

1 SB74
2 204446-1
3 By Senator Melson
4 RFD: Governmental Affairs
5 First Read: 04-FEB-20
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SYNOPSIS: Under existing law, the Self-Service Storage Act governs the responsibilities and duties of owners, occupants, and creditors relating to personal property contained in leased space of a self-service storage facility in the event of default of a rental agreement.

This bill would repeal and replace the Self-Service Storage Act with the Self-Service Storage Facilities Act, and would specify the responsibilities and duties of operators, occupants, and creditors in the event of default.

A BILL
TO BE ENTITLED
AN ACT

Relating to self-service storage facilities; to add Article 2A, commencing with Section 8-15-40, to Chapter 15, Title 8, Code of Alabama 1975, creating the Self-Service Storage Facilities Act; to provide definitions; to authorize

1 operator's liens; to provide for the responsibilities and
2 duties of operators, occupants, and creditors in the event of
3 default of a rental agreement; and to repeal Article 2,
4 commencing with Section 8-15-30, Chapter 15, Title 8, Code of
5 Alabama 1975, the Self-Service Storage Act.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Article 2A is added to Chapter 15, Title
8 8, Code of Alabama 1975, to read as follows:

9 §8-15-40.

10 This article shall be known and may be cited as the
11 Self-Service Storage Facilities Act.

12 §8-15-41.

13 For the purposes of this article, the following
14 terms shall have the following meanings:

15 (1) COMMERCIALY REASONABLE SALE. A sale, conducted
16 pursuant to this article, at the self-service storage
17 facility, another suitable location selected by the operator,
18 or on a publicly accessible website that conducts lien sales
19 or personal property sales.

20 (2) DEFAULT. The failure by the occupant to perform
21 on time any obligation or duty set forth in a rental agreement
22 or in this article.

23 (3) ELECTRONIC MAIL. An electronic message or an
24 executable program or computer file that contains an image of
25 a message that is transmitted between two or more computers or
26 electronic terminals and includes electronic messages that are
27 transmitted within or between computer networks.

1 (4) EMERGENCY. Any occurrence or circumstance at or
2 near a self-service storage facility that requires immediate
3 action to avoid injury to persons or damage to property at or
4 near the self-service storage facility including, but not
5 limited to, a fire.

6 (5) LAST KNOWN ADDRESS. The postal address or
7 electronic mail address provided by an occupant in a rental
8 agreement or the postal address or electronic mail address
9 provided by the occupant in a subsequent written notice of a
10 change of address.

11 (6) LATE FEE. Any fee or charge assessed for the
12 failure of an occupant to pay rent when due. The term does not
13 include interest on a debt; expenses incurred in the
14 collection of unpaid rent; expenses incurred for the
15 preservation, sale, or disposition of personal property
16 pursuant to this article; or costs associated with the
17 enforcement of any other remedy provided by law or contract.

18 (7) LEASED SPACE. The individual storage space at a
19 self-service storage facility which is rented to an occupant
20 pursuant to a rental agreement.

21 (8) OCCUPANT. A person entitled to the use of leased
22 space at a self-service storage facility under a rental
23 agreement, or his or her successors or assigns.

24 (9) OPERATOR. The owner, operator, lessor, or
25 sublessor of a self-service storage facility, or an agent of
26 any of the foregoing, or any other person authorized to manage
27 the facility or to receive rent from an occupant under a

1 rental agreement. The term does not include a warehouseman if
2 the warehouseman issues a warehouse receipt, bill of lading,
3 or other document of title for the personal property stored.

4 (10) PERSONAL PROPERTY. Movable property not affixed
5 to land. The term includes, but is not limited to, goods,
6 wares, merchandise, motor vehicles, watercraft, household
7 items, and furnishings.

8 (11) PROPERTY WHICH HAS NO COMMERCIAL VALUE.
9 Property offered for sale in a commercially reasonable sale
10 that receives no bid or offer.

11 (12) RENTAL AGREEMENT. Any written agreement or
12 lease that establishes or modifies the terms, conditions, or
13 rules concerning the use and occupancy of leased space at a
14 self-service storage facility.

15 (13) SELF-SERVICE STORAGE FACILITY. Any real
16 property used for renting or leasing individual storage spaces
17 in which the occupants customarily store and remove their own
18 personal property on a self-service basis.

19 (14) VERIFIED MAIL. Any method of mailing offered by
20 the United States Postal Service or private delivery service
21 that provides evidence of the mailing.

