

# STATE OF NEW YORK

6556--A

2019-2020 Regular Sessions

## IN ASSEMBLY

March 11, 2019

Introduced by M. of A. BUCHWALD -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 occupancy agreement or his successor or assignee, to the exclusion of  
2 others including the owner except as provided in this section or the  
3 occupancy agreement.

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

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

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

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

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

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

29 (i) name and address of owner and occupant and electronic mail address  
30 of owner and occupant should the occupant choose to be contacted via  
31 electronic mail;

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

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

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

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

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

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

4 (c) Every occupancy agreement as required by this section shall  
5 contain the following conspicuous ~~[notice]~~ notices: (i) "Notice: The  
6 monthly occupancy charge and other charges stated in this agreement are  
7 the actual charges you must pay"; (ii) "Notice: You may choose to be  
8 contacted for legal matters related to late or lien notices, via elec-  
9 tronic mail by providing your electronic mail address in at least two  
10 locations within the occupancy agreement".

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

21 7. Enforcement of lien. (a) An owner's lien may be enforced by public  
22 or private sale of the occupant's goods that ~~[have been removed from the  
23 storage space at a self-service storage]~~ remain in the self-storage  
24 facility, in block, or in parcel, at any time or place and on any terms  
25 which are commercially reasonable after notice to all persons known to  
26 claim an interest in the goods. The notice shall include an itemized  
27 statement of the amount due, the description of the property subject to  
28 the lien, the nature of the proposed sale, a demand for payment within a  
29 specified time not less than ~~[ten]~~ thirty days from ~~[receipt of notifi-  
30 cation]~~ mailing of the notice and a conspicuous statement that unless  
31 the claimant pays within that time the goods will be advertised for sale  
32 and sold at public or private sale in a commercially reasonable manner.  
33 The notice shall further include the time and place of any public or  
34 private sale and it shall state that any person claiming an interest in  
35 the goods is entitled to bring a proceeding hereunder within ten days of  
36 the service of the notice if he disputes the validity of the lien, or  
37 the amount claimed. The notice shall be personally delivered to the  
38 occupant, or sent by registered or certified mail~~[, return receipt  
39 requested,]~~ to the ~~[occupant to the]~~ occupant's last known  
40 address ~~[provided by the occupant, pursuant to the occupancy agreement]~~, or sent  
41 by verified mail and electronic mail to the occupant's last known  
42 address. Any notice made pursuant to this section and sent by verified  
43 mail shall be sent to the last known address provided by the occupant,  
44 pursuant to the occupancy agreement. Any notice made pursuant to this  
45 section and sent by electronic mail shall only be effective if: (i) the  
46 occupancy agreement states that the occupant has consented to receive  
47 late or lien notices by electronic mail; and (ii) the occupant has  
48 provided the occupant's electronic mail address in at least two  
49 locations within the occupancy agreement.

50 (b) Any notice given pursuant to this section is deemed delivered when  
51 it is: (i) properly addressed to the last known address, and (ii) either  
52 sent by registered, certified or verified mail and evidence of mailing  
53 is received, or sent by electronic mail and either a non-automated  
54 response to the electronic mail is received or a receipt of delivery to  
55 the electronic mail is received.

56 § 2. This act shall take effect immediately.