

1 HB84
2 164255-4
3 By Representative Brown
4 RFD: State Government
5 First Read: 03-MAR-15

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8 SYNOPSIS: Under existing law, the Self-Service Storage
9 Act regulates the rental of individual storage
10 spaces for personal property in the state.

11 This bill would provide further for the
12 definitions of last known address and self-service
13 storage facility and to define active duty, email,
14 late fee, service member, and verified mail.

15 This bill would authorize an owner to notify
16 an occupant of default and the intent of the owner
17 to enforce a lien by verified mail or email.

18 This bill would delete the requirement that
19 the notice include a description of the property
20 and a denial of access to the property.

21 This bill would permit posting the notice of
22 sale or other disposition of the property on a
23 publicly accessible website.

24 This bill would specify what constitutes a
25 commercially reasonable sale and proceeds,
26 determining the maximum value of stored property,

1 and the transfer of liability for a towed motor
2 vehicle or vessel.

3 This bill would also provide for the
4 imposition of a late fee and for additional time
5 before an owner's lien may be enforced against a
6 defaulting occupant who is a member of the armed
7 forces.

8
9 A BILL
10 TO BE ENTITLED
11 AN ACT
12

13 To amend Sections 8-15-31 and 8-15-34, Code of
14 Alabama 1975, and to add Sections 8-15-39 and 8-15-40 to the
15 Code of Alabama 1975, relating to the Self-Service Storage
16 Act; to provide further for definitions; to authorize an owner
17 to notify an occupant of default and the intent to enforce a
18 lien by verified mail or email; to delete the requirement that
19 notice include a property description and a denial of access
20 to the property; to specify what constitutes a commercially
21 reasonable sale and proceeds, determines the maximum value of
22 stored property, and the transfer of liability for a towed
23 motor vehicle or vessel; to provide for the imposition of a
24 late fee; and to require additional time before an owner's
25 lien may be enforced against a defaulting occupant who is a
26 member of the armed forces.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 8-15-31 and 8-15-34 of the Code
2 of Alabama 1975, are amended to read as follows:

3 "§8-15-31.

4 "For the purposes of this article, the following
5 words ~~and phrases~~ shall have the ~~respective~~ following meanings
6 ~~ascribed by this section~~:

7 "(1) ACTIVE DUTY. Active military duty pursuant to
8 an executive order of the President, Act of Congress, or order
9 of the Governor.

10 "~~(1)~~ (2) DEFAULT. The failure to perform in a timely
11 manner any obligation or duty set forth in this article or the
12 rental agreement.

13 "(3) EMAIL. An electronic message or an executable
14 program or computer file that contains an image of a message
15 that is transmitted between two or more computers or
16 electronic terminals including electronic messages that are
17 transmitted within or between two computer networks.

18 "~~(2)~~ (4) LAST KNOWN ADDRESS. That The street
19 address, post office box, or email address provided by the
20 occupant in the ~~latest~~ most recent rental agreement or the
21 address provided by the occupant in a subsequent written
22 notice of a change of address by hand delivery, verified mail,
23 or email accompanied by a receipt.

24 "(5) LATE FEE. A reasonable fee or charge that is
25 assessed by the owner for the failure of the occupant to pay
26 rent when due. A late fee is not interest on a debt or a
27 reasonable expense which the owner may incur in the course of

1 collecting unpaid rent in enforcing the lien rights of the
2 owner.

3 "~~(3)~~ (6) LEASED SPACE. The individual storage space
4 at the self-service storage facility which is leased or rented
5 to an occupant pursuant to a rental agreement.

6 "(7) MOTOR VEHICLE. A motor vehicle as defined in
7 Section 32-8-2.

8 "~~(4)~~ (8) OCCUPANT. A person or entity, or his or her
9 sublessee, successor, or assign, entitled to the use of a
10 storage space at a self-service storage facility, under a
11 written rental agreement with the owner, to the exclusion of
12 others.