22 §8-15-42.

23 (a) An operator shall not knowingly permit a leased
24 space at a self-service storage facility to be used for
25 residential purposes.

26 (b) An occupant shall not use a leased space for
27 residential purposes.

1 §8-15-43.

2 An occupant, upon reasonable request from the
3 operator, shall allow the operator to enter a leased space for
4 the purpose of inspection or repair. If an emergency occurs,
5 an operator may enter a leased space for inspection or repair
6 without notice to or consent from the occupant.

7 §8-15-44.

8 (a) The operator of a self-service storage facility
9 and the heirs, executors, administrators, successors, and
10 assigns of the operator shall have a lien upon all of the
11 personal property of an occupant located at the self-service
12 storage facility for delinquent rent, late fees, labor, or
13 other charges incurred pursuant to a rental agreement and for
14 expenses incurred for preservation, sale, or disposition of
15 the personal property. The lien provided for in this section
16 is superior to any other lien or security interest, except for
17 a tax lien as otherwise provided by law.

18 (b) The lien described in subsection (a) attaches on
19 the date on which personal property is placed in a leased
20 space.

21 (c) The rental agreement shall contain a statement,
22 in bold type, advising the occupant of all of the following:

23 (1) The existence of the lien.

24 (2) That personal property stored in the leased
25 space may be sold to satisfy the lien if the occupant is in
26 default.

1 (3) That the occupant must disclose any lienholders
2 with an interest in property that is stored or will be stored
3 in the leased space.

4 (d) If the rental agreement specifies a limit on the
5 value of personal property that the occupant may store in the
6 leased space, the limit shall be deemed to be the maximum
7 value of the personal property in the leased space of the
8 occupant.

9 (e) The rental agreement may provide for a
10 reasonable late fee when the occupant is in default. A monthly
11 late fee of twenty dollars (\$20) or 20 percent of the monthly
12 rental amount, whichever is greater, shall be considered
13 reasonable and is not a penalty.

14 §8-15-45.

15 If the occupant is in default, the operator may deny
16 the occupant access to the leased space at the self-service
17 storage facility. The operator may enter and remove the
18 personal property from the leased space to other suitable
19 storage space pending its sale or other disposition.

20 §8-15-46.

21 (a) If an occupant is in default for a period of
22 more than 30 days, the operator may enforce the lien granted
23 in Section 8-15-44 by selling the stored personal property of
24 the occupant. Sale of the personal property of an occupant may
25 be by public or private proceedings. The personal property may
26 be sold as a unit or in parcels, by way of one or more
27 contracts, at any time or place, with bids or offers sealed or

1 open, and on any terms as long as the sale is a commercially
2 reasonable sale. The operator may otherwise dispose of any
3 property which has no commercial value.

4 (b) Before conducting a sale under this section, the
5 operator shall do all of the following:

6 (1) At least 20 days before the sale, send notice of
7 default to the occupant and any lienholder identified by the
8 occupant in the rental agreement by verified mail or
9 electronic mail pursuant to subsection (h). The notice of
10 default shall include:

11 a. A statement that the contents of the leased space
12 are subject to the operator's lien.

13 b. A statement of the operator's claim, indicating
14 the charges due on the date of the notice, the amount of any
15 additional charges which shall become due before the date of
16 sale, and the date the additional charges shall become due.

17 c. A demand for payment of the charges due within a
18 specified time, which shall not be less than 10 days after the
19 date of the notice.

20 d. A statement that unless the claim is paid within
21 the time stated, the contents of the leased space will be sold
22 or otherwise disposed of after a specified time.

23 e. The name, street address, and telephone number of
24 the operator or a designated agent whom the occupant may
25 contact to respond to the notice.

26 (2) At least seven days before the sale, an
27 advertisement containing the time, place, and terms of the

1 sale shall be published once in a newspaper of general
2 circulation in the county where the self-service storage
3 facility is located. A single advertisement listing multiple
4 sales in a newspaper of general circulation in the county
5 shall suffice. If no newspaper of general circulation is
6 located in the county, or if the operator determines, based on
7 the previous experience of the operator, that the contents of
8 the leased space have a value of five hundred dollars (\$500)
9 or less, then an advertisement in any commercially reasonable
10 manner shall suffice. The manner of advertisement is deemed
11 commercially reasonable if it is likely to attract at least
12 three independent bidders to attend or view the sale in person
13 or online at the time and place advertised.

