

# Pennsylvania Lien Law

73 P.S.

§ 1901. Short title. This act shall be known and may be cited as the "Self-Service Storage Facility Act."

§ 1902. Definitions. The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section: "Default." The failure timely to perform any obligation or duty set forth in this act or the rental agreement.

"Last known address." 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.

"Leased space." The individual storage space at the service storage facility which is leased or rented to an occupant pursuant to a rental agreement.

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

"Owner." The owner, operator, lessor or sublessor of a self-service storage facility, his agent or any person authorized by him to manage the facility or to receive rent from an occupant under a rental agreement or any of his employees. An owner is not a warehouseman as defined in 13 Pa.C.S. §§ 7102 (relating to definitions and index of definitions). If, however, an owner shall issue any warehouse receipt, bill of lading or other document of title for the personal property stored, the owner and occupant shall be subject to 13 Pa.C.S. Div. 7 (relating to warehouse receipts, bills of lading and other documents of title) and this act shall not apply.

"Personal property." Movable property not affixed to land and includes, but is not limited to, goods, wares, merchandise, furniture and household items.

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

"Self-service storage facility." 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. No occupant shall use a self-service storage facility for residential purposes.

§ 1903. Access

(a) General rule. - Upon the reasonable request of the owner, the occupant shall provide access to the owner to enter the leased space for the purposes of inspection, repair, alteration, improvement or to supply necessary or agreed services. In case of emergency, the owner may enter the leased space for any of the above stated purposes without notice to or consent from the occupant.

(b) Definition. - As used in this section "emergency" shall mean any sudden, unexpected occurrence or circumstance which demands immediate action.

#### § 1904. Owner's lien

The owner of a self-service storage facility and his heirs, executors, administrators, successors and assigns shall have a lien upon all personal property, while located at a self-service storage facility, for rent, labor or other charges, present or future, incurred for storing said property, and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to this act. The lien provided for in this section is superior to any other lien or security interest; however any lien existing prior to the date the personal property was placed at the self-service storage facility supersedes any lien of the owner. The lien attaches as of the date the personal property is placed at the self-service storage facility and the rental agreement shall contain a statement in bold type notifying the occupant of the existence of the lien.

#### § 1905. Enforcement of lien

(a) Default.--No enforcement action shall be taken by the owner until the occupant has been in default continuously for a period of 30 days.

(b) Rights of owner. - After the occupant has been in default continuously for a period of 30 days, the owner shall have the right to deny the occupant's access to the leased space. The owner may also enter and remove the personal property from the leased space to another suitable storage space pending its sale or other disposition.

#### § 1906. Notice

(a) Service. - The owner shall give written notice of the default and any other action taken in regard to the occupant's property, to the occupant by personal service or by certified mail, return receipt requested, sent to the occupant's last known address. A notice shall be presumed to be served when it is deposited with the United States postal service and properly addressed with postage prepaid.

(b) Contents. - The notice shall contain the following:

(1) 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.

(2) A demand for payment of the sum due within a specified time not less than 30 days after the date of notice.

(3) A statement that the contents of the occupant's leased space are subject to the owner's lien.

#### § 1907. Advertisement of sale

(a) Publication. - After the expiration of the time stated in the notice and if the personal property has not otherwise been disposed of, the owner shall cause an advertisement of sale to be published two times preceding the date of sale in a newspaper of general

circulation which serves the area where the self-service storage facility is located. The advertisement shall include:

(1) A statement that the contents of the occupant's leased space shall be sold to satisfy the owner's lien.

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

(3) The time, place and manner of sale.

(b) Posting of sale notice. - If there is no newspaper of general circulation where the self-service storage facility is located, the owner shall post written advertisements containing all of the required information at least ten days before the date of the sale in not less than six conspicuous places in the neighborhood where the self-service storage facility is located.

(c) Time of sale. - The sale shall take place no sooner than ten days after the first publication or posting.

#### § 1908. Location of sale

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.

#### § 1909. Payment and satisfaction

Before any sale or other disposition of personal property, the occupant may pay the amount necessary to satisfy the owner's lien and other reasonable expenses incurred hereunder and thereby redeem the personal property. Upon the payment and satisfaction of the amount necessary to satisfy the owner's lien and the reasonable expenses incurred, the owner shall return the personal property and the owner shall thereafter have no liability to any person with respect to such personal property.

