

New Hampshire Lien Law

TITLE XLI LIENS

CHAPTER 451-C

SELF-SERVICE STORAGE FACILITY LIENS

Section 451-C:1

451-C:1 Definitions. – In this chapter:

I. "Lienholder" means a person entitled to enforce a lien or security interest legally acquired and properly recorded in accordance with RSA 382-A or RSA 261.

[Paragraph II effective until July 1, 2006; see also paragraph II set out below.]

II. "Motor vehicle" means a motor vehicle as defined in RSA 259:60, a motorcycle as defined in RSA 259:63, and any boat, watercraft, or motorized vehicle including any "off highway recreational vehicle" as defined in RSA 215-A:1, VI.

[Paragraph II effective July 1, 2006; see also paragraph II set out above.]

II. "Motor vehicle" means a motor vehicle as defined in RSA 259:60, a motorcycle as defined in RSA 259:63, and any boat, watercraft, or motorized vehicle including any "off highway recreational vehicle" as defined in RSA 215-A:1, VI or any snowmobile as defined in RSA 215-C:1.

III. "Occupant" means a person, or any agent or representative of the person, entitled to the use of storage space at a self-service storage facility under a rental agreement, to the exclusion of others.

IV. "Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility, the owner's agent, or any other person authorized by the owner to manage the facility, or to receive rent from an occupant.

V. "Personal property" means moveable property not affixed to land, and includes, but is not limited to goods, merchandise, motor vehicles, and household items.

VI. "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 space for the purpose of storing and removing personal property. A self-service storage facility is not a warehouse as the term "warehouse" is used in RSA 382-A:7.

Source. 1999, 315:1, eff. Sept. 14, 1999. 2005, 210:61, eff. July 1, 2006.

Section 451-C:2

451-C:2 Storage Lien. – Any owner of a self-service storage facility shall have a lien upon all personal property located at the self-service storage facility so long as the personal property shall remain in the possession of the owner, or, in accordance with any rental agreement or lease, shall have a lien for unpaid rent, charges, fees, or expenses due for storage, care, or sale of the personal property. The lien attaches as of the date the personal property is brought to the self-service storage facility.

Source. 1999, 315:1, eff. Sept. 14, 1999.

Section 451-C:3

451-C:3 Removal and Disposal of Personal Property. – If any of the rent, charges, fees, or expenses referred to in this chapter shall remain unpaid for 5 days, the owner may place a lock on the storage unit, in addition to any lock placed thereon by the occupant. The owner may deny access to the unit until the unpaid rent, charges, fees, or expenses are paid in full by the occupant. If after 30 days, any of the rent, charges, fees, or expenses shall remain unpaid, the owner may remove the occupant's lock as well as the owner's lock, remove any personal property from the unit and retain such personal property, and then, after first satisfying the notice provisions of RSA 451-C:4, RSA 451-C:5, and RSA 451-C:6, unless exempted by RSA 451-C:7, proceed to sell such personal property to satisfy the lien. Proceeds from the sale shall be distributed pursuant to RSA 451-C:6.

Source. 1999, 315:1, eff. Sept. 14, 1999.

Section 451-C:4

451-C:4 Notice to Lienholder. –

I. An owner shall inquire in writing, by certified mail return receipt requested, to determine from the division of motor vehicles and the secretary of state with regard to a motor vehicle, and from the secretary of state with regard to other personal property, whether a lien exists upon the title to said motor vehicle or other personal property. Any such written inquiry that requests information on financing statements filed under RSA 382-A shall be in the form, and subject to the fees, required by that chapter. If no lien is found, or in the case where the inquiry had been made in writing and no response is received from the division of motor vehicles or the secretary of state within 14 days after such inquiry is mailed, the owner may proceed to sell or otherwise dispose of such personal property as prescribed by this chapter.