13 "~~(5)~~ (9) OWNER. The owner, operator, lessor, or
14 sublessor of a self-service storage facility, his or her
15 agent, or any other person authorized by him or her to manage
16 the facility or to receive rent from an occupant under a
17 rental agreement.

18 "~~(6)~~ (10) PERSONAL PROPERTY. Movable property not
19 affixed to land. This term includes, but is not limited to,
20 goods, merchandise, and household items.

21 "~~(7)~~ (11) RENTAL AGREEMENT. Any written agreement or
22 lease which establishes or modifies the terms, conditions,
23 rules, or any other provisions concerning the use and
24 occupancy at a self-service storage facility and which
25 contains a notice stating that all articles stored under the
26 terms of such agreement ~~will~~ shall be sold or otherwise
27 disposed of if no payment has been received for a continuous

1 ~~30-day~~ 15-day period. ~~Such~~ The agreement shall contain a
2 provision directing the occupant to disclose any lienholders
3 with an interest in property that is stored or will be stored
4 in ~~such~~ the self-service storage facility.

5 "~~(8)~~ (12) SELF-SERVICE STORAGE FACILITY. Any real
6 property designed and used for the purpose of renting or
7 leasing individual storage space to occupants who are to have
8 access to ~~such~~ the facility for the purpose of storing and
9 removing personal property. No occupant shall use a
10 self-service storage facility for residential purposes. A
11 self-service storage facility is not a public warehouse as
12 ~~used~~ defined in Article 1 of this chapter. If an owner issues
13 any warehouse receipt, bill of lading or other document of
14 title for the personal property stored, the owner and the
15 occupant are subject to ~~the provisions of~~ Article 7 of the
16 Uniform Commercial Code, and ~~the provisions of~~ this article
17 shall not apply. The commercial landlord and tenant
18 relationship between owner and occupant is not altered by
19 retention by the owner of a key provided by the occupant.

20 "(13) SERVICE MEMBER. A member of the Armed Forces
21 of the United States, a reserve branch of the armed forces, or
22 the National Guard.

23 "(14) VERIFIED MAIL. First class mail that is
24 offered by the United States Postal Service that provides
25 evidence of mailing.

26 "§8-15-34.

1 ~~"An owner's~~ The lien of an owner as provided for a
2 claim which has become due may be satisfied as follows:

3 "(1) No enforcement action, other than denial of
4 access, shall be taken by the owner until the occupant has
5 been in default continuously for a period of ~~30~~ 15 days.

6 "(2) Prior to taking enforcement action pursuant to
7 this section, the owner shall determine whether a financing
8 statement has been filed in accordance with Title 7 concerning
9 the property to be sold or otherwise disposed of, with the
10 Secretary of State, in the county where the self-service
11 storage facility is located and in the county of the
12 ~~occupant's~~ last known address of the occupant, or if the
13 property includes a motor vehicle, the owner also shall
14 determine whether a lien has been filed with the Alabama
15 Department of Revenue.

16 "(3) After the occupant has been in default
17 continuously for a period of 30 days, the owner may begin
18 enforcement action if the occupant ~~has~~ and any lienholder have
19 been notified in writing. ~~Said notice~~ The occupant shall be
20 notified of the intent of the owner to enforce his or her lien
21 by written notice delivered in person ~~or sent by or~~
22 ~~registered,~~ by verified mail, or by email to the last known
23 address of the occupant. Any lienholder with an interest in
24 the property to be sold or otherwise disposed of, of whom the
25 owner has knowledge either through the disclosure provision on
26 the rental agreement or through finding a validly filed
27 financing statement in the office of the Secretary of ~~State's~~

1 ~~office~~ State, or county, or if the property includes a motor
2 vehicle, through a lien filed with the Alabama Department of
3 Revenue, shall be included in the notice process as provided
4 in this section. In addition, the notice shall be forwarded by
5 certified mail, with either return receipt requested or
6 electronic delivery confirmation, to any lienholder. The
7 notice to any lienholder shall include a description of the
8 property covered by the lien including, without limitation,
9 the name and address of the owner of the property covered by
10 the lien, and the make, model, year, and vehicle
11 identification number of any motor vehicle to the extent this
12 information is set forth in a filed financing statement or a
13 lien filed with the Alabama Department of Revenue.

