

## **Vermont Statutes**

### **Title 9. Commerce and Trade**

#### **Chapter 98. STORAGE UNITS**

##### **§ 3901. Definitions**

For the purposes of this chapter, the following terms shall have the following meanings:

- (1) "Last known address" means that address provided by the occupant in the rental agreement or the address provided by the occupant in a subsequent written notice of a change of address.
- (2) "Occupant" means a person, successor, assignee, agent, or representative entitled to the use of storage space in a self-storage facility under a rental agreement to the exclusion of others.
- (3) "Owner" means the owner, operator, lessor, or sublessor of a self-storage facility, an agent, or any other person authorized by the owner to manage the facility or to receive rent from an occupant under a rental agreement.
- (4) "Personal property" means movable property not affixed to land, and includes goods, merchandise, and household items.
- (5) "Rental agreement" means any written agreement that establishes or modifies the terms, conditions, rules, or any other provision concerning the use and occupancy of a self-storage facility.
- (6) "Self-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 such space for the purpose of storing and removing personal property. A self-storage facility is not a "warehouse" as used in Article 7 of the Uniform Commercial Code (U.C.C.) as codified in Title 9A. 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 U.C.C., and this act does not apply.

##### **§ 3902. Residential purposes**

- (a) No occupant shall use storage space at a self-storage facility for residential purposes.
- (b) No owner shall knowingly permit a storage space at a self-storage facility to be used for residential purposes.

##### **§ 3903. Disclosures**

- (a) A rental agreement shall contain the following:
  - (1) The name and address of the owner and occupant.
  - (2) The actual monthly occupancy charge, rent, or lease amount for the storage space provided, expressed in dollars.
  - (3) An itemization of other charges imposed or which may be imposed in connection with the occupancy, a description of the charges, whether the charges are mandatory or optional, and the amount of each charge expressed in dollars.

(4) A statement of whether property stored in the leased space is or is not insured by the owner against loss or damage and of the requirement that the occupant must provide his or her own insurance for any property stored.

(5) A statement advising the occupant of the existence of the lien created by this chapter, that the property stored in the leased space may be sold to satisfy the lien, and that the owner shall not be liable for damage, loss, or alienation of items of sentimental nature or value.

(b) The disclosures required under subdivisions (a)(4) and (a)(5) of this section shall be written in bold type and of a font size equal to or greater than the general text of the agreement.

#### **§ 3904. Lien**

The owner of a self-storage facility has a possessory lien upon all personal property located in a storage space at a self-storage facility for rent, labor, or other charges, present or future, in relation to the personal property, and for expenses relevant to its preservation or expenses reasonably incurred in its sale pursuant to this chapter. The lien attaches as of the date the personal property is brought to or placed in a regular storage space at a self-storage facility in accordance with the provisions of a valid rental agreement.

#### **§ 3905. Enforcement of lien**

In the event of a default under the terms of a rental agreement, the lien created under this chapter may be enforced in accordance with the provisions of this section.

(1) First notice of default. No sooner than seven days after a default, the occupant shall be notified of the default by regular mail sent to his or her last known address.

(2) Second notice of default. No sooner than 14 days after mailing of the first notice, the occupant shall be notified of the default by certified mail sent to his or her last known address. The second notice shall contain the following:

(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. There shall be no requirement to describe the specific contents of a storage space in a self-storage facility beyond stating that it is the contents of a specific storage space in a specific self-storage facility rented by a specific occupant.

(C) A notice of denial of access to the personal property, if such denial is permitted under the terms of the rental agreement.

(D) A demand for payment within a specified time not less than fifteen days after the mailing of the second notice of default.

(E) A conspicuous statement that unless the claim is paid in full within the time stated in the notice, the personal property will be advertised for sale and sold according to law.

(3) Advertisement. After the expiration of the time given in the second notice under subdivision (2) of this section, an advertisement of the sale shall be published once a week for two consecutive weeks in a newspaper of general circulation where the self-storage facility is located. The advertisement shall contain the following:

(A) A brief and general description of the personal property as provided in subdivision (2)(B) of this section.

