



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1394

Introduced 2/9/2011, by Sen. Mike Jacobs

SYNOPSIS AS INTRODUCED:

770 ILCS 95/2	from Ch. 114, par. 802
770 ILCS 95/4	from Ch. 114, par. 804
770 ILCS 95/7.5 new	
770 ILCS 95/7.10 new	

Amends the Self-Storage Facility Act. Provides that a notice given to an occupant to enforce a lien may be delivered in person, by certified mail or first class mail with certificate of mailing, or by email (instead of in person or by certified mail). Provides that the notice is presumed delivered when mailed or emailed (instead of mailed). Provides that after the notice period has run, the advertisement of the sale may be made on a designated website, or in a locally recognized publication or newspaper of general circulation (instead of in a newspaper of general circulation). Provides that until a lien sale, the exclusive custody of all property in the storage space remains vested in the occupant and no bailment or higher level of liability is assumed by the owner if the owner over-locks the tenant's lock and denies access. Provides that if the property upon which the lien is claimed is a motor vehicle or watercraft and rent is unpaid for 60 days, the owner may have the property towed. Provides that before the sale of any property that has a legal title or in which there is a recorded security interest, the owner shall contact the Secretary of State or other applicable agency to determine the identity of any title holder or lienholder and notify them of the sale. Provides that if the rental agreement contains a limit on the value of property that may be stored, that limit shall be deemed to be the maximum value of the stored property for liability purposes. Permits a reasonable late fee to be imposed if the rental agreement permits. Provides that a late fee of \$20 for each late rental payment or 20% of the amount of each late rental payment, whichever is greater, is deemed reasonable. Makes other and corresponding changes.

LRB097 05496 AJO 45556 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Self-Service Storage Facility Act is amended
5 by changing Sections 2 and 4 and by adding Sections 7.5 and
6 7.10 as follows:

7 (770 ILCS 95/2) (from Ch. 114, par. 802)

8 Sec. 2. Definitions. As used in this Act, unless the
9 context clearly requires otherwise:

10 (A) "Self-service storage facility" means any real
11 property designed and used for the purpose of renting or
12 leasing individual storage space to occupants who are to have
13 access to such for the purpose of storing and removing personal
14 property. A self-service storage facility is not a warehouse
15 for purposes of Article 7 of the Uniform Commercial Code. If an
16 owner issues any warehouse receipt, bill of lading, or other
17 document of title for the personal property stored, the
18 provisions of this Act do not apply.

19 (B) "Owner" means the owner, operator, lessor, or sublessor
20 of a self-service storage facility, his agent, or any other
21 person authorized by him to manage the facility, or to receive
22 rent from an occupant under a rental agreement.

23 (C) "Occupant" means a person, his sublessee, successor, or

1 assign, entitled to the use of the storage space at a
2 self-service storage facility under a rental agreement, to the
3 exclusion of others.

4 (D) "Rental agreement" means any agreement or lease,
5 written or oral, that establishes or modifies the terms,
6 conditions, rules or any other provisions concerning the use
7 and occupancy of a self-service storage facility.

8 (E) "Personal property" means movable property not affixed
9 to land, and includes, but is not limited to goods,
10 merchandise, motor vehicles, and household items.

11 (F) "Last known address" means that address provided by the
12 occupant in the latest rental agreement, or the address
13 provided by the occupant in a subsequent written notice of a
14 change of address.

15 (G) "Late fee" means a charge assessed for an occupant's
16 failure to pay rent when due. "Late fee" does not include
17 interest on a debt, reasonable expenses incurred in the
18 collection of unpaid rent, or costs associated with the
19 enforcement of any other remedy provided by statute or
20 contract.

21 (Source: P.A. 83-800.)

22 (770 ILCS 95/4) (from Ch. 114, par. 804)

23 Sec. 4. Enforcement of lien. An owner's lien as provided
24 for in Section 3 of this Act for a claim which has become due
25 may be satisfied as follows:

1 (A) The occupant shall be notified;

2 (B) The notice shall be delivered:

3 (1) in person; ~~or~~

4 (2) ~~sent~~ by certified mail or by first-class mail with
5 a certificate of mailing to the last known address of the
6 occupant; or

7 (3) by an email sent to the last known active email
8 address of the occupant that was supplied by the occupant
9 on the rental agreement or in a subsequent written notice
10 of change of address received in person or by first-class
11 mail or email;

12 (C) The notice shall include:

13 (1) A ~~An itemized~~ statement of the owner's claim showing
14 the sum due at the time of the notice and the date when the sum
15 became due;

16 (2) A brief and general description of the personal
17 property subject to the lien. The description shall be
18 reasonably adequate to permit the person notified to identify
19 it, except that any container including, but not limited to, a
20 trunk, valise, or box that is locked, fastened, sealed, or tied
21 in a manner which deters immediate access to its contents may
22 be described as such without describing its contents;

23 (3) A notice of denial of access to the personal property,
24 if such denial is permitted under the terms of the rental
25 agreement, which provides the name, street address, and
26 telephone number of the owner, or his designated agent, whom

1 the occupant may contact to respond to this notice;

2 (3.5) Except as otherwise provided by a rental agreement
3 and until a lien sale, the exclusive care, custody, and control
4 of all personal property stored in the leased self-service
5 storage space remains vested in the occupant. No bailment or
6 higher level of liability is created if the owner over-locks
7 the occupant's lock, thereby denying the occupant access to the
8 storage space. Rent and other charges related to the lien
9 continue to accrue during the period of time when access is
10 denied because of non-payment;

11 (4) A demand for payment within a specified time not less
12 than 14 days after delivery of the notice;

13 (5) A conspicuous statement that unless the claim is paid
14 within the time stated in the notice, the personal property
15 will be advertised for sale or other disposition, and will be
16 sold or otherwise disposed of at a specified time and place.

