

# Leasing Insights: Landlord's Statutory Lien

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Texas Property Code §54.021 provides a landlord with a statutory lien on a tenant's personal property located in the landlord's building to secure unpaid rent. In effect, the statute divides the lease term into successive 12-month periods beginning on the date of lease commencement, and the lien relates only to rent due for the current 12-month period following the lease commencement date or the most recent anniversary of that date. If the rent becomes more than six months past due, the lien is unenforceable for such past due rent unless the landlord files a lien statement with the county clerk. The statutory landlord's lien terminates one month after the tenant abandons the premises.

The landlord's lien is automatically perfected without any filing requirements at the beginning of each 12-month period. The lien expires and is then re-perfected upon each anniversary of the commencement date. For this reason, the lien will lose priority with respect to any other security interest on the tenant's personal property perfected during the preceding 12-month period.

Because of these limitations, a landlord may require a tenant to grant the landlord a contractual lien in the lease on the tenant's personal property, which the landlord should perfect in accordance with the requirements of the Texas Uniform Commercial Code. A tenant may attempt to have the landlord expressly waive the statutory landlord's lien in the lease. Tenants should be aware that silence does not accomplish the waiver, nor does merely deleting the contractual security interest provision of the lease. Alternatively, the landlord may agree to subordinate its lien to that of a specific creditor of the tenant.

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