

LEGISLATIVE COMMITTEE

Legislative Update - Tennessee Lien Law

As we travel around the state and talk to owners and managers, we find that there is a lack of knowledge about some of the aspects of the Tennessee Lien law and how it applies to self storage. We believe that the more aware of the rules we all are, the better the environment for owners, managers and tenants will be. The following is a summary of some of the major points we would like to clarify.

Non-payment of rent creates a "lien" giving self storage owners the right to sell delinquent property in a prescribed manner in settlement of the lien:

- ◆ Access to stored goods may be denied (lockout)
- ◆ Late and other fees may be charged
- ◆ Diligent effort must be made to notify the delinquent tenant that their delinquency could result in the sale of their goods
- ◆ Public notice must be made in a newspaper of general circulation of the upcoming sale
- ◆ Items may be auctioned (after 60 days).
- ◆ Auction proceeds collected in excess of delinquent rent and fees must be held for or refunded to the tenant.
- ◆ In the event the tenant cannot be located, excess funds must be submitted to the State Treasurer on behalf of the tenant.

Please be aware of the special rules for members of the armed forces and for the sale of motor vehicles. You can use the TNSSA Member website to get all the details. (A webinar about the Servicemembers Civil Relief Act will be held on March 28th - stay tuned for details!)

Specific FAQs include:

Q – Is the rental of storage space subject to sales tax?

A – No, rental of storage space is not subject to sales tax, nor are proceeds of auction funds. However, vehicle parking (excluding boats and airplanes) and sale of moving supplies, are subject to sales tax.

Q – Do I have to auction goods left in my facility?

A – In certain cases, items of a nominal value (i.e. trash in units) deemed to be abandoned do not have to be auctioned. However, the largest liability for a storage owner is wrongful sale, therefore, if in doubt as to the value, we recommend that you follow the auction procedures as outlined under TN state lien law. We further recommend that items to be auctioned: i) be photographed when unit locks are cut, ii) seals placed on the unit limiting access to the goods, and iii) photographs be kept in a permanent file.

Q – Do I have to send notice to delinquent tenants of a lien sale via certified mail?

A – No, the 2011 updates to the Tennessee Lien law eliminated the requirement for certified mail. Notices must still be sent, however, this can now be done via verified mail at a much lower cost.

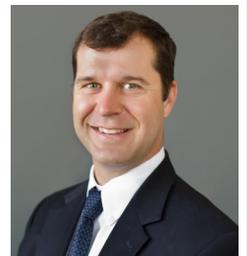
Q – If I have gone to all the trouble of advertising and scheduling an auction, do I have to give a tenant his goods if he arrives on site prior to a sale?

A – Yes, we recommend that you make every effort to restore goods to their rightful owner upon payment in full of all amounts due. "Before any sale or other disposition of personal property pursuant to this section, the occupant may pay the amount necessary to satisfy the owner's lien and the reasonable expenses incurred under this section and thereby redeem the personal property...."

Q – What if the tenant wants to make a partial payment?

A – We recommend that you do not take a partial payment once the lien process has begun since the amount due has changed and might require starting the whole lien sale process over again.

We are not attorney's, nor are we tax professionals. If you have specific questions as they relate to your specific situation, we recommend you consult your own professionals. **We also highly recommend that you attend our 9th Annual Legal Seminar & Conference on September 12-13!** This is a wonderful opportunity to ask legal questions and hear from industry experts including Attorney Scott Zucker! [Register today!](#)



Trey Kirby,
TNSSA Legislative
Committee Chair 2017