SPONSOR: Sen. Mantzavinos & Rep. Bush
Sen. Hoffner; Reps. K. Johnson, Ortega

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 151
AS AMENDED BY
HOUSE AMENDMENT NO. 1

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 Chapter 49, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4902. Definitions.

(2) "Last known address" means that address provided by the occupant in the latest rental agreement ~~or~~ or, subject to any requirements in the rental agreement, the address provided by the occupant in a subsequent written notice of a change of address.

(6) "Rental agreement" means any written agreement or ~~lease, written or oral,~~ lease, that establishes or modifies the terms, conditions, rules or any other provisions concerning the use and occupancy of a self-service storage facility. A rental agreement may be delivered and accepted electronically.

§ 4903. Creation of lien.

The owner of a self-service storage facility and the owner's heirs, executors, administrators, successors and assigns have a lien upon all personal property located at a self-service storage facility for rent, labor or other charges, present or future, in relation to the personal property and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to this chapter. The lien provided for in this section is superior to any other lien or security interest, except liens or security interests secured by motor vehicles titled pursuant to Chapter 23 of Title 21. The lien attaches as of the date the personal property is brought to the self-service storage facility; provided that the written rental agreement states that such lien will attach. The occupant shall be bound by the rental agreement even if unsigned, if the occupant pays, rents, or uses the leased space more than 30 days after delivery of the written rental agreement to the occupant.

§ 4903A. Rental agreements.

(a) The rental agreement must contain a statement advising any occupant of the following:

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(1) The existence of the lien.

(2) That personal property stored in the leased space may be sold to satisfy the lien if the occupant is in default.

§ 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 independent website that regularly advertises or conducts online ~~auction~~ auctions or sales 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 1 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~~ publicly accessible website that regularly conducts online ~~auction~~ auctions or sales 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~~ the occupant is 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 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.

(m) Prohibited use.

(1) An occupant may not use a self-service storage facility after the owner or occupant has delivered written notice in person, by electronic mail, or by verified mail of the termination or non-renewal of the rental agreement.

(2) The notice must provide the occupant with not less than 35 days after delivery of the notice to remove all personal property from the self-service storage facility.

(3) Prior to the occupant's removal of all personal property, the owner may, upon notice, place reasonable restrictions on the occupant's use of the self-service storage facility, including denying access to the self-service storage facility except for the occupant to remove personal property during the owner's normal business hours.

(4) The owner may dispose of any personal property remaining at the self-service storage facility after the date provided in the written notice under this section.