

RESOLUTION 4-01-06

DIGEST

Unclaimed Property: Notice to Tenant

Amends Civil Code section 1984 to increase the value of unclaimed property before a sale of such property.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Civil Code section 1984 to increase the value of unclaimed property before a sale of such property. This resolution should be approved in principle because an increase in the value of abandoned property from \$300.00 to \$500.00 is reasonable.

The last increase in the value of abandoned property to the present \$300.00 level occurred in 1984. Requiring a landlord to initiate a public sale, with the attendant costs and delays associated with a sale, should not be necessary when the value of abandoned property is nominal. Certainly property valued at less than \$500.00 may be considered nominal in the present economy and in terms of equivalent value present no greater burden than the amount specified in 1984.

TEXT OF RESOLUTION

RESOLVED that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to amend Civil Code section 1984 to read as follows:

1 §1984
2 (a) A notice given to the former tenant which is in substantially the following form
3 satisfies the requirements of Section 1983:
4 Notice of Right to Reclaim Abandoned Property
5
6 To: _____
7 (Name of former tenant)
8
9 _____
10 (Address of former tenant)
11
12 When you vacated the premises at _____
13
14 _____
15 (Address of premises, including room or apartment number, if any)
16

17 the following personal property remained:

18

19

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(Insert description of the personal property)

21

22

You may claim this property at _____

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(Address where property may be claimed)

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Unless you pay the reasonable cost of storage for all the above-described property, and take possession of the property which you claim, not later than _____ (insert date not less than 15 days after notice is personally delivered or, if mailed, not less than 18 days after notice is deposited in the mail) this property may be disposed of pursuant to Civil Code Section 1988.

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(Insert here the statement required by subdivision (b) of this section)

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35

Dated: _____

36

(Signature of landlord)

37

38

(Type or print name of landlord)

39

40

(Telephone number)

41

42

(Address)

43

44

(b) The notice set forth in subdivision (a) shall also contain one of the following statements:

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(1) "If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the cost of storage, advertising, and sale is deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within one year after the county receives the money."

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(2) "Because this property is believed to be worth less than ~~\$300~~, \$500.00 it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated above."

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(Proposed new language underlined; language to be deleted stricken)

PROPONENT: San Fernando Valley Bar Association

STATEMENT OF REASONS

Existing Law: Under the existing law, a landlord may only keep, sell, or destroy a former tenant's unclaimed personal property if the landlord reasonably believes that it is worth less than

\$300.00. If the unclaimed personal property exceeds \$300.00, the landlord must sell the property at public sale.

This Resolution: Would increase the value of the unclaimed property from \$300.00 to \$500.00 before a landlord must resort to a public sale.

The Problem: Simply put, \$300.00 is way too low an amount for unclaimed property in the 21st century before a landlord is forced to resort to having the former tenant's personal property sold at a public sale. None of the former tenant's rights are abrogated by this modest increase. When Civil Code §1984 was first enacted over 30 years ago in the last century, the amount of unclaimed property was \$100.00 before a landlord was forced to conduct a public sale. In 1984, the Legislature increased the amount to \$300.00, where it has remained for over 22 years. It is time to increase the amount to \$500.00 before a landlord is forced to resort to having the former tenant's personal property sold at a public sale. Given inflation and the cost of living since 1984, the proposed \$500.00 amount for unclaimed property is even less today than the 1984 amendment of \$300.00 was then. A public sale, coupled with storage, advertising, and publication of notice and sales costs for \$301.00 worth of unclaimed personal property left by a former tenant is neither practical nor economical for the landlord. A few video games, a pair of designer jeans, trendy running shoes, and/or a worn sofa could exceed the current \$300.00 threshold, triggering a public sale by the landlord. Even then, the landlord may only deduct the cost of the sale, storage and advertising from any sums obtained and must remit to the county the balance. In fairness, maybe even the \$500.00 proposed amount may not provide the needed relief in some cases, but at least in many instances the landlord may be able to avoid a required public sale for property worth less than \$500.00 and still protect the former tenant.

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule.

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