

§1375. Enforcement of lien

1. Sale; use of proceeds. Except as provided in subsection 1-A, if the occupant is in default for a period of more than 45 days, the operator may enforce a lien by selling the property stored in the leased space at a public or private sale for cash. Proceeds must then be applied to satisfy the lien, with any surplus disbursed as provided in subsection 5. The sale must take place at least 15 days after the provision of notice under subsection 2.

[PL 2011, c. 376, §6 (AMD).]

1-A. Leased space containing personal information. When the operator has a reasonable belief that the leased space contains personal information relating to clients, customers or others with whom the occupant does business, the operator may not hold a lien sale of the personal information and may destroy the personal information without liability to any person.

[PL 2009, c. 525, §4 (NEW).]

1-B. Operator may inspect contents of leased space. After an occupant is in default pursuant to subsection 1, an operator may inspect the contents of a leased space to investigate the presence of personal information without liability to any person.

[PL 2009, c. 525, §5 (NEW).]

1-C. Personal property with value less than \$750. If the occupant is in default for a period of more than 45 days, the operator may remove the occupant's lock to verify that the personal property in the leased space has a value greater than or equal to \$750. If the personal property has a value greater than or equal to \$750, the operator may enforce a lien pursuant to subsection 1. If the personal property has a value less than \$750, the personal property and leased space may be considered an abandoned leased space and the personal property may be disposed of pursuant to section 1378.

[PL 2011, c. 376, §7 (NEW).]

1-D. Motor vehicles. If the personal property in the leased space is a motor vehicle, the operator may have the motor vehicle towed with no liability to any party.

[PL 2011, c. 376, §7 (NEW).]

2. Notice. As soon as the occupant is in default and before conducting a sale under subsection 1, the operator shall:

A. Send a notice of default by verified mail and by either first-class mail or electronic mail to the occupant at the occupant's last known address or other address set forth by the occupant in the rental agreement that includes:

- (1) A statement that the contents of the occupant's leased space are subject to the operator's lien. The sale must take place at least 15 days after the provision of notice under subsection 2;
- (2) A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges that become due before the date of sale and the date those additional charges become due;
- (3) A demand for payment of the charges due within a specified time, not less than 14 days after the date of the notice;
- (4) A statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold, specifying the time and place; and
- (5) The name, street address and telephone number of the operator, or the operator's designated agent, whom the occupant may contact to respond to the notice. [PL 2011, c. 376, §8 (AMD).]

B. [PL 2011, c. 376, §8 (RP).]

[PL 2011, c. 376, §8 (AMD).]

3. Redemption of property. At any time before a sale under this section or before property is disposed of or destroyed under section 1373, subsection 3, paragraph C or under subsection 1-A, whichever occurs first, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

[PL 2009, c. 525, §6 (AMD).]

4. Location of sale. A sale under this section shall be held at the self-service storage facility or at the nearest suitable place to where the personal property is stored.

[PL 1989, c. 62 (NEW).]

5. Distribution of proceeds. If a sale is held under this section, the operator shall:

A. Satisfy the lien from the proceeds of the sale; and [PL 1989, c. 62 (NEW).]

B. Hold the balance, if any, for 90 days from the date of sale for delivery on demand to the occupant or any other recorded lienholders. If the balance is not claimed after 90 days, it becomes the property of the operator. [PL 2011, c. 376, §9 (AMD).]

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6. Insufficient process. If proceeds of the sale are not sufficient to satisfy the occupant's outstanding obligations to the operator, the occupant remains liable to the operator for such deficiency.

[RR 2009, c. 2, §14 (COR).]

7. Purchasers. Except as provided in subsection 7-A, a purchaser in good faith of any personal property sold under this Act takes the property free and clear of any rights of:

A. Persons against whom the lien was valid; and [PL 1989, c. 62 (NEW).]

B. Other lienholders. [PL 1989, c. 62 (NEW).]

[PL 2009, c. 525, §7 (AMD).]

7-A. Purchaser to sign contract. Before taking possession of any personal property sold under this Act, a purchaser must sign a contract provided by the operator that contains provisions including, but not limited to, an agreement by the purchaser to return to the operator any personal information relating to clients, customers or others with whom the occupant does business.

[PL 2009, c. 525, §8 (NEW).]

8. Operator liability. If the operator complies with the provisions of this Act, the operator's liability:

A. To the occupant shall be limited to the net proceeds received from the sale of the personal property; and [PL 1989, c. 62 (NEW).]

B. To other lienholders shall be limited to the net proceeds received from the sale of any personal property covered by that other lien. [PL 1989, c. 62 (NEW).]

[PL 1989, c. 62 (NEW).]

9. Denying occupant access to leased space. If an occupant is in default, the operator, by making provision in the written rental agreement, may deny the occupant access to the leased space, provided that the occupant may arrange to have access solely to view and verify the contents of the leased space. Such access must be arranged with the facility office during normal business hours.

[PL 1989, c. 62 (NEW).]

10. Notices; mail. Unless otherwise specifically provided, all notices required by this Act must be sent as described in subsection 2, paragraph A.

A. Notices sent to the operator must be sent to the self-service storage facility where the occupant's property is stored. Notices to the occupant must be sent to the occupant at the occupant's last known address. Notices are deemed delivered when deposited with the United States Postal Service, properly addressed as provided in subsection 2, with postage paid. [PL 2011, c. 376, §10 (AMD).]

[PL 2011, c. 376, §10 (AMD).]

11. Control of property in leased space. Unless the rental agreement of this Act specifically provides otherwise, until a lien sale under this Act, the exclusive care, custody and control of all personal property stored in the leased self-service storage space remains vested in the occupant.

[PL 1989, c. 62 (NEW).]

12. Savings clause. All rental agreements, entered into before the effective date of this Act which have not been extended or renewed after that date, shall remain valid and may be enforced or terminated in accordance with their terms or as permitted by any other law of this State.

[PL 1989, c. 62 (NEW).]

13. Value of stored property. If a rental agreement contains a limit on the value of personal property that may be stored in the occupant's leased space, the limit is deemed to be the maximum value of the stored personal property and the maximum liability of the operator for any claim.

[PL 2011, c. 376, §11 (NEW).]

SECTION HISTORY

PL 1989, c. 62 (NEW). RR 2009, c. 2, §14 (COR). PL 2009, c. 525, §§3-8 (AMD). PL 2011, c. 376, §§6-11 (AMD).

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