§ 335. Special remedies where rental of safe deposit box is not paid or when safe deposit box is not vacated on termination of lease. Every lessor shall be entitled to the following special remedies:

1. (a) If the amount due for the rental of any safe deposit box let by any lessor shall not have been paid for one year, or if the lessee thereof shall not have removed the contents thereof within thirty days from the termination of the lease therefor for any reason other than for non-payment of rent, the lessor may, at the expiration of such period, send to the lessee of such safe deposit box by registered or certified mail, return receipt requested, a notice in writing in a securely closed postpaid letter, directed to such person at his last known post-office address, as recorded upon the books of the lessor, notifying such lessee that if the amount due for the rental of such safe deposit box is not paid within thirty days from date, and/or if the contents thereof are not removed within thirty days from date, the lessor may, at any time thereafter, cause such safe deposit box to be opened, and the contents thereof to be inventoried and removed from such safe deposit box.

(b) At any time after the expiration of thirty days from the date of mailing such notice, and the failure of the lessee of the safe deposit box to pay the amount due for the rental thereof to the date of payment, and/or remove the contents thereof, the lessor may, in the presence of a notary public and of any officer of the lessor or any other employee of the lessor designated for such purpose by the lessor, cause such safe deposit box to be opened, and the contents thereof, if any, to be removed and inventoried. Such contents shall be retained by the lessor for safe-keeping for a period of not less than two years unless sooner removed by the lessee of the safe deposit box so opened. The charge for such safe-keeping shall not exceed the original rental of the safe deposit box so opened. The notary public shall file with the lessor a certificate under seal, which shall fully set out the date of the opening of such safe deposit box, the name of the lessee of such safe deposit box and a list of the contents, if any.

(c) A copy of such certificate shall within ten days after the opening be mailed by registered or certified mail, return receipt requested, to the lessee of the safe deposit box so opened, at his last known post-office address, in a securely closed postpaid letter, together with

a notice that the contents will be kept, at the expense of the lessee, by the lessor for a period of not less than two years. Upon the payment of all rentals due at the time of the opening of the safe deposit box, the cost of the opening thereof, the fees of the notary public for issuing his certificate thereon, and the payment of all further charges and costs of safe-keeping such contents for the period since the opening of the safe deposit box, the lessee may require the delivery of such of the contents set out in such certificate as have not been sold pursuant to paragraph (d) of this subdivision or destroyed pursuant to paragraph (f) of this subdivision, or become abandoned property.

(d) At any time after the expiration of two years from the time of mailing the certificate herein provided for, the lessor may mail by registered or certified mail, return receipt requested, in a securely closed postpaid letter, addressed to the lessee at his last known post-office address, a notice stating that the lessor will sell all the property or articles of apparent value set out in such certificate, at a time and place stated in such notice, not less than thirty days after the time of mailing such notice and stating the amount which shall have then been due for rental up to the time of opening such safe deposit box, the cost of the opening thereof, the fees of the notary public for issuing his certificate thereon and the further charges and costs of safe-keeping all of its contents for the period since the opening of the safe deposit box. Unless the lessee shall pay on or before the day mentioned all such sums and all the charges and costs accruing to the time of payment, including advertising, the lessor may sell all the property or articles of apparent value set out in such certificate, at public auction, at the time and place stated in such notice, provided a notice of the time and place of sale has been published once within ten days prior to the sale, in a newspaper published in the place where the sale is to be held or, if there be no newspaper published in such place, then in a newspaper published in the same or in an adjoining county and in general circulation in the place where the sale is to be held.

(e) From the proceeds of the sale, the lessor shall deduct all its charges and costs as stated in such notice, together with any further charges and costs that shall have accrued since the mailing thereof, including reasonable expenses for notice, advertising and sale. The balance, if any, may be used to pay from time to time the further costs

and charges of safe-keeping and destroying the other contents, if any, of the safe deposit box. Unless sooner claimed by the lessee of the safe deposit box so opened, such balance or such part as shall remain after the payment of such further charges and costs shall, after the expiration of three years from the time of the opening of the safe deposit box, be deemed abandoned property subject to the provisions of article three of the abandoned property law.

(f) Any documents, letters or other papers of a private nature and any property or articles of no apparent value among the contents of any such safe deposit box shall not be sold, but shall be retained by the lessor for a period of at least ten years from the time of the opening of the safe deposit box, and, unless sooner claimed by the lessee of the safe deposit box, may thereafter be destroyed.

(f-1) Any military awards, medals, or decorations among the contents of any safe deposit box shall not be sold, but shall be sent to the division of military and naval affairs of the executive department where such awards, medals, or decorations shall be retained indefinitely until claimed by the lessee of the safe deposit box or the lessee's estate or released to a person or entity lawfully entitled to possession thereof. The state comptroller shall develop regulations specifying the procedures and requirements for delivering such items to the division of military and naval affairs and for reporting such information to the state comptroller's office. The New York state military museum and veterans research center under the jurisdiction of the division of military and naval affairs of the executive department shall provide storage for and shall display any such awards, medals, or decorations.

(g) United States coin or currency among the contents of any safe deposit box so opened need not be sold, but may be used by the lessor to pay the amount which shall have been due for rental up to the time of opening such safe deposit box, the cost of the opening thereof, the fees of the notary public for issuing his certificate thereon, and to pay from time to time the further charges and costs of safe-keeping, selling and destroying the contents of the safe deposit box so opened, including reasonable expenses for notices, advertising and sale and destruction. Unless sooner claimed by the lessee of the safe deposit box, such coin and currency or such part as shall remain after payment of the said charges and costs shall, after the expiration of three years from the

time of the opening of the safe deposit box, be deemed abandoned property subject to the provisions of article three of the abandoned property law.

2. Whenever in subdivision one of this section, a lessor is given the power to sell the contents of a safe deposit box, such power shall be deemed to include the power to sell any bonds, stock certificates, promissory notes, choses in action or other securities and any other tangible and intangible properties found in such safe deposit box, regardless of whether or not it shall appear from such securities or properties that the lessee of the safe deposit box possesses title to or any interest in such securities, or other properties, or power to transfer such title or interest.

3. If the principal of or interest or dividends on any securities found in a safe deposit box opened pursuant to the provisions of this section, is due and payable at the time of the opening of such safe deposit box or thereafter while the same remains in the possession of the lessor shall become due and payable, the lessor may, at its election, collect such principal and/or interest and/or dividends and from the proceeds thereof may deduct all sums due from the lessee of the safe deposit box for rental to the time of opening such safe deposit box and for the cost of opening thereof, the fees of the notary public for issuing his certificate thereon, and the further charges and costs of safe-keeping of the contents thereof from the time of the opening thereof including reasonable expenses for notices, advertising and sale and destruction. The balance, if any, of such collection shall, after the expiration of three years from the time of the opening of such safe deposit box, be deemed abandoned property subject to the provisions of article three of the abandoned property law.

4. A lessor holding a safe deposit box originally let by a predecessor in interest, or a lessor which has been dissolved, or a lessor holding the contents of such safe deposit box may have the remedies provided by this section as to such safe deposit box or the contents thereof in like manner and to the same extent as if such safe deposit box had been rented from such lessor in the first instance.

5. The provisions of this section shall not preclude any other remedy by action or otherwise for the enforcement of the claims of the lessor against the person to whom a safe deposit box shall have been let, nor bar the right of the lessor to recover the debt due it in any other lawful manner.