

CHAPTER 62
FORMERLY
HOUSE BILL NO. 77

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO LIENS OF GARAGE OWNERS, LIVERY AND STABLE KEEPERS, AND ACTIONS IN REPLEVIN OR DETINUE BY OWNER.

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

Section 1. Amend §3903(b), Title 25 of the Delaware Code by striking the phrase “A lienholder may apply to a justice of the peace in the county in which the lienholder's business establishment is situated for the issuance of any authorization to conduct a lien sale under § 3905 of this title” and by substituting in lieu thereof:

“A lienholder may apply to a Justice of the Peace Court in the county in which the lienholder's business establishment is situated for the issuance of any authorization to conduct a lien sale under § 3905 of this title. In the event that the lienholder’s business establishment is located in more than one county, the Justice of the Peace Court in the county where the property is, or most recently was, located shall have exclusive original jurisdiction”.

Section 2. Amend §3905(c), Title 25 of the Delaware Code by striking that subsection in its entirety and replacing it with the following:

“(c) In every lien sale authorized under this chapter, it shall be the duty of the lienholder to complete and file with the Court a disposition of proceeds form, as designated by the Court, within 10 days from the date of the sale. No transfer of or new certificate of title to the vehicle sold or salvage certificate shall be issued by the Department of Motor Vehicles without proof of the filing of said disposition of proceeds form with the Court within the required time period. A copy of the disposition of proceeds form sealed with the Court’s seal shall constitute sufficient proof of filing.”

Section 3. Amend §3908, Title 25 of the Delaware Code by striking that section in its entirety and replacing it with the following:

“The owners or other persons claiming an interest in the property, in addition to the right to a hearing as provided herein, shall have the right to file an action in replevin or detinue at any time in accordance with Chapter 95 of Title 10, and no bond shall be required to be posted as a prerequisite to the filing of such an action or the issuance of the writ.”

Section 4. Amend §3909, Title 25 of the Delaware Code by striking that section in its entirety and replacing it with the following:

“The Justice of the Peace Court in the county in which the lienholder’s business establishment is located shall have exclusive original jurisdiction of all petitions for sale under this chapter, notwithstanding the monetary amount claimed by the lienholder. In the event that the lienholder’s business establishment is located in more than one county, the Justice of the Peace Court in the county where the property is, or most recently was, located shall have exclusive jurisdiction. The Justice of the Peace Court shall also hear actions in replevin or detinue filed under this chapter, unless a party requests a jury and pays all necessary costs to transfer the action to Superior Court.”

Section 5. Amend §3910, Title 25 of the Delaware Code by striking that section in its entirety and replacing it with the following:

“The Justice of the Peace Court and Superior Court may adopt appropriate and specific rules to effectuate the intent and purpose of this chapter.”

Approved June 28, 2011