

## Utah Lien Law

### 38-8-1. Definitions.

As used in this chapter:

(1) "Default" means the failure to perform in a timely manner any obligation or duty set forth in this chapter or the rental agreement.

(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, or his 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 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 written agreement or lease which establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy at a self-service storage facility and which contains a notice stating that all articles stored under the terms of the agreement will be sold or otherwise disposed of if no payment has been received for a continuous 30-day period. The agreement shall contain a provision directing the occupant to disclose any lienholders with an interest in property that is or will be stored in the self-service storage facility.

- "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 the facility for the purpose of storing and removing personal property. No occupant may use a self-service storage facility for residential purposes. The owner of a self-service storage facility is not a warehouse as used in Section 70A-7a-102. 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 the provisions of the Uniform Commercial Code, and the provisions of this chapter do not apply.

### 38-8-2. Lien against stored property -- Attachment and duration -- Search for financing statement prerequisite to enforcement of lien.

(1) Where a rental agreement, as defined in Subsection 38-8-1(6), is entered into between the owner and the occupant, the owner of the self-service storage facility and the owner's heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at the 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 under this chapter.

(2) The lien described in Subsection (1) attaches as of the date the personal property is brought to the self-service storage facility and continues so long as the owner retains possession and until any default is corrected, or a sale pursuant to a default is conducted, or the property is otherwise disposed of to satisfy the lien.

(3) (a) Before taking enforcement action under Section 38-8-3, the owner shall determine if a financing statement filed in accordance with Title 70A, Chapter 9a, Part 5, Filing, has been filed with the Division of Corporations and Commercial Code concerning the property to be sold or otherwise disposed of.

- A security interest evidenced by a financing statement filed in accordance with Title 70A, Chapter 9a, Part 5, Filing, has priority over the lien provided by this section.

38-8-3. Enforcement of lien -- Notice requirements -- Sale procedure and effect.

A claim of an owner which has become due against an occupant and which is secured by the owner's lien may be satisfied as follows:

(1) No enforcement action may be taken by the owner until the occupant has been in default continuously for a period of 30 days.

(2) After the occupant has been in default continuously for a period of 30 days, the owner may begin enforcement action if the occupant has been given notice in writing. The notice shall be delivered in person or sent by certified mail to the last known address of the occupant, and a copy of the notice shall, at the same time, be sent to the sheriff of the county where the self-service storage facility is located. Any lienholder with an interest in the property to be sold or otherwise disposed of, of whom the owner has knowledge either through the disclosure provision on the rental agreement or through the existence of a validly filed and perfected UCC-1 financing statement with the Division of Corporations and Commercial Code, or through other written notification, shall be included in the notice process as set forth in this section.

(3) This 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, which description shall be reasonably adequate to permit the person notified to identify the property; 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 notification of denial of access to the personal property, if such denial is permitted under the terms of the rental agreement, which notification shall provide the name, street address, and telephone number of the owner or his designated agent whom the occupant may contact to respond to the notification;

(d) a demand for payment within a specified time not less than 15 days after delivery of the notice; and

(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) Any notice made under this section shall be presumed delivered when it is deposited with the United States postal service and properly addressed with postage prepaid.

(5) (a) 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 two consecutive weeks in a newspaper of general circulation in the county where the self-service storage facility is located. The advertisement shall include:

(i) a brief and general description of the personal property reasonably adequate to permit its identification as provided for in Subsection (3)(b); 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 and his last known address; and

(ii) the time, place, and manner of the sale or other disposition, which sale or other disposition shall take place not sooner than 15 days after the first publication.

(b) If there is no newspaper of general circulation in the county where the self-service storage facility is located, the advertisement shall be posted at least ten days before the date of the

sale or other disposition in not less than six conspicuous places in the neighborhood where the self-service storage facility is located.

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

(7) 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.

(8) Before any sale or other disposition of personal property under 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 this payment, the owner shall return the personal property, and thereafter the owner shall have no liability to any person with respect to that personal property.

(9) A purchaser in good faith of the personal property sold to satisfy a lien as provided for in this chapter takes the property free of any rights of persons against whom the lien was valid and free of any rights of a secured creditor, despite noncompliance by the owner with the requirements of this section.

(10) In the event of a sale under this section, the owner may satisfy his lien for the proceeds of the sale, subject to the rights of any prior lienholder; the lien rights of the prior lienholder are automatically transferred to the proceeds of the sale; if the sale is made in good faith and is conducted in a reasonable manner, the owner shall not be subject to any surcharge for a deficiency in the amount of a prior secured lien, but shall hold the balance, if any, for delivery to the occupant, lienholder, or other person in interest; if the occupant, lienholder, or other

person in interest does not claim the balance of the proceeds within one year of the date of sale, it shall become the property of the Utah state treasurer as unclaimed property with no further claim against the owner.

(11) If the requirements of this chapter are not satisfied, if the sale of the personal property is not in conformity with the notice of sale, or if there is a willful violation of this chapter, nothing in this section affects the rights and liabilities of the owner, occupant, or any other person.

#### 38-8-4. Posting of notice.

Each owner acting under this chapter shall keep posted in a prominent place in his office at all times a notice which reads as follows:

"All articles stored by a rental agreement, and charges not having been paid for 30 days, will be sold or otherwise disposed of to pay charges."

#### 38-8-5. Other liens unaffected.

Nothing in this section 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.