

## **Nevada Lien Law**

### LIENS OF OWNERS OF FACILITIES FOR STORAGE

NRS 108.473 Definitions. As used in NRS 108.473 to 108.4783, inclusive, unless the context otherwise requires, the words and terms defined in NRS 108.4733 to 108.4745, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1983, 1665)

NRS 108.4733 'Facility' defined. 'Facility' means real property divided into individual spaces for storing personal property which are rented or leased to individual occupants and to which the individual occupant has access. The term does not include a garage or storage area in a private residence.

(Added to NRS by 1983, 1665)

NRS 108.4735 'Occupant' defined. 'Occupant' includes a person, his sublessee, successor or assignee who is entitled to the exclusive use of a space for storage at a facility pursuant to a rental agreement.

(Added to NRS by 1983, 1666)

NRS 108.474 'Owner' defined. 'Owner' includes a lessor, operator or other person authorized by the owner to manage a facility, enter into rental agreements with occupants and collect rent from occupants.

(Added to NRS by 1983, 1666)

NRS 108.4743 'Personal property' defined. 'Personal property' means any property not affixed to land and includes goods, merchandise, furniture and household items.

(Added to NRS by 1983, 1666)

NRS 108.4745 'Rental agreement' defined. 'Rental agreement' means any written agreement or lease establishing or modifying the terms, conditions or rules concerning the use and occupancy of an individual space in a facility.

(Added to NRS by 1983, 1666)

NRS 108.475 Use of facility for residence prohibited; eviction; nature of facility; effect of issuance of document of title for property.

1. A person shall not use a facility for a residence. The owner of such a facility shall evict any person who uses the facility as a residence in the manner provided for in NRS

40.760.

2. A facility shall not be deemed to be a warehouse or a public utility.

3. If an owner of a facility issues a warehouse receipt, bill of lading or other document of title for the personal property stored in the facility, the owner and occupant are subject to the provisions of NRS 104.7101 to 104.7603, inclusive, and the provisions of NRS 108.473 to 108.4783, inclusive, do not apply.

(Added to NRS by 1983, 1666; A 1989, 212)

NRS 108.4753 Lien of owner of facility; priority of lien created by document of title.

1. The owner of a facility and his heirs, assignees or successors have a lien on all personal property located at the facility for the rent, labor or other charges incurred by the owner pursuant to a rental agreement and for those expenses necessarily incurred by the owner to preserve, sell or otherwise dispose of the personal property.

2. Any lien created by a document of title for a motor vehicle or boat has priority over a lien attaching to that motor vehicle or boat pursuant to NRS 108.473 to 108.4783, inclusive.

(Added to NRS by 1983, 1666)

NRS 108.4755 Contents of rental agreement.

1. Each rental agreement must be in writing and must contain:

(a) A provision printed in a size equal to at least 10 point type that states, 'IT IS UNLAWFUL TO USE THIS STORAGE FACILITY AS A RESIDENCE.'

(b) A statement that the occupant's personal property will be subject to a claim for a lien and may be sold to satisfy that lien if the rent or other charges described in the rental agreement remain unpaid for 14 consecutive days.

2. If any provision of the rental agreement provides that an owner, lessor, operator, manager or employee of the facility, or any combination thereof, is not liable, jointly or severally, for any loss or theft of personal property stored in the facility, the provision is unenforceable unless:

(a) The rental agreement contains a statement advising the occupant to purchase insurance for his personal property stored in the facility and informing him that such insurance is available through most insurers;

(b) The provision and the statement are:

(1) Printed in all capital letters or, if the rental agreement is printed in all capital letters, printed in all capital letters and boldface type, italic type or underlined type; and

(2) Printed in a size equal to at least 10-point type or, if the rental agreement is printed in 10-point type or larger, printed in type that is at least 2 points larger than the size of type used for other provisions of the rental agreement; and

(c) The provision is otherwise enforceable pursuant to the Law of this state.

3. NRS 108.473 to 108.4783, inclusive, do not apply and the lien for charges for storage does not attach unless the rental agreement contains a space for the occupant to provide the name and address of an alternative person to whom the notices under those sections may be sent. The occupant's failure to provide an alternative address does not affect the owner's remedies under those sections.

4. The parties may agree in the rental agreement to additional rights, obligations or remedies other than those provided by NRS 108.473 to 108.4783, inclusive. The rights provided in those sections are in addition to any other rights of a creditor against his debtor.

(Added to NRS by 1983, 1666; A 1989, 213; 1997, 921)

NRS 108.476 Unpaid charges: Termination of occupant's right to use space; notice; imposition of lien.

1. If any charges for rent or other items owed by the occupant remain unpaid for 14 days or more, the owner may terminate the occupant's right to use his individual space for storage at the facility not less than 14 days after sending a notice by certified mail to the occupant, at his last address and to the alternative address provided by the occupant in the rental agreement. The notice must contain:

(a) An itemized statement of the amount owed by the occupant at the time of the notice and the date when the amount became due;

(b) The name, address and telephone number of the owner or his agent;

(c) A statement that the occupant's right to use the space for storage will terminate on a specific date unless the occupant pays the amount owed to the owner; and

(d) A statement that upon the termination of the occupant's right to occupy the space and after the date specified in the notice, an owner's lien pursuant to NRS 108.4753, will be imposed.

2. For the purposes of this section, 'last known address' means the address provided by

the occupant in the most recent rental agreement between the owner and occupant, or the address provided by the occupant in a written notice sent to the owner with a change of the occupant's address after the execution of the rental agreement.

(Added to NRS by 1983, 1666; A 1985, 238)

NRS 108.4763 Owner's remedies upon nonpayment of charges; notice of sale; limit on earliest time for sale.