#### § 1910. Conformance with notice

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

(b) Nonconsummated sale. - If the personal property is advertised for sale and the sale is not consummated, the owner shall give written notice to the occupant of other disposition of the personal property.

#### § 1911. Title to goods purchased

A purchaser in good faith of the personal property sold to satisfy the owner's lien 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.

§ 1912. Right of owner to purchase

The owner may buy at any sale of personal property to enforce the owner's lien

§ 1913. Excess balance from sale

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 six months of the date of the sale, such balance shall be deemed to be abandoned and the owner shall pay such balance to the Secretary of Revenue who shall receive, hold and dispose of same in accordance with Article XIII.1 of the act of April 9, 1929 (P.L. 343, No. 176), known as "The Fiscal Code."

§ 1914. Care, custody and control

Unless the rental agreement specifically provides otherwise, the exclusive care, custody and control of any and all personal property stored in the leased space shall remain vested in the occupant, who shall bear all risks of loss or damage to such property not caused by any negligence of the owner.

§ 1915. Limitation on liability of owner

(a) Sale or removal. - An owner shall not be liable to an occupant or a third party for the removal or sale of personal property which is not the property of the occupant or upon which a prior lien has attached, unless notice shall have been given to the owner by the occupant that the property placed in the leased space was not that of the occupant.

(b) Rental agreements. - All rental agreements shall contain a provision setting forth subsection (a), and requiring the occupant to inform the owner of the nature and identity of any property placed in the leased space which is not the property of the occupant.

§ 1916. Construction of act

Nothing in this act shall be construed as in any manner impairing or affecting the right of the parties to create additional rights, duties and obligations in and by virtue of the rental agreement. The rights provided by this act shall be in addition to all other rights allowed by law to a creditor against his debtor.

§ 1917. Savings clause All rental agreements entered into before the effective date of this act, and not extended or renewed after that date, and the rights and duties and interests flowing from them shall remain valid, and may be enforced or terminated in accordance with their terms or as permitted by any other statute or law of this Commonwealth.

§ 60.12. Self-storage services.

(a) Definitions. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Administrative supplies

(i) Tangible personal property which is consumed in one of the following manners:

(A) Used but not transferred by a vendor in the performance of this service.

(B) Transferred by a vendor to another party in connection with the performance of the vendor's services when the property is not a critical element of the service.

(ii) Examples of the property include sales invoices, receipts, contracts, estimate sheets, confirmations or other similar items.

Commercial warehouse A business, such as a public warehouse, engaged in the operation of receiving, handling and storing property for others and the purchaser of the service does not have separate access to the storage area used to hold the property.

Facility for goods distribution A building which is used for the receiving, holding, handling and distribution of business inventory which is being held for subsequent sale.

Self-storage service The providing of a building, a room in a building, or a secured area within a building primarily for the purpose of storing personal property with a separate access for each purchaser of self-storage service.

(b) Scope. Effective January 1, 1992, the sale at retail or use of self-storage service at a location in this Commonwealth is subject to tax.

(c) Examples of taxable services. The following are examples of taxable self-storage services:

(1) The rental of a garage on an annual basis for the storage of a boat. If the boat is only kept in the garage for 5 months, the rental is taxable because the primary purpose for the use of the garage is storage of the boat.

(2) The rental of an entire building by a contractor for the storage of construction equipment and materials.

(3) The rental of the basement in a building for the purpose of storing business property which is not intended for sale, such as records storage, office equipment storage or construction equipment storage.

(4) The rental of an airplane hangar if the purchaser rents or leases the entire building or a secured area within the building with separate access for each purchaser.

(d) Examples of services which are not self-storage services. The following are examples of services which are not self-storage services:

(1) Rental of a safe deposit box from a bank.

(2) Storage of property in meat lockers, refrigerators or freezers.

(3) Storage of merchandise or commodities which are intended for sale.

(4) Rental of a locker in a train station.

(5) Storage of shoes for eventual distribution to the purchaser 's various retail stores.

