

Chapter 3 Lessors' Liens

38-3-1 Lien for rent due.

Except as hereinafter provided, lessors shall have a lien for rent due upon all nonexempt property of the lessee brought or kept upon the leased premises so long as the lessee shall occupy said premises and for 30 days thereafter.

No Change Since 1953

38-3-2 Preference of lessor's lien over other liens and claims -- Exceptions -- Limit.

- (1) A lien under this chapter has preference over all other liens or claims except:
 - (a) claims for taxes;
 - (b) preconstruction or construction liens under Title 38, Chapter 1a, Preconstruction and Construction Liens;
 - (c) perfected security interests; and
 - (d) claims of employees for wages which are preferred by law.
- (2) If a lessee is adjudicated as bankrupt or makes an assignment for the benefit of creditors, or if the lessee's property is put into the possession of a receiver, a lien under this chapter is limited to the rent for 90 days before the adjudication, assignment, or receivership.

Amended by Chapter 278, 2012 General Session

38-3-3 Attachment in aid of lien.

Whenever any rent shall be due and unpaid under a lease, or the lessee shall be about to remove his property from the leased premises, the lessor may have the personal property of the lessee which is upon the leased premises and subject to such lien attached without other ground for such attachment.

No Change Since 1953

38-3-4 Attachment -- Affidavit and bond.

The lessor shall before the issue of such writ of attachment file a complaint, and an affidavit duly sworn to setting forth the amount of rent due over and above all offsets and counterclaims and a brief description of the leased premises, and shall further state, under oath that such writ of attachment is not sued out for the purpose of vexing or harassing the lessee; and the person applying for such writ of attachment shall execute and file a bond as in other cases of attachment.

No Change Since 1953

38-3-5 When attachment will issue -- Determination of priorities.

Upon the filing of such complaint, affidavit and bond it shall be the duty of the court wherein the same are filed to issue a writ of attachment to the proper officer, commanding him to seize the property of the defendant subject to such lien, or so much thereof as will satisfy the demand, and to make a determination of the priorities of the claims, liens, and security interests in such property.

Amended by Chapter 272, 1977 General Session

38-3-6 Execution of writ of attachment.

It shall be the duty of the officer to whom the writ of attachment is directed to seize the property of such lessee subject to such lien, or as much thereof as shall be necessary to satisfy such debt and costs, and to keep the same until the determination of the action, unless the property is sooner released by bond or the attachment is discharged.

No Change Since 1953

38-3-7 Release of attachment -- Bond.

A bond for the release of the attached property may be given, and motion to discharge the attachment may be made, as provided in the Code of Civil Procedure in cases of attachment.

No Change Since 1953

38-3-8 When chapter not applicable.

This chapter shall not be applicable to a written lease for a term of years in which, as part of the consideration thereof, the lessee or assigns shall erect a building or improvements upon the leased premises.

No Change Since 1953