14 "(4) The owner ~~shall have the right to~~ may deny the
15 occupant access to the leased space and the owner may enter
16 ~~and/or~~ or remove, ~~or both,~~ the personal property from the
17 leased space to other suitable storage space pending its sale
18 or other disposition.

19 "(5) The notice required by this section shall
20 include all of the following:

21 "a. An itemized statement of the ~~owner's~~ claim of
22 the owner showing the sum due at the time of the notice and
23 the date when the sum became due; ~~;~~

24 ~~"b. A brief and general description of the personal~~
25 ~~property subject to the lien. Such description shall be~~
26 ~~reasonably adequate to permit the person notified to identify~~
27 ~~such property; except that any container including, but not~~

1 ~~limited to, a trunk, valise, or box that is locked, fastened,~~
2 ~~sealed, or tied in a manner which deters immediate access to~~
3 ~~its contents may be described as such without describing its~~
4 ~~contents;~~

5 ~~"c. A notification of denial of access to the~~
6 ~~personal property, if such denial is permitted under the terms~~
7 ~~of the rental agreement, which notification shall provide the~~
8 ~~name, street address, and telephone number of the owner or his~~
9 ~~designated agent whom the occupant may contact to respond to~~
10 ~~such notification;~~

11 ~~"d. b. A demand for payment within a specified time,~~
12 ~~not less than 15 days after delivery of the notice;~~

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

18 ~~"(6) Any A notice ~~made~~ given pursuant to this~~
19 ~~section shall be presumed delivered when it is deposited with~~
20 ~~the United States postal service and properly addressed with~~
21 ~~postage prepaid or transmitted by email to the last known~~
22 ~~email address of the occupant. Notice to lienholders evidenced~~
23 ~~by a filed financing statement or a lien filed with the~~
24 ~~Alabama Department of Revenue shall be in writing and served~~
25 ~~upon the lienholder by hand delivery or certified mail, with~~
26 ~~either return receipt requested or electronic delivery~~
27 ~~confirmation.~~

1 "(7) After the expiration of the time given in the
2 notice expires, if the owner determines, based on the previous
3 experience of the owner, that the personal property subject to
4 the lien has a value of five hundred dollars (\$500) or less,
5 the owner may dispose of the property at his or her sole
6 discretion.

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

13 "a. A brief and general description of the personal
14 property ~~reasonably adequate to permit its identification as~~
15 ~~provided in paragraph (5)b. of this section; the~~ that is the
16 subject of the lien that is reasonably adequate to permit its
17 identification. The address of the self-service storage
18 facility and the number, if any, of the space where the
19 personal property is located; ~~and~~ the name of the occupant;
20 ~~and his last known address;~~ the name and address of any
21 lienholder.

22 "b. The time, place, and manner of the sale or other
23 disposition. The sale or other disposition shall take place
24 not sooner than 15 days after the first publication.

25 "~~(8)~~ (9) If there is no newspaper of general
26 circulation in the county where the self-service storage
27 facility is located, the advertisement shall be posted on the

1 premises in a conspicuous location, or publicly accessible
2 website, at least 10 days before the date of the sale or other
3 disposition ~~in not less than six conspicuous places in the~~
4 ~~neighborhood where the self-service storage facility is~~
5 ~~located.~~

6 "~~(9)~~ (10) Any sale or other disposition of the
7 personal property shall conform to the terms of the
8 notification as provided for in this section.

9 "~~(10)~~ (11) Any sale or other disposition of the
10 personal property shall be held at the self-service storage
11 facility or at the nearest suitable place where the personal
12 property is held or stored. The property may be sold singly,
13 in lots or as a whole. Bids may be sealed or open. A sale held
14 on a publicly accessible website that regularly conducts
15 Internet self-storage auctions shall be considered a sale held
16 at the self-service storage facility.

