

# UTAH

### **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.

Amended by Chapter 66, 1984 General Session