(6) Security deposits charged and subsequently returned to the purchaser by the provider of self-storage services.

(7) Public parking garages.

(8) Rental of a garage in which one half of the area is used for administrative functions and the other half is used for storage.

(9) Rental of a shoe store in a mall and the area rented is primarily used for storage of inventory.

(10) Monthly rental amounts for an apartment which includes a separate detached storage area are not taxable unless the charges for the apartment and storage area are separately stated

(e) Purchase price.

(1) The total amount charged for providing self-storage services is subject to tax. Charges associated with the cost of self-storage such as utilities, insurance, pick-up, delivery, locks or keys are part of the taxable purchase price.

(2) If the primary use of the facility being rented is not for self-storage services, the providing of an area for storage is not taxable unless there is a separate charge for the storage area.

(f) Exclusions.

(1) Self-storage services are exempt if purchased by qualified charitable organizations, volunteer fire companies, religious organizations and nonprofit educational institutions, except if used in an unrelated trade or business. The services are also exempt if purchased by the Federal government or its instrumentalities; or the Commonwealth, its instrumentalities or subdivisions including public school districts. The manufacturing, mining, processing, public utility, farming, dairying, agriculture, horticulture or floriculture exclusion does not apply.

(2) Safe deposit boxes rented from financial institutions.

(3) Storage of property in refrigerator or freezer units.

(4) Charges for the storage of property in commercial warehouses.

(5) Rental or lease of a facility for goods distribution.

(6) Rental of lockers in airports, bus stations, museums or other public places.

(7) The vendor of self-storage services may claim the resale exemption upon its purchase of tangible personal property which is transferred to its purchaser or a third party in the performance of its self-storage services. The vendor may also purchase self-storage services from another provider which the vendor resells to its customer. The vendor may not claim the resale exemption upon its purchase of administrative supplies or the purchase of other taxable services which it may use in the performance of its self-storage services.

(i) The following are examples of property which may be purchased exempt for resale when used in the performing of self-storage services:

(A) The purchase of tangible personal property which is transferred to the purchaser by the vendor such as storage racks, bins, covers, tarpaulins, pad locks or keys. If the vendor charges the purchaser for the use of the property, tax shall be charged by the vendor.

(B) The rental of a building for the primary purpose of subleasing the building to another is not subject to tax. The sublease of the building may be taxable depending on the use of the building by the sublessee.

(ii) The following are examples of property which is taxable when used in the performing of self-storage services:

(A) The purchase of materials, equipment or supplies used in the construction, reconstruction, remodeling, repair or maintenance of buildings which are used in the performance of self-storage services.

(B) The vendor's purchase of utilities used in connection with the providing of self-

storage services are subject to tax unless the utilities are resold through separate meters. If utilities are resold through a separate meter in the providing of self-storage services, the vendor is required to collect the applicable tax.

(C) Administrative supplies.

(g) Storage services.

(1) For the period October 1, 1991, to December 31, 1991, the total charge for the storage of tangible personal property within a building or similar structure is subject to tax.

(2) The following are examples of services which are taxable under this category:

(i) Storage of furs, jewelry and other valuables.

(ii) Safe deposit boxes.

(iii) Cold storage and freezer lockers.

(iv) Storage of raw materials, in-process materials and finished products.

(v) Storage lockers.

(vi) Storage of administrative records, such as files, folders, computer tapes, microfilm, and the like.

(vii) Vehicle, boat and aircraft storage.

(viii) Self-storage facilities.

(ix) The lease of buildings or portions of buildings for the predominant purpose of storage of tangible personal property.

(3) The following are examples of services which are not taxable under this category:

(i) Vehicle parking in a parking lot or an unenclosed parking garage.

(ii) Vehicle, boat or aircraft storage outside of a building or similar structure.

(iii) Separately stated charges for the performance of services other than storage, such as distribution, handling, packaging, assembling, inventory control, quality control, product 'break bulk, 'pick and pack, ' and the like which are performed in connection with the storage of tangible personal property.

Source

The provisions of this § 60.12 adopted January 8, 1993, effective January 9, 1993, 23 Pa.B. 190.