

**Delaware Lien Law
Title 25, Chapter 49, Sections 4901
to 4905**

§ 4902 Definitions.

As used in this chapter, unless the context clearly requires otherwise, the following words shall have the following meaning:

- (1) "Electronic mail" means communication delivered by electronic means as set forth in § 107(a)(1)a. and b. of Title 18.
- (2) "Last-known address" means 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.
- (3) "Occupant" means a person, that person's sublessee, successor or assign, entitled to the use of the storage space at a self-service storage facility under a rental agreement, to the exclusion of others.
- (4) "Owner" means the owner, operator, lessor or sublessor of a self-service storage facility, his agent or any other person authorized by him or her to manage the facility or to receive rent from an occupant under a rental agreement.
- (5) "Personal property" means movable property not affixed to land and includes, but is not limited to, goods, merchandise and household items.
- (6) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules or any other provisions concerning the use and occupancy of a self-service storage facility.
- (7) "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 for the purpose of storing and removing personal property. No occupant shall use a self-service storage facility for residential purposes. A self-service storage facility is not a warehouse as used in Article 7 of Title 6. If an owner issues any warehouse receipt, bill of lading or other document of title for the personal property stored, the owner and the occupant are subject to Article 7 of Title 6, and this chapter does not apply.
- (8) "Verified mail" means any method of mailing that is offered by the United States Postal Service or private delivery service that provides evidence of mailing.

§ 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.

§ 4904 Enforcement; satisfaction of lien.

(a) An owner's lien as provided for in § 4903 of this title for a claim which has become due may be satisfied as follows:

(1) The occupant shall be notified;

(2) The notice shall be delivered in person, by verified mail, by electronic mail, or sent by certified mail to the last-known address of the occupant; provided, however, if an owner sends notice 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 a copy of the notice via verified mail or certified mail to the occupant's last-known address;

(3) The notice shall include:

a. 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;

b. A brief and general description of the personal property subject to the lien. The description shall be reasonably adequate to permit the person notified to identify it, except that any container including, but not limited to, a trunk, valise or box that is locked, fastened, sealed or tied in a manner which deters immediate access to its contents may be described as such without describing its contents;

c. A notice of denial of access to the personal property, if such denial is permitted under the terms of the rental agreement, which provides the name, street address and telephone number of the owner or his designated agent whom the occupant may contact to respond to said notice;

d. A demand for payment within a specified time not less than 30 days after delivery of the notice;

e. A conspicuous statement that unless the claim is paid within the time stated in the notice the personal property will be advertised for sale or other disposition and will be sold or otherwise disposed of at a specified time and place;

(4) In order to confirm the status of the occupant, before or after sending the notice as required by paragraph (a)(2) of this section, the owner must also contact a next-of-kin, emergency, or secondary contact via the information provided by the occupant in the rental agreement. The occupant must be given the chance to provide next-of-kin, emergency, or secondary contact information in the rental agreement.

(b) Any notice made pursuant to this section shall be presumed delivered when it is deposited with the United States Postal Service and properly addressed with postage prepaid or by electronic mail to an electronic mailing

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address provided by the occupant. For purposes of notice of default, electronic mail may be used to notify an occupant of the default only if all of the following apply:

(1) The occupant is informed in the original rental agreement, or by subsequent modification of the agreement, that notification by electronic mail is an authorized means of communication under this subsection.

(2) The occupant affirmatively consents to be contacted using electronic means and to promptly advise owner of any change in the occupant's electronic mail address.

(3) The occupant affirmation consenting to electronic means of communication and to promptly advise owner of any change in the occupant's electronic mail address is printed in bold type or underlined in the rental agreement.

(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 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 1 occupant, a single advertisement may be used to advertise the disposal of the property.

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

(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 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.

(g) Before any sale or other disposition of personal property pursuant to this section, the occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section and thereby redeem the personal property. Upon receipt of such payment, the owner shall return the personal property and thereafter the owner shall have no liability to any person with respect to such personal property.

(h) A purchaser in good faith of the personal property sold to satisfy a lien as provided for in § 4903 of this title 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.

(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. The balance is subject to the Delaware escheat laws in Chapter 11 of Title 12, with the presumption of abandonment occurring 5 years after the date of the sale.

(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. Twenty dollars a month; or
- b. Twenty percent 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.
- b. The timing for charging the fee.

(4) A fee under this subsection may be charged in addition to any other reasonable expense incurred by the owner provided by law or contract.

§ 4905 Construction of chapter.

Nothing in this chapter shall be construed as in any manner impairing or affecting the right of parties to create liens by special contract or agreement, nor shall it in any manner affect or impair other liens arising at common law or in equity, or by any statute of this State, or any other lien provided for in §§ 4902-4904 of this title.