

**ASSEMBLY BILL**

**No. 2173**

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**Introduced by Assembly Member Santiago**

February 12, 2018

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An act to amend Sections 1993.04 and 1993.07 of the Civil Code, relating to personal property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2173, as introduced, Santiago. Commercial real property: termination of tenancy: disposition of personal property.

Existing law provides an optional procedure for the disposition of personal property remaining on the premises at the termination of a commercial tenancy, as specified. Existing law requires a landlord to give written notice to the tenant if personal property remains after the end of a tenancy. Existing law authorizes property described in the notice to be sold at public sale except if the landlord reasonably believes that the total resale value of the personal property is the lesser of \$750 or \$1 per square foot of the premises occupied by the tenant, the landlord is authorized to retain the property for his or her own use or dispose of it in any manner.

This bill would change the calculation of the total resale value of the personal property, for purposes of these provisions, to \$10,000 or 2 times the total rent due each month of the premises the tenant occupied, whichever is greater.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1993.04 of the Civil Code is amended  
2 to read:

3 1993.04. (a) A notice given to the former tenant that is in  
4 substantially the following form satisfies the requirements of  
5 Section 1993.03:

6  
7 Notice of Right to Reclaim Abandoned Property

8 To: \_\_\_\_\_  
9 (Name of former tenant)

10 \_\_\_\_\_  
11 (Address of former tenant)

12 When you vacated the premises at \_\_\_\_\_

13 \_\_\_\_\_,  
14 (Address of premises, including room, if any)

15 the following personal property remained:

16 \_\_\_\_\_  
17 (Insert description of the personal property)

18 You may claim this property at \_\_\_\_\_  
19 \_\_\_\_\_.

20 (Address where property may be claimed)

21 Unless you pay the reasonable cost of storage for all of the above-described  
22 property, and take possession of the property which you claim, not later than  
23 \_\_\_\_\_ (insert date not less than 15 days after notice is personally delivered  
24 or, if mailed, not less than 18 days after notice is deposited in the mail) this  
25 property may be disposed of pursuant to Section 1993.07 of the Civil Code.

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

27  
28 Dated: \_\_\_\_\_  
29 (Signature of landlord)

30 \_\_\_\_\_  
31 (Type or print name of landlord)

32 \_\_\_\_\_  
33 (Telephone number of landlord)

34 \_\_\_\_\_  
35 (Address of landlord)

36  
37 (b) The notice set forth in subdivision (a) shall also contain one  
38 of the following statements:

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

8 (2) “Because you were a commercial tenant and this property  
9 is believed to be worth less than ~~the lesser of seven hundred fifty~~  
10 ~~dollars (\$750), or one dollar (\$1) per square foot~~ *either ten*  
11 *thousand dollars (\$10,000) or two times the total rent due each*  
12 *month of the premises you occupied, whichever is greater*; it may  
13 be kept, sold, or destroyed without further notice if you fail to  
14 reclaim it within the time indicated above.”

15 SEC. 2. Section 1993.07 of the Civil Code is amended to read:

16 1993.07. (a) (1) The property described in the notice that is  
17 not released pursuant to Section 1987 shall be sold at public sale  
18 by competitive bidding except that, if the landlord reasonably  
19 believes that the total resale value of the property is less than the  
20 threshold amount, the landlord may retain the property for his or  
21 her own use or dispose of it in any manner.

22 (2) For the purposes of this section, “threshold amount” means  
23 ~~the lesser of seven hundred fifty dollars (\$750) or one dollar (\$1)~~  
24 ~~per square foot~~ *either ten thousand dollars (\$10,000) or two times*  
25 *the total rent due each month of the premises occupied by the*  
26 ~~tenant.~~ *tenant, whichever is greater.*

27 (b) (1) Notice of the time and place of the public sale shall be  
28 given by publication pursuant to Section 6066 of the Government  
29 Code in a newspaper of general circulation published in the county  
30 where the sale is to be held.

31 (2) The last publication shall be not less than five days before  
32 the sale is to be held.

33 (3) The notice of the sale shall not be published before the last  
34 of the dates specified for taking possession of the property in any  
35 notice given pursuant to Section 1993.03.

36 (4) The notice of the sale shall describe the property to be sold  
37 in a manner reasonably adequate to permit the owner of the  
38 property to identify it.

39 (5) The notice may describe all or a portion of the property, but  
40 the limitation of liability provided by Section 1993.08 does not

1 protect the landlord from any liability arising from the disposition  
2 of property not described in the notice, except that a trunk, valise,  
3 box, safe, vault, or other container that is locked, fastened, or tied  
4 in a manner that deters immediate access to its contents may be  
5 described as such without describing its contents.

6 (c) (1) After deduction of the costs of storage, advertising, and  
7 sale, any balance of the proceeds of the sale that is not claimed by  
8 the former tenant or an owner other than the tenant shall be paid  
9 into the treasury of the county in which the sale took place not  
10 later than 30 days after the date of sale.

11 (2) The former tenant or other owner may claim the balance  
12 within one year from the date of payment to the county by making  
13 application to the county treasurer or other official designated by  
14 the county.

15 (3) If the county pays the balance or any part thereof to a  
16 claimant, neither the county nor any officer or employee thereof  
17 shall be liable to any other claimant as to the amount paid.

18 (d) Nothing in this section precludes a landlord or tenant from  
19 bidding on the property at the public sale.