14 (c) The operator may buy the personal property of
15 the occupant at any public sale held pursuant to this section.

16 (d) If the personal property subject to the
17 operator's lien is a vehicle, watercraft, or trailer and rent
18 and other charges remain unpaid for 60 days, the operator may
19 have the vehicle, watercraft, or trailer towed from the
20 self-service storage facility. The operator shall not be
21 liable for any damages to the vehicle, watercraft, or trailer
22 once the tower takes possession of the property. Removal of
23 any vehicle, watercraft, or trailer from the self-service
24 storage facility shall not release the operator's lien. The
25 sale of a watercraft shall comply with Section 33-5A-4. Any
26 provision of this article to the contrary notwithstanding,
27 unclaimed motor vehicles shall be reported in accordance with

1 Section 32-8-84 and abandoned motor vehicles shall be sold in
2 accordance with Chapter 13 of Title 32.

3 (e) At any time before a sale is held under this
4 section or before a vehicle, watercraft, or trailer is towed
5 under this section, the occupant may pay the amount necessary
6 to satisfy the lien and redeem the personal property. The
7 operator shall have no liability to any person with respect to
8 personal property redeemed pursuant to this subsection.

9 (f) In the event of a sale, the operator may satisfy
10 the lien from the proceeds of the sale. The lien rights of
11 secured lienholders are automatically transferred to the
12 remaining proceeds of the sale, if any. If the sale is a
13 commercially reasonable sale, the operator shall not be
14 subject to any liability for a deficiency if the amount
15 realized at the sale does not satisfy any secured lien, but
16 shall hold the balance, if any, for delivery to the occupant
17 or any secured lienholder, upon demand. If the occupant or
18 secured lienholder, if any, does not claim the balance of the
19 proceeds within one year after the date of sale, the balance
20 shall become the property of the operator without further
21 recourse by the occupant or secured lienholder.

22 (g) A purchaser in good faith of any personal
23 property sold pursuant to this section to satisfy the lien
24 granted in Section 8-15-44 takes the property free and clear
25 of any rights of persons against whom the lien was valid,
26 despite noncompliance by the operator with the requirements of
27 this section.

1 (h) Notices to the occupant under subdivision (1) of
2 subsection (b) shall be sent to the last known address of the
3 occupant by verified mail or electronic mail. Notices sent by
4 verified mail shall be deemed delivered when deposited with
5 the United States Postal Service or private delivery service
6 if they are properly addressed with postage prepaid. Notices
7 sent by electronic mail shall be deemed delivered when an
8 electronic message is sent to the last known address provided
9 by the occupant. If the operator sends notice by electronic
10 mail and receives an automated message stating that the
11 electronic mail cannot be delivered, the operator shall send
12 notice by verified mail to the last known address of the
13 occupant with postage prepaid.

14 (i) If the operator complies with the requirements
15 of this section, the liability of the operator:

16 (1) To the occupant, shall be limited to the net
17 proceeds received from the sale of the personal property of
18 the occupant less any proceeds paid to the holders of any lien
19 or security interest of record on the personal property being
20 sold.

21 (2) To the holders of any lien or security interest
22 of record on the personal property being sold, shall be
23 limited to the net proceeds received from the sale of any
24 personal property covered by the lien or security interest of
25 the holder.

26 §8-15-47.

1 Unless the rental agreement specifically provides
2 otherwise and until a lien sale is conducted under Section
3 8-15-46, the exclusive care, custody, and control of all
4 personal property stored in a leased space remains vested in
5 the occupant, and the occupant shall bear all risks of loss or
6 damage to that personal property.

7 §8-15-48.

8 This article does not impair the power of the
9 parties to a rental agreement to create rights, duties, or
10 obligations in the rental agreement. The rights provided to an
11 operator by this article are in addition to all other rights
12 provided by law to a creditor against a debtor or to a
13 landlord against a tenant.

14 §8-15-49.

15 This article shall apply to all rental agreements
16 entered into, extended, or renewed after October 1, 2020.

17 Section 2. Article 2, commencing with Section
18 8-15-30, of Chapter 15, Title 8, Code of Alabama 1975, the
19 Self-Service Storage Act, is repealed.

20 Section 3. This act shall become effective on
21 October 1, 2020, following its passage and approval by the
22 Governor, or its otherwise becoming law.