

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1273

By: Leewright of the Senate

and

Hall of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to self-service storage facilities;
12 amending 42 O.S. 2011, Sections 192, 194, 196 and
13 197, which relate to the Self-Service Storage
14 Facility Lien Act; modifying and expanding
15 definitions; limiting liability and value of damaged
16 property; allowing for reasonable late fees; allowing
17 for the towing of certain vehicles; specifying proper
18 channels to send notice; allowing notice of sales to
19 be published on website in certain circumstances;
20 allowing for online sales of certain property subject
21 to a lien; and providing an effective date.

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

23 SECTION 1. AMENDATORY 42 O.S. 2011, Section 192, is
24 amended to read as follows:

25 Section 192. As used in ~~this act~~ the Self-Service Storage
26 Facility Lien Act, unless the context otherwise requires:

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

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

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

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

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

19 6. "Rental agreement" means any written agreement or lease
20 which establishes or modifies the terms, conditions, rules, or any
21 other provisions concerning the use and occupancy at a self-service
22 storage facility and which contains a notice stating that all
23 articles stored under the terms of such agreement will be sold or
24

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

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

7 8. "Electronic mail" means an electronic message or an
8 executable program or computer file that contains an image of a
9 message that is transmitted between two or more computers or
10 electronic terminals and includes electronic messages that are
11 transmitted within or between computer networks;

12 9. "Sale" means a sale made after public notice and includes
13 but is not limited to a sale at the self-service storage facility or
14 a sale conducted online at a publicly accessible website; and

15 10. "Verified mail" means any method of mailing that is offered
16 by the United States Postal Service or private delivery service that
17 provides evidence of mailing.

18 SECTION 2. AMENDATORY 42 O.S. 2011, Section 194, is
19 amended to read as follows:

20 Section 194. A. The duty of care an owner must exercise with
21 respect to personal property located in a self-service storage
22 facility is ordinary care only.

23 B. Each owner of a self-service storage facility shall provide
24 a disclosure in the rental agreement, in conspicuous terms and in a

1 conspicuous manner, that the occupant has a duty to safeguard the
2 personal property located in a self-service storage facility from
3 losses and that the owner has no legal obligation to provide
4 insurance to protect the personal property from loss.

5 C. No owner of a self-service storage facility shall be liable
6 for loss sustained by an occupant as a result of theft committed by
7 a third party provided that ordinary care was exercised.

8 D. If the rental agreement contains a limit on the value of
9 property stored in an occupant's space, such limit shall be deemed
10 to be the maximum value of the stored property and the maximum
11 liability of the owner for any claim for loss of or damage to stored
12 property.

13 SECTION 3. AMENDATORY 42 O.S. 2011, Section 196, is
14 amended to read as follows:

15 Section 196. A. Where a rental agreement, as defined in
16 Section ~~2~~ 192 of this ~~act~~ title, is entered into between the owner
17 and the occupant, the owner of a self-service storage facility and
18 his heirs, executors, administrators, successors, and assigns have a
19 lien upon all personal property located at the self-service storage
20 facility for rent, late fees, labor, or other charges, present or
21 future, in relation to the personal property and for expenses
22 necessary for its preservation or expenses reasonably incurred in
23 its sale or other disposition pursuant to ~~this act~~ the Self-Service
24 Storage Facility Lien Act.

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

6 C. A facility or unit owner may charge a tenant a reasonable
7 late fee for each period that the tenant does not pay rent due under
8 the rental agreement. The amount of the late fee and the conditions
9 for imposing such a fee shall be stated in the rental agreement or
10 in an addendum to the agreement. For purposes of this subsection, a
11 late fee not to exceed the greater of Twenty Dollars (\$20.00) or
12 twenty percent (20%) of unpaid rent is considered reasonable.

