

TITLE 25
Property
Commercial Leases
CHAPTER 61. COMMERCIAL LEASES

§ 6101 Metering and charges for utility services.

Whenever any landlord or other person:

(1) Purchases utility service from a public utility and redistributes the same to a tenant in a commercial unit and/or in connection with the operation of that commercial unit (e.g., the operation of the common area); and

(2) Continuously meters the tenant's use in that commercial unit to which it redistributes the utility service and continually meters the common area;

Such landlord or other person may charge and collect from such tenant, by way of rent or otherwise, an amount not to exceed the amount the tenants would be billed by the public utility for such utility service if the same was directly metered by such public utility.

70 Del. Laws, c. 513, § 15.;

§ 6102 Definitions.

The following words, terms and phrases, when used in this part, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Commercial unit" shall mean any lot, structure or portion thereof which is occupied or rented for commercial or industrial purposes.

(2) "Landlord" shall mean:

a. The owner, lessor or sublessor of the rental unit or the property of which it is a part and, in addition, shall mean any person authorized to exercise any aspect of the management of the premises, including any person who, directly or indirectly, receives rents or any part thereof other than as a bona fide purchaser and who has no obligation to deliver the whole of such receipts to another person;

b. Any person held out by any landlord as the appropriate party to accept performance, whether such person is a landlord or not;

c. Any person with whom the tenant normally deals as a landlord; or

d. Any person to whom the person specified in paragraphs (2)b. and c. of this section is directly or ultimately responsible.

(3) "Owner" shall mean 1 or more persons, jointly or severally, in whom is vested:

a. All or part of the legal title to property; or

b. All or part of the beneficial ownership, usufruct and a right to present use and enjoyment of the premises.

(4) "Person" shall include an individual, corporation, government or governmental agency, statutory trust, business trust, estate, trust, partnership or association, 2 or more persons having a joint or common trust or any other legal or commercial entity.

(5) "Premises" shall mean the rental unit and the structure of which it is a part, and the facilities and appurtenances therein, and ground, areas and facilities held out for the use of tenants generally or whose use by the tenant is promised by the landlord.

(6) "Rental agreement" shall mean and include all agreements, written or oral, which establish or modify the terms, conditions, rules, regulations or other provisions concerning the use and occupancy of a rental unit.

(7) "Rental unit" shall mean a commercial unit.

(8) "Tenant" shall mean a person entitled under a rental agreement to occupy a rental unit to the exclusion of others.

70 Del. Laws, c. 513, § 15; 73 Del. Laws, c. 329, § 71.;

§ 6103 Preference of rent in cases of execution.

Liability of goods levied upon for 1 year's rent:

(1) If goods, chattels or crops of a tenant being upon premises held by the tenant by demise under a rent of money are seized by virtue of any process of execution, attachment or sequestration, the goods and chattels shall be liable for 1 year's rent of the premises in arrear, or growing due, at the time of the seizure, in preference to such process; accordingly the landlord shall be paid such rent, not exceeding 1 year's rent, out of the proceeds of the sale of such goods and chattels, before anything shall be applicable to such process.

(2) The sheriff, or other officer, who sells the goods and chattels of a tenant upon process of execution, attachment or sequestration shall at least 10 days before such sale give written notice of the time and place thereof to the landlord, if residing in the county, and if not, to any known agent of the landlord in the county.

25 Del. C. 1953, § 6501; 58 Del. Laws, c. 472, § 1; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 513, § 9.;

§ 6104 Confession of judgment.

A provision of a written rental agreement authorizing a person other than the tenant to confess judgment against the tenant is void and unenforceable.

25 Del. C. 1953, § 6104; 58 Del. Laws, c. 472, § 1.;

§ 6105 Taxes paid by tenant; setoff against rent; recovery from owner.

Any tax laid upon lands or tenements according to law which is paid by or levied from the tenant of such lands or tenements, or a person occupying and having charge of same, shall be a setoff against the rent or other demand of the owner for the use or profits, of such premises. If there is no rent or other demand sufficient to cover the sum so paid or levied, the tenant or other person may demand and recover the same from the owner, with costs. This provision shall not affect any contract between the landlord and tenant.