17 (D) Any notice made pursuant to this Section shall be
18 presumed delivered when it is deposited with the United States
19 Postal Service, and properly addressed with postage prepaid or
20 if it is emailed, when it is transmitted;

21 (E) After the expiration of the time given in the notice,
22 an advertisement of the sale or other disposition shall be
23 published once a week for two consecutive weeks using the best
24 method of advertising as determined by the facility owner
25 including, but not limited to, advertising on a publicly
26 accessible website that is identified in the rental agreement,

1 a locally recognized publication, or in a newspaper of general
2 circulation where the self-service storage facility is
3 located. The advertisement shall include:

4 (1) A brief and general description of the personal
5 property reasonably adequate to permit its identification as
6 provided for in division (C) (2) of this Section;

7 (2) The address of the self-service storage facility and
8 the number, if any, of the space where the personal property is
9 located and the name of the occupant;

10 (3) The time, place, and manner of the sale or other
11 disposition. The sale or other disposition shall take place not
12 sooner than 15 days after the first publication. If there is no
13 newspaper of general circulation where the self-service
14 storage facility is located, the advertisement shall be posted
15 at least 10 days before the date of the sale or other
16 disposition in not less than 6 conspicuous places in the
17 neighborhood where the self-service storage facility is
18 located.

19 (F) Any sale or other disposition of the personal property
20 shall conform to the terms of the notification as provided for
21 in this Section;

22 (G) Any sale or other disposition of the personal property
23 shall be held at the self-service storage facility, or at the
24 nearest suitable place to where the personal property is held
25 or stored;

26 (G-5) If the property upon which the lien is claimed is a

1 motor vehicle or watercraft and rent or other charges related
2 to the property remain unpaid or unsatisfied for 60 days, the
3 owner may have the property towed from the self-service storage
4 facility. If a motor vehicle or watercraft is towed, the owner
5 shall not be liable for any damage to the motor vehicle or
6 watercraft, once the tower takes possession of the property.
7 After the motor vehicle or watercraft is towed, the owner may
8 pursue other collection options against the delinquent tenant
9 for any outstanding debt. Before the sale of a motor vehicle,
10 aircraft, mobile home, moped, motorcycle, snowmobile, trailer,
11 or watercraft, the owner shall contact the Secretary of State
12 and any other governmental agency as reasonably necessary to
13 determine the name and address of the title holder or
14 lienholder of the item, and the owner shall notify every
15 identified title holder or lienholder of the time and place of
16 the proposed sale. The owner is required to notify the holder
17 of a security interest only if the security interest is filed
18 under the name of the person signing the rental agreement or an
19 occupant. An owner who fails to make the lien searches required
20 by this Section is liable only to valid lienholders injured by
21 that failure as provided in Section 3;

22 (H) Before any sale or other disposition of personal
23 property pursuant to this Section, the occupant may pay the
24 amount necessary to satisfy the lien, and the reasonable
25 expenses incurred under this Section, and thereby redeem the
26 personal property. Upon receipt of such payment, the owner

1 shall return the personal property, and thereafter the owner
2 shall have no liability to any person with respect to such
3 personal property;

4 (I) A purchaser in good faith of the personal property sold
5 to satisfy a lien, as provided for in Section 3 of this Act,
6 takes the property free of any rights of persons against whom
7 the lien was valid, despite noncompliance by the owner with the
8 requirements of this Section;

9 (J) In the event of a sale under this Section, the owner
10 may satisfy his lien from the proceeds of the sale, but shall
11 hold the balance, if any, for delivery on demand to the
12 occupant. If the occupant does not claim the balance of the
13 proceeds within two years of the date of sale, it shall become
14 the property of the owner without further recourse by the
15 occupant.

16 (K) The lien on any personal property created by this Act
17 shall be terminated as to any such personal property which is
18 sold or otherwise disposed of pursuant to this Act and any such
19 personal property which is removed from the self-service
20 storage facility.

21 (Source: P.A. 83-800.)

22 (770 ILCS 95/7.5 new)

23 Sec. 7.5. Limitation of value. If the rental agreement
24 contains a limit on the value of property that may be stored in
25 the occupant's space, this limit is deemed to be the maximum

1 value of the stored property and establishes the maximum amount
2 of any liability of the facility owner for a claim for loss of
3 or damage to the stored property.

4 (770 ILCS 95/7.10 new)

5 Sec. 7.10. Late fees.

6 (a) A reasonable late fee may be imposed and collected by
7 an owner for each service period that an occupant does not pay
8 rent when due under a rental agreement, provided that the due
9 date for the rental payment is not earlier than the day before
10 the first day of the service period to which the rental payment
11 applies. However, no late fee shall be imposed or collected if
12 the occupant makes a rental payment in full by the third day
13 after the due date under the rental agreement.

14 (b) No late fee may be collected pursuant to this Section
15 unless the amount of that fee and the conditions for imposing
16 that fee are stated in the rental agreement or in an addendum
17 to that agreement.

18 (c) For purposes of this Section, a late fee of \$20 for
19 each late rental payment, or 20% of the amount of each late
20 rental payment, whichever is greater, is deemed reasonable and
21 does not constitute a penalty. However, the contract may
22 provide for a late fee in a greater amount if that amount is
23 reasonable. The owner has the burden of proof to show that the
24 late fee in the greater amount is reasonable.

25 (d) Any reasonable expense incurred in rent collection or

1 lien enforcement by an owner may be charged to the occupant in
2 addition to the late fees permitted by this Section.