

## **Delaware Lien Law**

### TITLE 25

#### Property

#### Mortgages and Other Liens

### CHAPTER 49. SELF-SERVICE STORAGE FACILITIES

#### § 4901. Short title.

This chapter shall be known as the Self-Service Storage Facility Act. (62 Del. Laws, c. 364, § 1.)

#### § 4902. Definitions.

As used in this chapter, unless the context clearly requires otherwise, the following words shall have the following meaning:

(1) "Self-service storage facility" means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such for the purpose of storing and removing personal property. No occupant shall use a self-service storage facility for residential purposes. A self-service storage facility is not a warehouse as used in Article 7 of Title 6. If an owner issues any warehouse receipt, bill of lading or other document of title for the personal property stored, the owner and the occupant are subject to Article 7 of Title 6, and this chapter does not apply.

(2) "Owner" means the owner, operator, lessor or sublessor of a self-service storage facility, his agent or any other person authorized by him to manage the facility or to receive rent from an occupant under a rental agreement.

(3) "Occupant" means a person, his sublessee, successor or assign, entitled to the use of the storage space at a self-service storage facility under a rental agreement, to the exclusion of others.

(4) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules or any other provisions concerning the use and occupancy of a self-service storage facility.

(5) "Personal property" means movable property not affixed to land and includes, but is not limited to, goods,

merchandise and household items.

(6) "Last-known address" means that address provided by the occupant in the latest rental agreement or the address provided by the occupant in a subsequent written notice of a change of address. (62 Del. Laws, c. 364, § 1.)

#### § 4903. Creation of lien.

The owner of a self-service storage facility and his heirs, executors, administrators, successors and assigns have a lien upon all personal property located at a self-service storage facility for rent, labor or other charges, present or future, in relation to the personal property and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to this chapter. The lien provided for in this section is superior to any other lien or security interest, except liens or security interests secured by motor vehicles titled pursuant to Chapter 23 of Title 21. The lien attaches as of the date the personal property is brought to the self-service storage facility; provided that the written rental agreement states that such lien will attach. (62 Del. Laws, c. 364, § 1.)

#### § 4904. Enforcement; satisfaction of lien.

(a) An owner's lien as provided for in § 4903 of this title for a claim which has become due may be satisfied as follows:

(1) The occupant shall be notified;

(2) The notice shall be delivered in person or sent by certified mail to the last-known address of the occupant;

(3) The notice shall include:

a. An itemized statement of the owner's claim showing the sum due at the time of the notice and the date when the sum became due;

b. A brief and general description of the personal property subject to the lien. The description shall be reasonably adequate to permit the person notified to identify it, except that any container including, but not limited to, a trunk, valise or box that is locked, fastened, sealed or tied in a manner which deters immediate access to its

contents may be described as such without describing its contents;

c. A notice of denial of access to the personal property, if such denial is permitted under the terms of the rental agreement, which provides the name, street address and telephone number of the owner or his designated agent whom the occupant may contact to respond to said notice;

d. A demand for payment within a specified time not less than 30 days after delivery of the notice;

e. A conspicuous statement that unless the claim is paid within the time stated in the notice the personal property will be advertised for sale or other disposition and will be sold or otherwise disposed of at a specified time and place.

(b) Any notice made pursuant to this section shall be presumed delivered when it is deposited with the United States Postal Service and properly addressed with postage prepaid.

(c) After the expiration of the time given in the notice, an advertisement of the sale or other disposition shall be published once a week for 2 consecutive weeks in a newspaper of general circulation in the county where the self-service storage facility is located. The advertisement shall include:

(1) A brief and general description of the personal property reasonably adequate to permit its identification as provided for in subsection (a)(3)b. of this section;

(2) The address of the self-service storage facility and the number, if any, of the space where the personal property is located and the name of the occupant;

(3) The time, place and manner of the sale or other disposition. The sale or other disposition shall take place not sooner than 30 days after the 1st publication.

(d) Any sale or other disposition of the personal property shall conform to the terms of the notification as provided for in this section.

(e) Any sale or other disposition of the personal property shall be held at the self-service storage facility or at the nearest suitable place to where the personal property is held or stored.

(f) Before any sale or other disposition of personal property pursuant to this section, the occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section and thereby redeem the personal property. Upon receipt of such payment, the owner shall return the personal property and thereafter the owner shall have no liability to any person with respect to such personal property.

(g) A purchaser in good faith of the personal property sold to satisfy a lien as provided for in § 4903 of this title takes the property free of any rights of persons against whom the lien was valid, despite noncompliance by the owner with the requirements of this section.

(h) In the event of a sale under this section, the owner may satisfy his lien from the proceeds of the sale but shall hold the balance, if any, for delivery on demand to the occupant. If the occupant does not claim the balance of the proceeds within 2 years of the date of sale, it shall become the property of the owner without further recourse by the occupant. (62 Del. Laws, c. 364, § 1.)

§ 4905. Construction of chapter.

Nothing in this chapter shall be construed as in any manner impairing or affecting the right of parties to create liens by special contract or agreement, nor shall it in any manner affect or impair other liens arising at common law or in equity, or by any statute of this State, or any other lien provided for in §§ 4902-4904 of this title. (62 Del. Laws, c. 364, § 1.)

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