§ 617. Disposition of property held as bailee, or depositary; opening of safe deposit boxes; disposal of contents. 1. The superintendent may, after he has taken possession of any banking organization, cause to be mailed to each person claiming to be, or appearing upon the books of such banking organization to be

(1) the owner of any personal property in the custody or possession of such banking organization as bailee or depositary for hire or otherwise, including the contents of any safe, vault or box theretofore opened for non-payment of rental in accordance with the provisions of this chapter, or

(2) the lessee of any safe, vault or box, a notice in writing directed by registered mail to such person at his last address as the same appears on the books of such banking organization or at his last known address if no address appears on such books, notifying such person to remove all such property or the contents of any such safe, vault or box, within a period stated in said notice, which period shall be not less than sixty days from the date of such notice, and further notifying such person of the terms and provisions of this section. The contract of bailment or of deposit for hire, or lease of safe, vault or box, if any, between the person to whom such notice is mailed and such banking organization shall cease and determine upon the date for removal fixed in such notice. Such person shall have a claim against such banking organization for the amount of the unearned rent or charges, if any, paid by such person from the date fixed in such notice, if the property or contents is removed on or before such date, or from the date of actual removal, if the property or contents is removed after such date.

As used herein the phrase "personal property in the custody or possession of such banking organization as bailee or depositary for hire or otherwise" shall include, without limitation, securities, whether held in custody directly or in book-entry form by such banking organization, its nominee, subcustodian, clearing corporation or similar entity.

2. If such property or contents shall not be removed, and all rent or storage and other charges theretofore accrued, if any, shall not be paid, within the time fixed by such notice, the superintendent may cause

such property to be inventoried, or such safe, vault or box, or any package, parcel or receptacle in the custody or possession of such banking organization as bailee or depositary for hire or otherwise, to be opened and the contents, if any, to be removed and inventoried, in his presence or in the presence of a deputy superintendent, a special deputy superintendent, or an examiner and of a notary public, not an officer or employee of such banking organization or of the department of financial services. Such property or contents shall thereupon be sealed up by such notary public in a package distinctly marked by him with the name of the person in whose name such property or such safe, vault, box, package, parcel or receptacle stands upon the books of such banking organization, and a copy of the inventory of the property therein shall be certified and attached thereto by such notary public. Such package may be kept by the superintendent in such place as he may determine at the expense and risk of the person in whose name it stands until delivered to such person or until sold, destroyed or otherwise disposed of as hereinafter provided. Such package may, pending final disposition of its contents, be opened by the superintendent, a deputy superintendent, special deputy superintendent or examiner, from time to time for inspection or appraisal, or to enable the superintendent to exercise any of the powers conferred or duties imposed upon him by this article. Whenever such package is opened, the superintendent, deputy superintendent, special deputy superintendent or examiner, shall endorse on the outside of said package the date of opening and re-sealing, and shall prepare an affidavit which shall be attached thereto, showing the reason for opening and the articles, if any, removed therefrom, or placed or replaced therein.

3. At any time prior to the sale, destruction or other disposition of the contents thereof, the person in whose name such package stands may require the delivery thereof upon payment of all rental or storage charges accrued, and all other charges or expenses paid or incurred to the date of delivery with respect to such package or the contents thereof, including the cost of inventorying or of opening and inventorying, the fees of the notary public, the cost of preparing and mailing the notice, and advertising, if any. In case the superintendent is in doubt concerning the person entitled to receive such package, or

there are conflicting claims thereto, he may require of the claimant an order of the supreme court authorizing and directing the delivery thereof, but for any delivery or transfer made by him in good faith to the claimant appearing from the records in his office to be entitled thereto, he shall be held harmless and shall not be liable to any subsequent claimant. If the principal of, or interest, income, or dividends on any bonds, stock certificates, promissory notes, choses in action or other securities contained in such package, is or becomes due and payable while it is in the possession of the superintendent, he may at his election collect such principal, interest, income or dividends, and from the proceeds thereof may deduct all such sums due for rental and other charges, until the time of such collection. The balance, if any, of the amount or amounts so collected shall be disposed of by the superintendent as hereafter in subdivision five provided.

4. After the expiration of one year from the time of mailing the notice in subdivision one hereof described, the superintendent may apply to the supreme court for an order authorizing him to sell, destroy or otherwise dispose of the contents of such package. In a proper case, the court shall make such order upon such terms and conditions as justice may require. The application for an order of the supreme court pursuant to this subdivision shall be made upon an order to show cause, which shall provide that notice thereof to the person in whose name such package stands and to any other person claiming or appearing to have an interest therein, shall be published, mailed or given in such other manner as the court may prescribe. Whenever, pursuant to the provisions of this subdivision, the superintendent is given the power to sell the contents of any package, such power to sell shall be deemed a power to sell in satisfaction of a lien for non-payment of rental or storage charges accrued, and all other charges and expenses paid or incurred to the date of sale with respect to such package and the contents thereof, including the charges and expenses described in subdivision three hereof. Such power to sell, or the power to destroy or otherwise dispose of, when authorized pursuant to the provisions of this subdivision, shall be deemed to include the power to sell, destroy or otherwise dispose of, as the case may be, any bonds, stock certificates, promissory notes, choses in action, or other securities, and any other

tangible or intangible property contained in any package, regardless of whether or not it shall appear from such securities or properties that the person in whose name the package stands, possesses title to or interest in such securities or other properties, or power to transfer such title or interest, and any sale of such securities or properties, pursuant to this subdivision, shall vest good title thereto in the purchaser thereof.

5. From the proceeds of any sale, the superintendent shall deduct all rental or storage charges accrued, and all other charges and expenses paid or incurred to the date of sale, including the charges and expenses described in subdivision three hereof, and the expenses of sale. The balance of such proceeds, if any, shall be credited to the person in whose name such package stood and shall be paid over to such person, his assignee or legal representative on satisfactory evidence of identity. At the expiration of six months after the completion of the liquidation of such banking organization, the superintendent shall deposit any unclaimed amounts derived from such sale, as provided in article two of this chapter.

6. The provisions of this section do not affect or preclude any other remedy by action or otherwise for the enforcement of the claims or rights of the superintendent, or of a banking organization of which he is in possession, against the person in whose name any property, or any safe, vault, box, package, parcel or receptacle stands, nor affect, nor bar the right of the superintendent or the banking organization to recover, before sale, any debt or claim due him or it, or, after sale, so much of the debt or claim as shall not be paid by the proceeds of the sale.