

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

OFFICE OF THE SECRETARY

Statutory Authority: 24 Delaware Code, Chapter 12, Subchapter II, Section 1229 (24 **Del.C.** §1229)

PROPOSED

PUBLIC NOTICE

Regulations Governing Security Systems and Protective Services: False Alarms

A. Type of Regulatory Action Required.

Promulgation of Rules and Regulations pursuant to 24 **Del.C.** §1229.

B. Synopsis of Subject Matter of the Regulation.

The Department of Safety and Homeland Security hereby promulgates rules and regulations relating to the enforcement of civil penalties for false alarms pursuant to 24 **Del.C.** §1229.

The Department solicits and will consider timely filed written comments from interested individuals and groups concerning these proposed regulations. The deadline for the filing of such written comments will be thirty days after the proposed regulations are published in the Delaware Register of Regulations, or by May 1, 2012. Any such submissions should be mailed or hand delivered to Elizabeth Olsen at: Department of Safety and Homeland Security, Public Safety Building, Suite 220, 303 Transportation Circle, P.O. Box 818, Dover, DE 19903, on or before the deadline stated above.

Regulations Governing Security Systems and Protective Services: False Alarms

1.0 Purpose.

- 1.1 To encourage security system users and security businesses to properly and responsibly use and maintain the operational effectiveness of security systems.
- 1.2 To improve the reliability of security systems.
- 1.3 To reduce or eliminate false alarms.
- 1.4 To provide for the enforcement of civil penalties against security system users who violate the provisions under 24 **Del.C.** Ch. 12, Subch. II
- 1.5 To provide a process of appeal for security system users who elect to contest an alleged violation of 24 **Del.C.** Ch. 12, Subch. II

2.0 Scope and Applicability.

- 2.1 Authority. These regulations are promulgated pursuant to 24 **Del.C.** §1229. These regulations shall be known as "Regulations Governing Security Systems and Protective Devices: False Alarms".
- 2.2 Applicability. These regulations apply to security system users as defined by 24 **Del.C.** §1222(22), security businesses as defined by 24 **Del.C.** §1222(16) and any third party vendor contracted with the State of Delaware to administer the provisions under 24 **Del.C.** Ch. 12, Subch. II.

3.0 Definitions.

"Security System Administrator" means the Delaware State Police, State Bureau of Identification, or "SBI" pursuant to 24 **Del.C.** §1222(18).

4.0 Fines.

A security system user in violation of 24 **Del.C.** §1227 shall be subject to a civil assessment in accordance with the penalty schedule under 24 **Del.C.** §1228.

5.0 Determination of Violation.

- 5.1 The third party vendor contracted with the State, in coordination with the security system administrator, shall determine whether a violation under 24 **Del.C.** §1227 has occurred. If a determination is made that a violation has occurred, a Notice of Violation shall be sent to the address of the security system user whose security system caused the false alarms.

- 5.2 There shall be a rebuttable presumption that an alarm is false if law enforcement responding to the alarm do not discover any evidence of unauthorized entry, criminal activity, or other emergency after following normal police procedures in investigating the incident.
- 5.3 A security system user may rebut the presumption that an alarm is false pursuant to 24 Del.C. §1222(7)(a)-(d).

6.0 Notice of Violation Content.

- 6.1 A Notice of Violation shall contain:
- 6.1.1 A civil violation number;
 - 6.1.2 The name and address of the registered security system user whose security system caused the false alarms violation;
 - 6.1.3 The registration number of the security system involved in the violation;
 - 6.1.4 The violation charges;
 - 6.1.5 The location/address where the violation occurred;
 - 6.1.6 The dates and times of the violation;
 - 6.1.7 The date of the notice of violation is mailed;
 - 6.1.8 The amount of the civil assessment imposed and the date by which the civil assessment must be paid;
 - 6.1.9 The name of the payee;
 - 6.1.10 The address where the civil assessment must be sent;
 - 6.1.11 Information advising the security system owner regarding the manner, time and place by which liability as alleged in the Notice of Violation may be contested;
 - 6.1.12 A warning that the failure to pay the civil assessment or contest the liability within 30 days of the mailing of the Notice of Violation is deemed to be an admission as to liability which will result in a judgment being entered against the security system user named in the Notice of Violation;
 - 6.1.13 Notice concerning the person's ability to contest the violation within 30 days from the date that the Notice of Violation has been sent to the security system user.

7.0 Payment of Civil Assessment.

- 7.1 A person electing to pay the civil assessment imposed pursuant to 24 Del. C. § 1228 shall do so within 30 days to the entity at the address so designated on the Notice of Violation.
- 7.2 Failure to pay the civil assessment within 30 days of the date of the mailing of the Notice of Violation shall be an admission of liability, which will result in a judgment being entered against the security system user so named on the Notice of Violation.
- 7.3 Returned checks shall be assessed a reasonable returned check fee not to exceed administrative costs. The security system administrator shall determine the amount to be assessed against the security system user for a returned check.

8.0 Procedures to Contest a Violation.

- 8.1 A security system user may request an administrative hearing in accordance with 24 Del. C. § 1229(c) to rebut the presumption that the alarm(s) were false pursuant to 24 Del. C. § 1222(7).
- 8.2 A security system user electing to contest the violation must request an administrative hearing in writing to the entity and address specified in the Notice of Violation within 30 days the date the Notice of Violation was sent to the security system user.
- 8.3 If the request for an administrative hearing is not made within 30 days from the date the Notice of Violation was sent to the security system user, the security system user waives his or her right to contest the violation.
- 8.4 An administrative hearing shall be held by the third party vendor or entity as designated by the security system administrator within 30 days from the receipt of a request for an administrative hearing from the security system user.
- 8.5 The third party vendor or entity so designated by the security system administrator shall issue a decision as soon as practicable, but no later than 30 days from the date of the administrative hearing.
- 8.6 A security system user may request an appeal of the decision of the initial hearing to the security system administrator within 15 days from the date the decision has been sent to the security system user. The security system user shall also send a copy of his or her request for a second hearing to the entity so designated on the Notice of Violation.
- 8.7 A second hearing shall be held by the security system administrator within 15 days from the date the request for a second hearing has been sent to the security system administrator.

8.8 Appeal of the Final Administrative Decision.

- 8.8.1** Either party may elect to appeal the final administrative decision to the Justice of the Peace Court, which shall have exclusive jurisdiction.
- 8.8.2** An appeal of the final administrative decision must be made in writing to the Justice of the Peace court within 30 days from the date of the administrative decision.
- 8.8.3** A security system user electing to file an appeal to the Justice of the Peace court shall also file a copy of his or her appeal of the final administrative decision to the entity and address noted on the Notice of Violation within 30 days from the date of the administrative decision.
- 8.8.4** An appeal to the Justice of the Peace court shall be the final right of appeal.

9.0 Failure to Pay Civil Penalty.

If the security system user does not pay a civil assessment within 30 days of the Notice of Violation being sent to the security system user, or does not successfully contest a violation, the security system administrator, or its designee, may pursue a civil action, including seeking judgment and execution on a judgment against the security system user.

15 DE Reg. 1441 (04/01/12) (Prop.)