



UPDATED JULY 2020

Mississippi Lien Law
Title 85, Debtor-Creditor Relationship
Chapter 7, Liens
Article 7, 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 or the rental agreement;
- (b) "Electronic mail" means an electronic message or an executable program or computer file that contains an image of a message that is transmitted between two (2) or more computers or electronic terminals and includes electronic messages that are transmitted within or between computer networks;
- (c) "Last known address" means the postal address or electronic mail provided by the occupant in the latest rental agreement or the postal address or electronic mail provided by the occupant in a subsequent written notice of a change of address;
- (d) "Late fee" means any fee or charge assessed for an occupant's failure to pay rent when due. Late fee does not include interest on a debt; expenses incurred in the collection of unpaid rent; expenses necessary for preservation of personal property or expenses reasonably incurred in its sale or other disposition pursuant to Sections 85-7-121 through 85-7-129; or costs associated with the enforcement of any other remedy provided by law or contract;
- (e) "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;
- (f) "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;

(g) "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;

(h) "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;

(i) "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 leased space at a self-storage facility;

(j) "Sale" means a public or private sale that is conducted at the self-storage facility, another suitable location selected by the owner, or on a publicly accessible website that conducts lien sales or personal property sales. The personal property at a sale may be offered as a unit or in parcels;

(k) "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;

(l) "Verified mail" means any method of mailing offered by the United States Postal Service or private delivery service that provides evidence of the mailing.

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

(1) The owner has a lien upon all personal property located at a self-storage facility for rent, late fees, 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. If the rental agreement specifies a limit on the value of personal property that the occupant may store in the leased space, the limit shall be deemed to be the maximum value of the personal property in the leased space of the occupant.

(2) If the occupant is in default, the owner may deny the occupant access to the leased space at the self-storage facility.

(3) The rental agreement may provide for a reasonable late fee for failure of the occupant to timely make payments for the leased space when due. A monthly late fee of no more than Twenty Dollars (\$20.00) or twenty percent (20%) of the monthly rental amount, whichever is greater, shall be considered reasonable and is not a penalty.

(4) If the owner offers notice by electronic mail, the occupant may elect to receive notice by electronic mail only by indicating the election in the rental agreement.

§ 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 verified or electronic mail to the last known address of the occupant. Notices shall be deemed delivered when deposited in the United States mail, with a private delivery service with postage paid or when an electronic message is sent to the last known address provided by the occupant. If the owner receives an automated message that the electronic mail cannot be delivered, the owner shall deliver the notice in person or send the notice by verified mail. 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 advertisement of the sale to the highest bidder in any commercially reasonable manner. The manner of advertisement is deemed commercially reasonable if it is likely to attract at least three (3) independent bidders to attend or view the sale in person or online at the time and place advertised. 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.

(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.

§ 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 and the reasonable expenses incurred under Sections 85-7-121 through 85-7-129, 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 sale under Sections 85-7-121 through 85-7-129, the exclusive care, custody and control of all personal property stored in the leased 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, in accordance with the Uniform Disposition of Unclaimed Property Act.

(5)(a) If the personal property subject to the owner's lien is a vehicle, watercraft, or trailer and rent or other charges remain unpaid for sixty (60) days, the owner may have the vehicle, watercraft, or trailer towed from the self-storage facility. This removal shall not release the owner's lien. The owner shall not be liable for any damages to the vehicle, watercraft, or trailer once the tower takes possession of the property.

(b) Not less than ten days before having personal property towed pursuant to this section, an owner shall notify the occupant by regular mail or electronic mail at the occupant's last known address and shall include the name, address, and telephone number of the tower and the owner or his designated agent.

(6) Nothing in this article shall be construed as in any manner impairing or affecting the right of parties to create additional rights, duties, and obligations in and by virtue of a rental agreement. In addition to the rights and remedies set forth in this article, the owner has the same rights of

and remedies available to a creditor or landlord.

§ 85-7-129. Application of Sections 85-7-121 through 85-7-129 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.