

SHORT TITLE: Liens; Self-Service Storage Facility Lien Act.
Effective date.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1325

By: Laughlin

AS INTRODUCED

An Act relating to liens; creating the Self-Service Storage Facility Lien Act; providing short title; defining terms; stating application of act; providing for lien upon certain personal property; prescribing time when lien attaches; requiring determination of existence of other liens; prescribing procedures for satisfaction of lien; requiring notice; prescribing form and content of notice; providing for presumption regarding delivery of notice; providing for publication of notice; prescribing content of notice; prescribing requirements for sale of property; authorizing redemption of property; providing for rights acquired by good faith purchasers; providing for rights of lienholders; providing for disposition of sale proceeds; prescribing rights of parties based upon noncompliance with act; prohibiting use of self-service storage facilities for certain purposes; stating relationship between certain lien rights; construing act; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 191 of Title 42, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Self-Service Storage Facility Lien Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 192 of Title 42, unless there is created a duplication in numbering, reads as follows:

As used in this act, unless the context otherwise requires:

1. "Default" means the failure to perform in a timely manner any obligation or duty set forth in this act or the rental agreement;

2. "Last-known address" means that address provided by the occupant in the latest rental agreement or the address provided by the occupant in a subsequent written notice of a change of address;

3. "Occupant" means a person, or a person's sublessee, successor, or assignee, entitled to the use of the storage space at a self-service storage facility under a rental agreement, to the exclusion of others;

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

5. "Personal property" means movable property not affixed to land and includes, but is not limited to, goods, merchandise, and household items;

6. "Rental agreement" means any written agreement or lease which establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy at a self-service storage facility and which contains a notice stating that all articles stored under the terms of the agreement will be sold or

otherwise disposed of if no payment has been received for a continuous thirty-day period; and

7. "Self-service storage facility" means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to the facility for the purpose of storing and removing personal property.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 193 of Title 42, unless there is created a duplication in numbering, reads as follows:

If an owner issues any warehouse receipt, bill of lading, or other document of title for the personal property stored, the owner and the occupant are subject to the provisions of Article 7 of Title 12A of the Oklahoma Statutes, and the provisions of this act are not applicable.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 194 of Title 42, unless there is created a duplication in numbering, reads as follows:

A. Where a rental agreement is entered into between the owner and the occupant, the owner of a self-service storage facility and the owner's heirs, executors, administrators, successors, and assigns have a lien upon all personal property of the occupant stored at the self-service storage facility for rent, labor, or other charges, present or future, in relation to the personal property and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to this act.

B. The lien attaches as of the date the personal property is brought to the self-service storage facility and continues so long as the owner retains possession and until the default is corrected, or a sale is conducted, or the property is otherwise disposed of to satisfy the lien.

C. Prior to taking enforcement action pursuant to Section 5 of this act, the owner shall determine if, in the county where the self-service storage facility is located and in the county of the occupant's last-known address, a financing statement filed in accordance with Section 9-401 of Title 12A of the Oklahoma Statutes has been filed concerning the property to be sold or otherwise disposed of.

D. The rental agreement shall contain a provision directing the occupant to disclose any lienholders with an interest in property that is or will be stored in a self-service storage facility.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 195 of Title 42, unless there is created a duplication in numbering, reads as follows:

A. An owner's lien for a claim which has become due may be satisfied as provided by this section.

B. No enforcement action shall be taken by the owner until the occupant has been in default continuously for a period of thirty (30) days.

C. After the occupant has been in default continuously for a period of thirty (30) days, the owner may begin enforcement action after the occupant has been notified in writing. The notice shall be sent by certified mail to the last-known address of the occupant, and a copy of the notice shall, at the same time, be sent to the sheriff of the county where the self-service storage facility is located. Any lienholder with an interest in the property to be sold or otherwise disposed of, of whom the owner has knowledge either through the disclosure provision in the rental agreement or through finding a validly filed financing statement in the county where the self-service storage facility is located or in the county of the occupant's last-known address, or through other written notice, shall be included in the notice process as provided in this section.