17 "~~(11)~~ (12) Before any sale or other disposition of
18 personal property pursuant to this section, the occupant may
19 pay the amount necessary to satisfy the lien and the
20 reasonable expenses incurred under this section and thereby
21 redeem the personal property. Upon receipt of ~~such~~ payment,
22 the owner shall return the personal property, and thereafter
23 the owner shall have no liability to any person with respect
24 to ~~such~~ the personal property.

25 "~~(12)~~ (13) A purchaser in good faith of the personal
26 property sold to satisfy a lien as provided in this article
27 takes the property free of any rights of persons against whom

1 the lien was valid, despite noncompliance by the owner with
2 the requirements of this section.

3 "~~(13)~~ (14) In the event of a sale under this
4 section, the owner may satisfy his or her lien from the
5 proceeds of the sale. The lien rights of secured ~~lienholder(s)~~
6 lienholders are automatically transferred to the remaining
7 proceeds of the sale. If the sale is made in good faith and is
8 conducted in a commercially reasonable manner, the owner ~~shall~~
9 is not be subject to any liability for a deficiency if the
10 amount realized at sale does not satisfy any secured lien, but
11 shall hold the balance, if any, for delivery to the occupant,
12 lienholder, or other person in interest. If the occupant,
13 lienholder, or other person in interest does not claim the
14 balance of the proceeds within three years of the date of
15 sale, it shall become the property of the owner without
16 further recourse by the occupant, lienholder, or other person
17 in interest.

18 "~~(14)~~ (15) If the requirements of this article are
19 not satisfied, if the sale of the personal property is not in
20 conformity with the notice of sale, or if there is a willful
21 violation of this article, nothing in this section affects the
22 rights and liabilities of the owner, occupant, or any other
23 person.

24 "(16) If the property is sold by public sale and
25 three or more bidders, who are unrelated to the owner, are in
26 attendance at the sale, the advertisement, sale, and the
27 proceeds from the sale are deemed commercially reasonable.

1 "(17) If the rental agreement contains a limit on
2 the value of the property stored in the storage space of the
3 occupant, the limit is the maximum value of the property
4 stored in the space.

5 "(18) If the property upon which the lien is claimed
6 is a motor vehicle or a vessel, and rent and other charges
7 related to the property remain unpaid or unsatisfied for 60
8 days following the maturity of the obligation to pay rent, the
9 owner may have the property towed in lieu of foreclosing on
10 the lien. If the motor vehicle or vessel is towed, the owner
11 is not liable for any damage to the motor vehicle or vessel
12 once the tower takes possession."

13 Section 2. Sections 8-15-39 and 8-15-40 are added to
14 the Code of Alabama 1975, to read as follows:

15 §8-15-39.

16 (a) An owner may impose a reasonable late fee on an
17 occupant for each month the occupant does not pay rent when
18 due. For purposes of this section, a reasonable late fee may
19 be computed as the greater of twenty dollars (\$20) per month
20 or 20 percent of the amount of monthly rent. Any late fee
21 imposed by an owner pursuant to this section is in addition to
22 any other remedy provided by law or contract.

23 (b) An owner shall provide adequate notice to an
24 occupant before a late fee is imposed. Adequate notice is
25 provided if the late fee is identified in the rental agreement
26 or a notice is sent to the occupant at his or her last known
27 address that notifies the occupant that a late fee may be

1 charged in any month in which the occupant does not pay rent
2 when due.

3 §8-15-40.

4 An occupant who is a service member and who is
5 transferred or deployed overseas on active duty for a period
6 of 180 days or more may notify the owner of the transfer or
7 deployment. The occupant shall provide written evidence of the
8 transfer or deployment with the notice. If an owner receives a
9 notice with supporting evidence from an occupant, the owner
10 may not enforce his or her lien until 90 days after the end of
11 the overseas service of the occupant.

12 Section 3. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.