



Sen. Mike Jacobs

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09700SB1394sam003

LRB097 05496 AJO 54262 a

1 AMENDMENT TO SENATE BILL 1394

2 AMENDMENT NO. _____. Amend Senate Bill 1394, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

8 (770 ILCS 95/2) (from Ch. 114, par. 802)

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

11 (A) "Self-service storage facility" means any real
12 property designed and used for the purpose of renting or
13 leasing individual storage space to occupants who are to have
14 access to such for the purpose of storing and removing personal
15 property. A self-service storage facility is not a warehouse
16 for purposes of Article 7 of the Uniform Commercial Code. If an

1 owner issues any warehouse receipt, bill of lading, or other
2 document of title for the personal property stored, the
3 provisions of this Act do not apply.

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

8 (C) "Occupant" means a person, his sublessee, successor, or
9 assign, entitled to the use of the storage space at a
10 self-service storage facility under a rental agreement, to the
11 exclusion of others.

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

16 (E) "Personal property" means movable property not affixed
17 to land, and includes, but is not limited to goods,
18 merchandise, motor vehicles, watercraft, and household items.

19 (F) "Last known address" means that address provided by the
20 occupant in the latest rental agreement, or the address
21 provided by the occupant in a subsequent written notice of a
22 change of address.

23 (G) "Late fee" means a charge assessed for an occupant's
24 failure to pay rent when due. "Late fee" does not include
25 interest on a debt, reasonable expenses incurred in the
26 collection of unpaid rent, or costs associated with the

1 enforcement of any other remedy provided by statute or
2 contract.

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

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

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

8 (A) The occupant shall be notified;

9 (B) The notice shall be delivered:

10 (1) in person; or

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

14 (C) The notice shall include:

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

18 (2) The name of the facility, address, telephone
19 number, date, time, location, and manner of the lien sale,
20 and the occupant's name and unit number; ~~A brief and~~
21 ~~general description of the personal property subject to the~~
22 ~~lien. The description shall be reasonably adequate to~~
23 ~~permit the person notified to identify it, except that any~~
24 ~~container including, but not limited to, a trunk, valise,~~
25 ~~or box that is locked, fastened, sealed, or tied in a~~

1 ~~manner which deters immediate access to its contents may be~~
2 ~~described as such without describing its contents;~~

3 (3) A notice of denial of access to the personal property,
4 if such denial is permitted under the terms of the rental
5 agreement, which provides the name, street address, and
6 telephone number of the owner, or his designated agent, whom
7 the occupant may contact to respond to this notice;

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

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

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

23 (D) Any notice made pursuant to this Section shall be
24 presumed delivered when it is deposited with the United States
25 Postal Service, and properly addressed with postage prepaid;

26 (E) After the expiration of the time given in the notice,

1 an advertisement of the sale or other disposition shall be
2 published once a week for two consecutive weeks in a newspaper
3 of general circulation where the self-service storage facility
4 is located. The advertisement shall include:

5 (1) The name of the facility, address, telephone number,
6 date, time, location, and manner of lien sale and the
7 occupant's name and unit number. ~~A brief and general~~
8 ~~description of the personal property reasonably adequate to~~
9 ~~permit its identification as provided for in division (C) (2) of~~
10 ~~this Section;~~

11 (2) (Blank). ~~The address of the self-service storage~~
12 ~~facility and the number, if any, of the space where the~~
13 ~~personal property is located and the name of the occupant;~~

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

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

26 (G) Any sale or other disposition of the personal property

1 shall be held at the self-service storage facility, or at the
2 nearest suitable place to where the personal property is held
3 or stored;

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

26 (H) Before any sale or other disposition of personal

1 property pursuant to this Section, the occupant may pay the
2 amount necessary to satisfy the lien, and the reasonable
3 expenses incurred under this Section, and thereby redeem the
4 personal property. Upon receipt of such payment, the owner
5 shall return the personal property, and thereafter the owner
6 shall have no liability to any person with respect to such
7 personal property;

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

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

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

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

1 (770 ILCS 95/7.5 new)

2 Sec. 7.5. Limitation of value. If the rental agreement
3 contains a limit on the value of property that may be stored in
4 the occupant's space, this limit is deemed to be the maximum
5 value of the stored property, provided that this limit
6 provision must be printed in bold type or underlined in the
7 rental agreement in order to be enforceable.

8 (770 ILCS 95/7.10 new)

9 Sec. 7.10. Late fees.

10 (a) A reasonable late fee may be imposed and collected by
11 an owner for each service period that an occupant does not pay
12 rent when due under a rental agreement, provided that the due
13 date for the rental payment is not earlier than the day before
14 the first day of the service period to which the rental payment
15 applies. No late payment fee shall be assessed unless the
16 rental fee remains unpaid for at least 5 days after the date
17 specified in the rental agreement for payment of the rental
18 fee.

19 (b) No late fee may be collected pursuant to this Section
20 unless the amount of that fee and the conditions for imposing
21 that fee are stated in the rental agreement or in an addendum
22 to that agreement.

23 (c) For purposes of this Section, a late fee of \$20 or 20%
24 of the rental fee for each month an occupant does not pay rent,
25 whichever is greater, is deemed reasonable and does not

1 constitute a penalty.

2 (d) Any reasonable expense incurred as a result of rent
3 collection or lien enforcement by an owner may be charged to
4 the occupant in addition to the late fees permitted by this
5 Section. If any such expenses are charged, they shall be
6 identified on an itemized list that is available to the
7 occupant.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.".