

relating to boats and motor vehicles and as difficult to apply in certain areas of the State.

In subsection (b) (2) of this section, a reference to "certified" mail is added for purposes of clarity. This is in accord with Art. 1, §20 of the Code, which generally permits the use of either registered or certified mail as alternates to each other.

16-208. REPLEVY OF PROPERTY BY OWNER.

(A) ISSUANCE OF WRIT.

IF THE OWNER OF PROPERTY SUBJECT TO A LIEN INSTITUTES AN ACTION OF REPLEVIN AND ESTABLISHES A RIGHT TO THE ISSUANCE OF A WRIT BUT FOR THE DEFENDANT'S ALLEGED LIEN UNDER THIS SUBTITLE, THE COURT SHALL ISSUE THE WRIT.

(B) TRIAL OF REPLEVIN ACTION.

(1) IN THE TRIAL OF THE REPLEVIN ACTION, THE COURT SHALL DETERMINE:

(i) THE AMOUNT OF THE LIEN CLAIM, IF ANY; AND

(ii) THE AMOUNT OF ANY EXPENSES PROPERLY INCURRED OR ACCRUED BEFORE THE TRIAL, INCLUDING STORAGE AND ADVERTISING.

(2) IF JUDGMENT IS FOR THE DEFENDANT:

(i) IT MAY INCLUDE REASONABLE ATTORNEY'S FEES; AND

(ii) IT SHALL BE EITHER FOR THE PROPERTY REPLEVIED OR FOR THE AMOUNTS DETERMINED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

(3) THE DEFENDANT HAS THE BURDEN OF PROOF TO ESTABLISH HIS LIEN CLAIM TO THE SAME EXTENT AS IF HE WERE A PLAINTIFF IN AN ACTION TO SECURE JUDGMENT ON AN OPEN ACCOUNT.

REVISOR'S NOTE: This subsection is new language which combines the provisions of Art. 63, §§ 53(e) and 45, relating to aircraft and motor vehicles. Although present Art. 63 contains no comparable provisions relating to boats, this apparently inadvertent omission has been corrected by extending the application of this section to all "property" which, by definition in §16-201, includes boats.