

1 AN ACT relating to leasing of retail booths.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 4 of this Act:*

6 *(1) "Booth" means that portion of floor space within a building bound by*
7 *nonstructural walls or other demarcation rented to an tenant for use as a retail or*
8 *consignment sales space;*

9 *(2) "Default" means the failure to perform any obligation of the rental agreement in*
10 *compliance with the terms of the rental agreement;*

11 *(3) "Operator" means an owner, manager, or other person who leases a booth or*
12 *booths in a building;*

13 *(4) "Personal property" means all movable property located within a leased booth;*

14 *(5) "Rental agreement" means a written document that establishes the terms,*
15 *conditions, and duration of the lease of a booth; and*

16 *(6) "Tenant" means a person, sub-lessee, successor, or assign entitled to the use of a*
17 *booth under a rental agreement.*

18 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO
19 READ AS FOLLOWS:

20 *(1) A late fee shall not be assessed or collected by an operator unless the amount of*
21 *the fee and the conditions for imposing it are stated in the rental agreement or an*
22 *addendum thereto.*

23 *(2) A late fee shall not be assessed or collected if the rental fee is paid within five (5)*
24 *days of the payment date specified in the written rental agreement.*

25 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO
26 READ AS FOLLOWS:

27 *(1) The operator of a building containing booths shall have a lien for rent, labor, and*

1 other charges on all personal property that tenants place in their respective
2 booths. The operator's lien shall also include reasonable expenses for the sale of
3 such personal property.

4 (2) For an operator's lien to take effect, the rental agreement shall contain a bold
5 font statement informing the tenant that a lien exists and that all personal
6 property placed in the booth may be sold to satisfy the lien if the tenant defaults
7 on the terms of the rental agreement.

8 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO
9 READ AS FOLLOWS:

10 (1) (a) If the tenant is in default for a period of more than forty-five (45) days, the
11 operator may enforce a lien by selling the personal property located in the
12 booth at a public or private sale, for cash.

13 (b) Following a sale pursuant to paragraph (a) of this subsection, proceeds
14 shall be applied to satisfy the lien, with any surplus disbursed as provided in
15 subsection (5) of this section.

16 (2) Before conducting a sale under subsection (1) of this section, the operator shall:

17 (a) Notify the tenant of the default by regular mail to the tenant's last known
18 address;

19 (b) Send a second notice of default by verified mail to the tenant at the tenant's
20 last known address, which includes:

21 1. A statement that the contents of the tenant's booth are subject to the
22 operator's lien;

23 2. A statement of the operator's claim, indicating the charges due on the
24 date of the notice, the amount of any additional charges which shall
25 become due before the date of sale, and the date those additional
26 charges shall become due;

27 3. A demand for payment of the charges due within a specified time, not

1 less than fourteen (14) days after the date of the notice;

2 4. A statement that unless the claim is paid within the time stated, the
3 contents of the tenant's booth shall be sold at a specified time and
4 place; and

5 5. The name, street address, and telephone number of the operator, or
6 his or her designated agent, whom the tenant may contact to respond
7 to the notice; and

8 (c) At least seven (7) days before the sale, advertise the time, place, and terms of
9 the sale in a newspaper of general circulation in the jurisdiction where the
10 sale is to be held.

11 (3) At any time before a sale under this section, the tenant may pay the amount
12 necessary to satisfy the lien and redeem the tenant's personal property.

13 (4) A sale under this section shall be held at the facility in which the booth and
14 personal property are located or on a publicly accessible Web site.

15 (5) If a sale is held under this section, the operator shall, in the following order:

16 (a) Satisfy the lien from the proceeds of the sale;

17 (b) Hold the balance, if any, for delivery to any other recorded lienholders who
18 present claims within sixty (60) days. Notwithstanding Article 9 of KRS
19 Chapter 355, claims shall be satisfied on a first-come, first-served basis; and

20 (c) Deliver, upon expiration of sixty (60) days, the balance of any remaining
21 proceeds to the tenant.

22 (6) A purchaser in good faith of any personal property sold under this section takes
23 the property free and clear of any rights of:

24 (a) Persons against whom the lien was valid; and

25 (b) Other lienholders.

26 (7) If the operator complies with this section, the operator's liability:

27 (a) To the tenant shall be limited to the net proceeds received from the sale of

1 the personal property and shall be relieved upon full distribution of
2 proceeds in accordance with this section; and

3 (b) To other lienholders shall be limited to the net proceeds received from the
4 sale of the personal property covered by that other lienholder's lien and
5 shall be relieved upon full distribution of proceeds in accordance with this
6 section.

7 (8) If a tenant is in default, the operator may deny the tenant access to the booth.

8 (9) (a) Unless otherwise specifically provided, all notices between the operator and
9 tenant which are required by this section shall be sent to the physical
10 address or addresses listed on the rental agreement or addendum thereto.

11 (b) Notices shall be deemed delivered when deposited with the United States
12 Postal Service, properly addressed with postage paid to the physical mailing
13 address or addresses specified in paragraph (a) of this subsection.

14 (10) The exclusive care, custody, and control of all personal property in the booth
15 shall remain vested in the tenant, unless the rental agreement specifically
16 provides otherwise, until a lien sale under this section.

17 (11) If the rental agreement specifies a limit on the value of the personal property that
18 may be placed in the tenant's booth, the limit shall be deemed to be the maximum
19 value of the stored personal property.

20 (12) If the tenant is in default for more than sixty (60) days and the personal property
21 stored in the booth is a motor vehicle as defined in KRS 376.268, the operator
22 may, in lieu of a sale authorized in Sections 1 to 4 of this Act, have the motor
23 vehicle towed or removed from the booth, and the towing company shall execute
24 the notice provisions as specified in KRS 376.275.