

## **Mississippi Statutes**

### **Title 85. DEBTOR-CREDITOR RELATIONSHIP**

#### **Chapter 7. Liens**

##### **OWNER'S LIEN FOR RENT ON PERSONAL PROPERTY IN SELF-STORAGE FACILITY**

###### **§ 85-7-121. Definitions**

As used in Sections 85-7-121 through 85-7-129, the following terms shall have the meaning ascribed to them herein, unless the context clearly requires otherwise:

- (a) "Default" means the failure timely to perform any obligation or duty set forth in Sections 85-7-121 through 85-7-129 and the rental agreement;
- (b) "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;
- (c) "Leased space" means the individual storage space at the self-storage facility which is leased or rented to an occupant pursuant to a rental agreement.
- (d) "Occupant" means a person, his sublessee, successor or assign entitled to the use of a leased space at a self-storage facility under a rental agreement to the exclusion of others;
- (e) "Owner" means the owner, operator, lessor or sublessor of a self-storage facility, an agent or any person authorized to manage the facility or to receive rent from an occupant under a rental agreement. The term "owner" shall not be construed to mean a warehouseman unless the owner issues a warehouse receipt, bill of lading or other document of title for the personal property stored;
- (f) "Personal property" means movable property not affixed to land and includes, but is not limited to, goods, wares, merchandise, watercraft, motor vehicles and household items;
- (g) "Rental agreement" means any written agreement or lease that establishes or modifies the terms, conditions, rules or any other provisions concerning the use and occupancy of a self-storage facility;
- (h) "Self-storage facility" means any real property used for the purpose of renting or leasing individual storage space to occupants who are to have access to such space for the purpose of occupants themselves storing and removing personal property on "self-service basis"; provided, however, that an occupant may not use a leased space for residential purposes.

###### **§ 85-7-123. Owner's lien for rent on personal property in self-storage facility**

The owner has a lien upon all personal property located at a self-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 Sections 85-7-121 through 85-7-129. The lien provided for in this section is superior to any other lien or security interest except those which are perfected and recorded in Mississippi prior to the date of default under the rental agreement and except any tax lien as otherwise provided by law. The lien attaches as of the date the personal property is placed in the leased space and the rental agreement shall contain a statement in bold type notifying the occupant of the existence of the lien and that the property stored in the leased space may be sold to satisfy the lien if the occupant is in default.

### **§ 85-7-125. Enforcement of owner's lien**

The enforcement of the owner's lien against an occupant who is in default shall be in accordance with the following:

(a) No enforcement action shall be taken by the owner, other than denial of access, as provided for in the rental agreement until the occupant has been in default continuously for a period of fourteen (14) days.

(b) During the default period the occupant shall be notified in writing. The notice shall be delivered in person or sent by United States certified mail, return receipt requested, to the last known address of the occupant. Notices shall be deemed delivered when deposited in the United States mail with postage paid. The notice shall include an itemized statement of the owner's claim showing the sum due at the time of the notice, the date when the sum became due and any other sums that shall accrue. The notice shall also include a demand for payment of the sum due within a specified time not less than fourteen (14) days after the date of the notice, a statement that the contents of the occupant's lease space are subject to the owner's lien, the name, street address and telephone number of the owner, or his designated agent, whom the occupant may contact to respond to the notice, a conspicuous statement that unless the claim is paid within the time stated, the personal property will be advertised for public or private sale or will be otherwise disposed of at a specified time and place.

(c) After the expiration of the time given in the owner's notice, the owner shall publish, in legal notices, advertisement of the sale to the highest bidder in a newspaper of general circulation where the self-storage facility is located. The notice shall include the address of the self-storage facility where the personal property is located, and the name of the occupant, and the time, place and manner of the sale.

(d) A sale to the highest bidder shall take place not sooner than fifteen (15) days after the publication. If there is no newspaper of general circulation in the county in which the self-storage facility is located, the advertisement shall be posted at least ten (10) days before the date of the sale and in not less than six (6) conspicuous places in the neighborhood where the self-storage facility is located.

(e) If no one purchases the property at the sale and if the owner has complied with the foregoing procedures, the owner may otherwise dispose of the property. Any sale or disposition of the personal property shall be held at the self-storage facility or at the nearest suitable place to the place the personal property is held or stored.

### **§ 85-7-127. Satisfaction of lien; sale of property**

(1) Before any sale or other disposition of personal property pursuant to Sections 85-7-121 through 85-7-129, the occupant may pay the amount necessary to satisfy the owner's lien and the reasonable expenses incurred under Sections 85-7-121 through 85-7-129, and thereby redeem the personal property. Upon the payment and satisfaction of the amount necessary to satisfy the lien, the owner shall return the personal property and thereafter the owner shall have no liability to any person with respect to such personal property. Unless the rental agreement specifically provides otherwise and until a lien sale under Sections 85-7-121 through 85-7-129, the exclusive care, custody and control of all personal property stored in the leased self-storage space remains vested in the occupant.

(2) The owner may buy at any sale of personal property to enforce the owner's lien.

(3) A purchaser in good faith of the personal property sold to satisfy the owner's lien 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.

(4) In the event of a sale under Sections 85-7-121 through 85-7-129, the owner may satisfy his lien from the proceeds of the sale but shall hold the balance, if any, for delivery on demand to the occupant. In no event shall the owner's liability exceed the proceeds of the sale. If the occupant does not claim the balance of the proceeds within one (1) year of the date of the sale, such balance shall be deemed to be abandoned and the owner shall pay such balance to the Treasurer of the State of Mississippi, who shall deposit such funds into the General Fund.

**§ 85-7-129. Application of act to rental agreements entered into on or after July 1, 1988**

The provisions of Sections 85-7-121 through 85-7-129 shall apply only to rental agreements entered into on or after July 1, 1988. Rental agreements entered into prior to July 1, 1988, shall remain valid.