II. If determination is made under the procedure described in paragraph I that a lien exists, a notice of sale under this chapter shall be sent by registered or certified mail to the last known address of each holder of a security interest or lienholder in accordance with RSA 382-A:9. The notice shall state the time and place of the sale, the property to be sold, and the amount of the rent, charges, fees, or expenses owed. The notice shall be sent at least 20 days prior to the date of the sale, except that in the case of a motor vehicle, notice shall be sent at least 30 days prior to the date of the sale. Notwithstanding any other provision of this chapter, any lienholder having a properly perfected lien or security interest shall be entitled to remove such personal property from the owner's possession or from the occupant's self-service storage facility unit within 20 days of the date of mailing of the notice of the sale, without attachment of the lien established under RSA 451-C:2 or any further obligation to the owner of the self-service storage facility. The lienholder's right to possession of the personal property is established under this chapter notwithstanding the lack of breach by the owner of such personal property under the debt instrument or security agreement creating the lien or security interest on such property. The owner shall not

be responsible for determining priority as between any competing lienholders. If the owner and the lienholder who has received the notice agree to store the personal property at the facility, the lienholder shall pay the amount of the rent, charges, fees, or expenses due from and after the date of the notice to the lienholder, and pay the monthly rental fee until such personal property is removed from the facility.

Source. 1999, 315:1. 2001, 102:37, eff. July 1, 2001. 2004, 78:1, eff. Jan. 1, 2005.

Section 451-C:5

451-C:5 Notice of Sale. – A notice of the sale shall be served upon the occupant in person or by registered or certified mail at the last known address, no less than 14 days before the sale, stating the time and place of sale, the property to be sold, and the amount of the rent, charges, fees, or expenses owed.

Source. 1999, 315:1, eff. Sept. 14, 1999.

Section 451-C:6

451-C:6 Sale. – If any of the rent, charges, fees, or expenses referred to in this chapter shall remain unpaid for 30 days, and after complying with the provisions of RSA 451-C:4 and RSA 451-C:5, the owner may sell such personal property at a private or public sale, and the proceeds shall first be applied to satisfy such rent, charges, fees, or expenses. Proceeds remaining after the sale and payment of rent, charges, fees, or expenses to the owner shall then be paid to any lienholders of record, as their interests may appear, with any remaining proceeds to be paid to the occupant.

Source. 1999, 315:1, eff. Sept. 14, 1999.

Section 451-C:7

451-C:7 Abandoned Property. –

I. In the event that a storage unit is unlocked, and the rent on the unit is past due, and the entire contents of the unit have a total value under \$500, the property shall be deemed abandoned. Such property may then be removed from the self-service storage facility unit and shall be retained for 30 days. If after 30 days, the occupant does not claim such personal property and any of the rent, charges, fees, or expenses remain unpaid, and there is no lienholder of record, the owner may dispose of the property without notice to the occupant.

II. In the event that a storage unit is locked, and the rent on the unit is past due, and the entire contents of the unit have a total value under \$500, the property shall be deemed abandoned. If after 30 days, the occupant does not claim such personal property and any of the rent, charges, fees, or expenses remain unpaid, and there is no lienholder of record, the owner shall be exempt from requirements of RSA 451-C:5 and RSA 451-C:6, may remove such property from the self-service storage facility unit, and dispose of the property without notice to the occupant.

Source. 1999, 315:1, eff. Sept. 14, 1999.

Section 451-C:8

451-C:8 Liability. – An owner acting in accordance with the provisions of this chapter shall not be liable to the occupant or lienholder for personal property disposed of under the provisions of this chapter.

Source. 1999, 315:1, eff. Sept. 14, 1999.

Section 451-C:9

451-C:9 Purchaser. – Provided that the provisions of this chapter are complied with by an owner conducting a sale of personal property, a purchaser in good faith of personal property under the provisions of this chapter shall take the personal property free and clear of any rights of an occupant against whom the liens were placed by a lienholder.

Source. 1999, 315:1, eff. Sept. 14, 1999.

Section 451-C:10

451-C:10 Disclosure. – An owner of a self-service storage facility shall disclose, in any rental agreement or lease, the terms and conditions of such rental agreement or lease and the notice provisions of RSA 451-C to an occupant before renting or leasing the storage unit.

Source. 1999, 315:1, eff. Sept. 14, 1999.