D. The notice shall include:

1. An itemized statement of the owner's claim showing the sum due at the time of the notice and the date when the sum became due;

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

3. A notification of denial of access to the personal property, if denial is permitted under the terms of the rental agreement, which notification shall provide the name, street address, and telephone number of the owner or the owner's designated agent whom the occupant may contact to respond to the notification;

4. A demand for payment within a specified time not less than fifteen (15) days after delivery of the notice; and

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

E. Any notice made pursuant to this section shall be presumed delivered when it is deposited with the United States Postal Service and properly addressed with postage prepaid.

F. After the expiration of the time given in the notice, an advertisement of the sale or other disposition shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the county where the self-service storage facility is located.

G. The advertisement prescribed by subsection F of this section shall include:

1. A brief and general description of the personal property reasonably adequate to permit its identification as provided in

paragraph 2 of subsection D of this section, the address of the self-service storage facility and the number, if any, of the space where the personal property is located, and the name of the occupant and the occupant's last-known address;

2. The time, place, and manner of the sale or other disposition. The sale or other disposition shall take place not sooner than fifteen (15) days after the first publication; or

3. If there is no newspaper of general circulation in the county where the self-service storage facility is located, the advertisement shall be posted at least ten (10) days before the date of the sale or other disposition in not less than six conspicuous places in the neighborhood where the self-service storage facility is located.

H. Any sale or other disposition of the personal property shall conform to the terms of the notification as provided for in this section.

I. Any sale or other disposition of the personal property shall be held at the self-service storage facility or at the nearest suitable place to where the personal property is held or stored.

J. Before any sale or other disposition of personal property pursuant to this section, the occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section and thereby redeem the personal property. Upon receipt of such payment, the owner shall return the personal property, and thereafter the owner shall have no liability to any person with respect to the personal property.

K. A purchaser in good faith of the personal property sold to satisfy a lien as provided in this act takes the property free of any rights of persons against whom the lien was valid and free of any rights of a secured creditor, despite noncompliance by the owner with the requirements of this section.

L. In the event of a sale under this section, the owner may satisfy his or her lien from the proceeds of the sale, subject to the rights of any prior lienholder. The lien rights of a prior lienholder are automatically transferred to the proceeds of the sale. If the sale is made in good faith and is conducted in a reasonable manner, the owner shall not be subject to any surcharge for a deficiency in the amount of a prior secured lien but shall hold the balance, if any, for delivery to the occupant, lienholder, or other person having an interest in the proceeds. If the occupant, lienholder, or other person having an interest in the proceeds does not claim the balance of the proceeds within three (3) years of the date of sale, it shall become the property of the owner without further recourse by the occupant, lienholder, or other person in interest.

M. If the requirements of this act are not satisfied, if the sale of the personal property is not in conformity with the notice of sale, or if there is a willful violation of this act, nothing in this section affects the rights and liabilities of the owner, the occupant, or any other person.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 196 of Title 42, unless there is created a duplication in numbering, reads as follows:

Each owner acting pursuant to this act shall keep posted in a prominent place in the principal office at which rental agreements are distributed or executed at all times a notice which shall read as follows:

"All articles stored pursuant to a rental agreement for which charges have not been paid for thirty (30) days will be sold or otherwise disposed of to pay charges."

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 197 of Title 42, unless there is created a duplication in numbering, reads as follows:

No occupant shall use a self-service storage facility for residential purposes.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 198 of Title 42, unless there is created a duplication in numbering, reads as follows:

Nothing in this act shall be construed as in any manner impairing or affecting the right of parties to create liens by special contract or agreement, nor shall it in any manner affect or impair other liens arising at common law, in equity, or by any statute of this state.

SECTION 9. This act shall become effective November 1, 1998.

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