1. After the notice of the lien is mailed by the owner, if the occupant fails to pay the total amount due by the date specified in the notice, the owner may:

(a) Deny the occupant access to his space for storage; and

(b) Enter the space and remove the personal property within it to a safe place.

2. The owner shall send the occupant a notice of a sale to satisfy the lien by certified mail to the occupant at his last known address and to the alternative address provided by the occupant in the rental agreement at least 14 days before the sale. The notice must contain:

(a) A statement that the occupant may no longer use the space for storage and no longer has access to his personal property stored therein;

(b) A statement that the personal property of the occupant is subject to a lien and the amount of the lien;

(c) A statement that the personal property will be sold to satisfy the lien on a date specified in the notice, unless the total amount of the lien is paid or the occupant executes and returns by certified mail, the declaration in opposition to the sale; and

(d) A statement of the provisions of subsection 3.

3. Proceeds of the sale over the amount of the lien and the costs of the sale must be retained by the owner and may be reclaimed by the occupant or his authorized representative at any time up to 1 year from the date of the sale.

4. The notice of the sale must also contain a blank copy of a declaration of opposition to the sale to be executed by the occupant if he wishes to do so.

(Added to NRS by 1983, 1667; A 1985, 239)

NRS 108.4765 Occupant's declaration of opposition to sale. The occupant may prevent a sale of the personal property to satisfy the lien if he executes a declaration of opposition to the sale under penalty of perjury and returns the declaration to the owner by certified mail. The declaration must contain the following:

1. The name, address and signature of the occupant;
2. The location of the personal property which is to be sold to satisfy a lien;
3. The date the declaration was executed by the occupant; and
4. A statement that:
  - (a) The occupant has received the notice of the sale to satisfy the lien;
  - (b) He opposes the sale of the property; and
  - (c) He understands that the owner may commence an action for the amount of the lien and the costs of the action.

(Added to NRS by 1983, 1667)

NRS 108.477 Sale of occupant's property by owner: Advertisement; manner; distribution of proceeds.

1. If the declaration in opposition to the lien sale executed by the occupant is not received by the date of the sale specified in the notice mailed to the occupant, the owner may sell the property.
2. The owner shall advertise the sale once a week for 2 consecutive weeks immediately preceding the date of the sale in a newspaper of general circulation in the judicial district where the sale is to be held. The advertisement must contain:
  - (a) A general description of the personal property to be sold;
  - (b) The name of the occupant;
  - (c) The number of the individual space for storage at the facility where the personal property was stored; and
  - (d) The name and address of the facility.
3. If there is no newspaper of general circulation in the judicial district where the sale is to be held, the advertisement must be posted 10 days before the sale in at least six conspicuous places near the place of the sale.
4. The sale must be conducted in a commercially reasonable manner. After deducting the amount of the lien and the costs of the sale, the owner shall retain any excess proceeds from the sale on the behalf of the occupant.
5. The occupant or any person authorized by the occupant or by an order of the court,

may claim the excess proceeds or the portion of the proceeds necessary to satisfy the person's claim at any time within 1 year after the date of the sale. After 1 year, the owner shall pay any proceeds remaining from the sale to the treasurer of the county where the sale was held for deposit in the general fund of the county.

(Added to NRS by 1983, 1668; A 1985, 1163)

NRS 108.4773 Claim of property subject to security interest.

1. Any person who has a security interest in the personal property perfected pursuant to NRS 104.9101 to 104.9709, inclusive, may claim the personal property which is subject to the security interest and to the lien for storage charges by paying the amount due, as specified in the preliminary notice of the lien, for the storage of the property, if no declaration in opposition to the sale to satisfy the lien has been executed and returned by the occupant to the owner.

2. Upon payment of the total amount due pursuant to this section, the owner shall deliver the personal property subject to the security interest to the person paying the amount of the owner's lien. The owner is not liable to any person for any action taken pursuant to this section if the owner complied with the provisions of NRS 108.473 to 108.4783, inclusive.

(Added to NRS by 1983, 1668; A 1999, 387)

NRS 108.4775 Satisfaction of lien by person claiming interest in property. Before the sale to satisfy the lien, any person claiming an interest in the personal property may pay the amount necessary to satisfy the lien and the reasonable expenses incurred by the owner to protect his lien. If this is done, the personal property must not be sold, but the owner shall retain the property pending an order by a court which directs the disposition of the property.

(Added to NRS by 1983, 1669)

NRS 108.478 Action to enforce lien; enforcement of judgment; stay of enforcement pending appeal.

1. If the occupant signs, and returns to the owner, the declaration in opposition to the sale, the owner may commence an action in any court of competent jurisdiction to enforce his lien.

2. If, after the action to enforce the lien, the owner obtains a judgment against the occupant for the amount of the lien, the owner may enforce the judgment by a sale of the property conducted in a commercially reasonable manner more than 10 days after the notice of the entry of judgment has been filed with the court, unless within that time the occupant pays the amount of the judgment.

3. The occupant may stay the enforcement of the judgment pending an appeal by posting with the court which entered the judgment, a bond in an amount equal to 1.5 times the amount of the judgment. If the occupant posts such a bond, the court may order the owner to return the personal property to the occupant.

(Added to NRS by 1983, 1669)

NRS 108.4783 Purchaser of property at sale to satisfy lien or enforce judgment takes free of occupant's interest. Any person who purchases the personal property in good faith at a sale to satisfy the lien or a sale to enforce a judgment on a lien takes the property free of any interests of the occupant, even though the owner who conducted the sale may have failed to comply with the provisions of NRS 108.473 to 108.4783, inclusive.

(Added to NRS by 1983, 1669)