(B) The address of the self-storage facility and the number, if any, of the space where the personal property is located and the name of the occupant.

(C) The time, place, and manner of the sale. If there is no newspaper of general circulation where the self-storage facility is located, the advertisement shall be posted at least 15 days before the date of the sale at the town hall where the self-storage facility is located in such fashion as the auction sales of real property are posted.

(D) A sale or other disposition of goods as provided for in this chapter shall not be defeated or deemed not in compliance with this provisions of this chapter if the owner attempted, but was not able to obtain personal service on those persons entitled to notice or if the certified mail return receipt is not signed by the person to whom notice must be sent, unless the owner fails to publish in accordance with this section.

(4) Notice to other lienholders. Before the expiration of the time given in the second notice under subdivision (2) of this section, the owner shall determine whether the occupant owns any personal property subject to an active lien registered with the Vermont secretary of state. If any such lien exists, the lienholder shall be notified by certified mail not less than 21 days prior to the sale of the property. Such notice shall include the following:

(A) A statement describing the property to be sold. There shall be no requirement to describe the specific contents of a storage space in a self-storage facility beyond stating that it is the contents of a specific storage space in a specific self-storage facility rented by a specific occupant.

(B) A statement of the lienholder's rights under this chapter.

(C) A statement of the time, place, and manner of the sale of the property.

(5) Sale. Upon fulfillment of the notification and advertisement requirements of this section, sale of the personal property shall be permitted, provided the following conditions are met:

(A) The sale of the personal property shall take place not sooner than 15 days after the first publication under subdivision (3) of this section.

(B) Any sale of the personal property under this chapter shall conform to the terms of all notifications required under this section. If the sale will not or does not take place as provided for in the notifications, then subsequent notifications shall be made in the same manner as the original notifications had been made.

(C) Any sale of the personal property shall be held at the self-storage facility, or at the nearest suitable place.

(D) Any sale of the personal property shall be performed in a commercially reasonable manner, meaning the owner sells the goods in the usual manner in any recognized market therefor, at the price current in such market at the time of the sale; or otherwise sold in conformity with commercially reasonable practices among dealers in the type of goods sold; however, the sale of more goods than apparently necessary to ensure satisfaction of the obligation is not commercially reasonable unless necessary due to the nature of the goods being sold or the manner in which they are customarily sold. The fact that a better price could have been obtained by sale at a different time or by a different method from that selected by the owner is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner.

(E) Any sale or disposition of a motor vehicle shall be performed pursuant to chapter 21 of Title 23 and any sale or disposition of a vessel, snowmobile, or all-terrain vehicle shall be performed pursuant to chapter 36 of Title 23.

(6) Right of satisfaction. Before any sale of personal property pursuant to this chapter, the occupant may pay the amount necessary to satisfy the lien in full and the reasonable expenses incurred under this section, and thereby redeem the personal property. Upon receipt of such payment, the owner shall return the personal property, and thereafter the owner shall have no liability to any person with respect to such personal property.

(7) Proceeds in excess of lien amount. In the event of sale under this section, the owner may satisfy the owner's lien from the proceeds of the sale, but shall hold the balance, if any, for delivery on demand to the occupant. If the occupant does not claim the balance of the proceeds such funds shall be paid over without interest to the treasurer of the state of Vermont in accordance with chapter 14 of Title 27.

(8) Rights of other lienholders. The holder of any perfected lien or security interest on personal property stored in the storage unit and registered with the Vermont secretary of state may take possession of its lien property at any time prior to sale or other disposition.

(9) Rights of purchasers. A purchaser in good faith of the personal property sold to satisfy a lien, as provided elsewhere in this chapter, 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 chapter.

#### **§ 3906. Supplemental nature of act**

Nothing in this chapter shall be construed in any manner to impair or affect 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 in this state.

#### **§ 3907. Savings clause**

This chapter shall only apply to self-storage rental agreements entered into, extended, or renewed after January 1, 2009. Rental agreements providing for monthly rental payments but providing no specific termination date shall be subject to this act on the first monthly rental payment date following January 1, 2009.

#### **§ 3908. Severability**

If any provision of this act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end, the provisions of this act are declared to be severable.