



SPONSOR: Sen. Townsend & Rep. Paradee
Sen. Henry; Reps. Bennett, Mitchell

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 46

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO SELF-SERVICE STORAGE FACILITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4904, Title 25 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows and by redesignating accordingly:

§ 4904. Enforcement; satisfaction of lien.

(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 the print or electronic version of a newspaper of general circulation in the county where the self-service storage facility is located or on a publicly accessible website that regularly conducts online auction of personal property. The advertisement shall include:

(1) A brief and general description of the personal property reasonably adequate to permit its identification as provided for in paragraph (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 first publication;

(4) The name of each occupant whose property is to be sold. When a sale involves the property of more than one occupant, a single advertisement may be used to advertise the disposal of the property.

(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. A public sale includes offering the property on a publically accessible website that regularly conducts online auction of personal property. Such sale shall be considered incidental to the self-storage business and no license shall be required.

(f) Notwithstanding any law, rule, or regulation to the contrary, if the property upon which the lien is claimed is a motor vehicle, trailer, or watercraft and the rent and other charges are in default for 60 consecutive days, the owner may have the property towed. If a motor vehicle, trailer, or watercraft is towed as authorized in this section, the owner shall:

(1) Send, by verified or electronic mail to the occupant's last known address, the name, address, and telephone number of the towing company that will perform the towing and the street address of the storage facility where the towed property can be redeemed; provided, however, if an owner sends the information to the occupant's last known electronic mail address and does not receive an electronic receipt that establishes delivery of the notice to the occupant's electronic mail address, the owner will deliver the information via verified mail to the occupant's last-known address.

(2) Be immune from civil liability for any damage to the personal property towed or removed from the self-service storage facility that occurs when an adequately insured or bonded owner undertakes the towing or removal of the personal property.

~~(h)~~(i) In the event of a sale under this section, the owner may satisfy that owner's 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.

(j) The owner shall not be liable for identity theft or other harm resulting from the misuse of information contained in documents or electronic storage media that are part of the occupant's property sold or otherwise disposed of and of which the owner did not have actual knowledge.

(k) If the rental agreement contains a provision placing a limit on the value of property that may be stored in the occupant's space, this limit shall be deemed to be the maximum value of the stored property, provided that the provision is printed in bold type or underlined in the rental agreement. In addition to the remedies otherwise provided by law, only an occupant listed on the last known rental agreement injured by a violation of this act may bring a civil action to recover damages.

(l) Fees:

(1) The operator may charge the occupant a reasonable late fee for each month the occupant does not pay rent when due.

(2) A fee under this subsection may not be more than the greater of:

a. \$20 a month; or

b. 20% of the monthly rent for the leased space.

(3) The operator may not charge a fee under this subsection unless the operator discloses in the rental agreement all of the following:

a. The amount of the fee.

53 b. The timing for charging the fee.

54 (4) A fee under this subsection may be charged in addition to any other reasonable expense incurred by the

55 owner provided by law or contract.

SYNOPSIS

This legislation modernizes Delaware's Self-Service Storage Facility Act to account for the wide proliferation of online news and auction sites, as well as to establish frameworks for: (1) towing of certain property for which rent and other charges are in default; (2) use of information contained within property sold or otherwise disposed of; and (3) contractual provisions relating to limits on the value of stored property and to late fees, as well as transparency related to both.

Author: Senator Townsend