interest through an unexpired sufficient financing statement filed in the jurisdiction of the boat owner's residence, as that jurisdiction appears on the certificate of title, or equivalent document, for the boat; or
 3. Become a mortgagee of a federally documented vessel by recording a ship mortgage on the vessel pursuant to Chapter 313 of Title 46 of the United States Code.

In addition to the notice required in this subsection, the marina shall advertise the notice of intent to enforce the lien at least once per week for two (2) consecutive weeks pursuant to KRS Chapter 424.

- (3) Upon the marina properly sending notice of its intent to enforce its lien in accordance with subsection (2) of this section, a boat's owner may not remove the boat from the marina without a court order.
- (4) The notice of intent to enforce the lien required by subsection (2) of this section shall include:
 - (a) The name of the owner of the boat as indicated on the certificate of title, certificate of registration, or certificate of documentation;
 - (b) The owner's last known address;
 - (c) The make, model, length, and hull identification number of the boat if visually discernable; and
 - (d) A description of any attached outboard motor, including make, horsepower, and serial number if visually discernable.
- (5) Any secured party to whom notice was sent pursuant to subsection (2) of this section shall be named as a party in any civil action filed to enforce a marina's lien under KRS 376.270 and called upon to enter therein and set forth its claim or interest in the boat that is subject to the action, and the secured party shall be served with summons at its address as indicated on the certificate of title, financing statement, or ship mortgage through which its security interest was perfected.
- (6) Upon judgment being entered in favor of a marina pursuant to this section, and

subject to any restrictions of the United States Code, or any regulations issued pursuant thereto, regarding federally documented vessels, the court shall order the boat, or any part of the furniture and tackle as may be sufficient, to be sold for the satisfaction of the judgment. The marina shall conduct the sale in conformity with reasonable commercial practices among dealers in the type of boat being sold and in accordance with the court order. The sale shall be advertised in conformity with reasonable commercial practices among dealers for the type of boat being sold and, additionally, shall be advertised at least ten (10) days prior to the sale pursuant to KRS Chapter 424.

- (7) The court shall authorize and direct the county clerk to issue a title to the purchaser of the boat at a sale authorized by and conducted in conformance with this section, and the purchaser shall take title to the boat free of any liens or encumbrances. Any liens or encumbrances attached to the boat shall attach to the proceeds of the sale in the same order of priority that the liens and encumbrances attach to the boat pursuant to applicable law.

Effective: July 15, 2016

History: Created 2016 Ky. Acts ch. 120, sec. 2, effective July 15, 2016.

Legislative Research Commission Note (7/15/2016). In 2016 Ky. Acts ch. 120, sec. 2, a portion of subsection (2) of this statute was divided into paragraphs (a), (b), and (c). In codification, the paragraph designation "(c)" has been removed, because the sentence following that designation is not properly part of the list enumerated by paragraphs (a) and (b). The wording of the statute has not been changed. The Reviser of Statutes has made this correction under the authority of KRS 7.136(1).