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

16 E. If the personal property is a vehicle, watercraft or trailer
17 and rent and other charges remain unpaid for sixty (60) days, the
18 facility owner may have the vehicle, watercraft or trailer towed
19 from the self-service storage facility. If the vehicle, watercraft
20 or trailer is towed from the self-service storage facility, the
21 facility owner shall not be liable for the vehicle, watercraft or
22 trailer or for any damages to the vehicle, watercraft or trailer
23 once the towing company takes possession of the property.
24

SECTION 4. AMENDATORY 42 O.S. 2011, Section 197, is amended to read as follows:

Section 197. A. An owner's lien as provided for a claim which has become due may be satisfied as provided by this section. The possessory lien authorized by this section shall be prior to any previously perfected security interest in the personal property pursuant to Section 1-9-333 of Title 12A of the Oklahoma Statutes.

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. As used in this subsection, "enforcement action" shall not include actions of the owner taken pursuant to Section ~~5~~ 195 of this ~~act~~ title.

C. After the occupant has been in default continuously for a period of thirty (30) days, the owner may begin enforcement action if the occupant has been notified in writing. Said notice shall be delivered in person or sent by ~~certified~~ verified mail ~~return receipt requested~~ to the last-known address of the occupant or, if mutually agreed between the owner and occupant in the rental agreement or in an addendum to the rental agreement, by electronic mail. Any lienholder with an interest in the property to be sold or otherwise disposed of, of whom the owner has actual knowledge, shall be included in the notice process ~~as provided in this section via~~ verified mail.

D. The notice shall include:

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

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

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

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

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

21 E. Any notice made pursuant to this section by verified mail
22 shall be presumed delivered when it is deposited with the United
23 States Postal Service or a private delivery service and properly
24 addressed with postage prepaid. Any electronic mail notice made

1 pursuant to this section shall be presumed delivered when it is sent
2 and properly addressed and does not return as unavailable. If an
3 electronic mail is returned as unavailable, notice shall be given by
4 verified mail.

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

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

12 1. A brief and general description of the personal property
13 reasonably adequate to permit its identification as provided in
14 paragraph 2 of subsection D of this section, the address of the
15 self-service storage facility and the number, if any, of the space
16 where the personal property is located, and the name of the occupant
17 and his last-known address; or

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

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

1 places in the neighborhood where the self-service storage facility
2 is located or on a publicly accessible website that regularly
3 conducts online auctions of personal property.

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

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

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

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

23 L. In the event of a sale under this section, the owner may
24 satisfy his lien from the proceeds of the sale.

1 M. If the proceeds from sale of the property are less than the
2 amount required to pay the obligation secured by the lien, the owner
3 may pursue a deficiency against the tenant. If the proceeds from
4 sale of the property are more than the amount required to pay the
5 obligation secured by the owner's lien, the owner shall hold the
6 excess proceeds for a period of ninety (90) days from the date of
7 the sale. During this period, any persons, including the tenant,
8 claiming an interest in the excess proceeds from the sale of the
9 property shall present adequate proof of their claim to the owner.
10 After the expiration of the ninety-day period, the owner shall make
11 such distribution of the excess proceeds as is required based upon
12 the claims presented. If after making distribution of the proceeds
13 as prescribed by this subsection there are any remaining proceeds,
14 the proceeds shall become the property of the owner without further
15 recourse by the occupant, any lienholder or other person in
16 interest.

17 N. If the requirements of ~~this act~~ the Self-Service Storage
18 Facility Lien Act are not satisfied, if the sale of the personal
19 property is not in conformity with the notice of sale, or if there
20 is a willful violation of this act, nothing in this section affects
21 the rights and liabilities of the owner, the occupant, or any other
22 person.

23 O. Any purchaser of personal property sold pursuant to this
24 section for which a certificate of title has been issued by the

1 Oklahoma Tax Commission shall obtain a certificate of title to be
2 issued in the purchaser's name in the same manner as provided by law
3 for the issuance of a certificate of title for property requiring a
4 certificate of title sold pursuant to the provisions of Sections 91
5 through 102 of ~~Title 42 of the Oklahoma Statutes~~ this title.

6 SECTION 5. This act shall become effective November 1, 2018.

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8 COMMITTEE REPORT BY: COMMITTEE ON BANKING AND BUSINESS, dated
9 03/28/2018 - DO PASS, As Amended.
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