

# STATE OF NEW YORK

4992

2017-2018 Regular Sessions

## IN SENATE

March 3, 2017

Introduced by Sen. LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the lien law, in relation to notice of enforcement of a lien on the goods in a self-storage facility

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The section heading and subdivisions 1, 2, 6 and 7 of  
2 section 182 of the lien law, as added by chapter 975 of the laws of  
3 1983, are amended to read as follows:

4 [~~Self-service storage~~] Self-storage facilities; lien. 1. Definitions.  
5 As used in this article:

6 (a) [~~"Self-service storage"~~] "Self-storage facility" means any real  
7 property or a portion thereof that is designed and used for the purpose  
8 of occupying storage space by occupants who are to have access thereto  
9 for the purpose of storing and removing personal property. The owner of  
10 a [~~self-service storage~~] self-storage facility shall not be deemed to be  
11 a warehouseman as defined in the uniform commercial code. Except as  
12 provided in paragraph (b) of this subdivision, if an owner issues any  
13 warehouse receipt, bill of lading, or other document of title for the  
14 personal property stored, the owner and the occupant are subject to the  
15 provisions of the uniform commercial code and the provisions of this  
16 section shall not be applicable.

17 (b) "Owner" means a person, partnership or corporation which operates  
18 a [~~self-service storage~~] self-storage facility, an agent, or any other  
19 person authorized by the owner to manage the facility or to receive  
20 storage fees from an occupant under an occupancy agreement. A warehouse-  
21 man may be an owner to the extent that any part of the building is oper-  
22 ated as a [~~self-service storage~~] self-storage facility.

23 (c) "Occupant" means a person, entitled to the use of the storage  
24 space at a [~~self-service storage~~] self-storage facility under a written  
25 occupancy agreement or his successor or assignee, to the exclusion of

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 others including the owner except as provided in this section or the  
2 occupancy agreement.

3 (d) "Occupancy agreement" means any written agreement, electronic or  
4 printed, that establishes or modifies the terms, conditions, rules or  
5 any other provisions concerning the use and occupancy of a [~~self-service~~  
6 ~~storage~~] self-storage facility and any one or more individual storage  
7 spaces therein.

8 (e) "Personal property" means movable property not affixed to land and  
9 includes, but is not limited to, goods, merchandise and household items.

10 (f) "Electronic mail" shall mean an electronic message or an execut-  
11 able program or computer file that contains an image of a message that is  
12 transmitted between two or more computers or electronic terminals. Such  
13 term shall include electronic messages that are transmitted within or  
14 between computer networks.

15 (g) "Last known address" shall mean the street address, post office  
16 box address or electronic mail address provided by the occupant in the  
17 occupancy agreement, or a subsequent address provided by the occupant  
18 pursuant to the occupancy agreement.

19 (h) "Verified mail" shall mean any method of mailing that is offered  
20 by the United States Postal Service or a private delivery service that  
21 provides evidence of mailing including, but not limited to, a first  
22 class mailing with certificate of mailing.

23 2. Required disclosures. (a) The owner shall be required to provide  
24 prior to allowing occupancy a written occupancy agreement which shall be  
25 dated and signed by the occupant and the owner or his duly authorized  
26 agent, and be written or printed in a size equal to at least ten-point  
27 bold type and which shall set forth the following information:

28 (i) name and address of owner and occupant;

29 (ii) street address of [~~self-service-storage~~] self-storage facility  
30 where goods will be stored;

31 (iii) the actual monthly occupancy charge for the particular goods to  
32 be stored expressed in dollars;

33 (iv) an itemization of other charges imposed or which may be imposed  
34 in connection with the occupancy, a description of each such charge,  
35 whether the charge is mandatory or optional, and the amount of each  
36 charge expressed in dollars;

37 (v) a statement of any limitation of damages [~~which shall only be~~  
38 ~~applicable after the owner has enforced his lien pursuant to subdivision~~  
39 ~~seven of this section~~] limiting the amount of the owner's liability in  
40 case of loss or damage of the goods setting forth a specific liability  
41 per room size or dollar amount beyond which the owner will not be  
42 liable; provided that if damages are so limited, a statement shall be  
43 included that such liability may on the written request of the occupant  
44 and if accepted in writing by the owner at the time of signing such  
45 occupancy agreement or within a reasonable time thereafter be increased  
46 on part or all of the goods stored, in which event increased rates may  
47 be charged based on such increased valuation. The rates charged for an  
48 increased valuation shall be set forth and a pre-addressed request form  
49 to enable the occupant to request an increased valuation shall be  
50 provided; and

51 (vi) any other material terms and conditions of the occupancy trans-  
52 action.

53 (b) Every occupancy agreement as required by this section shall  
54 include the business address and telephone number to be used by the  
55 occupant in making inquiries concerning the occupancy transaction.

1 (c) Every occupancy agreement as required by this section shall  
2 contain the following conspicuous notice:

3 "Notice: The monthly occupancy charge and other charges stated in this  
4 agreement are the actual charges you must pay".

5 6. Lien. The owner of a [~~self-service-storage~~] self-storage facility  
6 has a lien upon all personal property stored at a [~~self-service-storage~~]  
7 self-storage facility for occupancy fees or other charges, present or  
8 future, in relation to the personal property and for expenses necessary  
9 for its preservation or expenses reasonably incurred in its sale or  
10 other disposition pursuant to law and any other charges pursuant to the  
11 occupancy agreement. The lien provided for in this section is superior  
12 to any other lien or security interest. The lien attaches as of the date  
13 the personal property is brought to the [~~self-service-storage~~] self-sto-  
14 rage facility.

15 7. Enforcement of lien. (a) An owner's lien may be enforced by public  
16 or private sale of the goods [~~that~~], whether or not they have been  
17 removed from the storage space at a [~~self-service-storage~~] self-storage  
18 facility, in block, or in parcel, at any time or place and on any terms  
19 which are commercially reasonable after notice to all persons known to  
20 claim an interest in the goods. The notice shall include an itemized  
21 statement of the amount due, the description of the property subject to  
22 the lien, the nature of the proposed sale, a demand for payment within a  
23 specified time not less than [~~ten~~] twenty days from [~~receipt of notifi-~~  
24 ~~cation~~] mailing of the notice and a conspicuous statement that unless  
25 the claimant pays within that time the goods will be advertised for sale  
26 and sold at public or private sale in a commercially reasonable manner.  
27 The notice shall further include the time and place of any public or  
28 private sale and it shall state that any person claiming an interest in  
29 the goods is entitled to bring a proceeding hereunder within ten days of  
30 the service of the notice if he disputes the validity of the lien, or  
31 the amount claimed. The notice shall either be personally delivered to  
32 the occupant, or sent [~~by registered or certified mail, return receipt~~  
33 ~~requested,~~] to the [~~occupant to the~~] occupant's last known address  
34 [~~provided by the occupant, pursuant to the occupancy agreement~~] by veri-  
35 fied mail or electronic mail.

36 (b) Any notice made pursuant to this section and sent by electronic  
37 mail to the occupant's last known address shall only be effective if a  
38 nonautomated response or a receipt of delivery to the e-mail address is  
39 received. If the owner deposits the notice of the sale with the United  
40 States Postal Service or a private delivery service, the notice shall be  
41 sent to the occupant by verified mail to the occupant's last known  
42 address or to the last known address of the designated agent of the  
43 occupant before proceeding with a sale of the goods.

44 § 2. This act shall take effect immediately.