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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO PROPERTY -- SELF-SERVICE STORAGE FACILITIES

Introduced By: Senators Tassoni, Lanzi, and DeVall

Date Introduced: January 26, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 34-42-2, 34-42-3, 34-42-4 and 34-42-8 of the General Laws in
2 Chapter 34-42 entitled "Self-Service Storage Facilities" are hereby amended to read as follows:

3 **34-42-2. Definitions.** -- As used in this chapter, the following words shall have the
4 following meanings unless the context clearly indicates otherwise:

5 (1) "Abandoned lease space" means a leased space that the owner finds unlocked and
6 empty, or a leased space in which possession and all rights to any personal property within it,
7 have been surrendered to the owner by the occupant.

8 ~~(1)~~(2) "Default" means the failure to perform on time any obligation set forth in the
9 rental agreement or this chapter.

10 (3) "Electronic mail" means an electronic message or executable program or computer
11 file that contains an image of a message transmitted between two (2) or more computers or
12 electronic terminals and includes electronic messages that are transmitted within or between
13 computer networks from which a confirmation or receipt is received.

14 (4) "Electronic mail address" means a destination commonly expressed as a string of
15 characters, consisting of a unique user name or mailbox and a reference to an Internet domain,
16 whether or not displayed, to which an electronic mail message can be sent or delivered.

17 ~~(2)~~(5) "Last known address" means that address or electronic mail address provided by
18 the occupant in the latest rental agreement or the address or electronic mail address provided by
19 the occupant in a subsequent written notice of a change of address.

1 ~~(3)~~(6) "Occupant" means a person, or his or her sublessee, successor, or assign, who is
2 entitled to the use of the storage space at a self-service storage facility under a rental agreement,
3 to the exclusion of others.

4 ~~(4)~~(7) "Owner" means the proprietor, operator, lessor, or sublessor of a self-service
5 storage facility, his or her agent, or any other person authorized by him or her to manage the
6 facility or to receive rent from an occupant under a rental agreement. An owner is not a
7 warehouseman, as defined in section 6A-7-102(1)(h) except that if an owner issues a warehouse
8 receipt, bill of lading, or other document of title for the personal property sold, the owner is
9 subject to the provisions of chapter 7 of title 6A, and the provisions of this chapter shall not
10 apply.

11 ~~(5)~~(8) "Personal property" means movable property not affixed to land and includes, but
12 is not limited to, goods, wares, merchandise, furniture, and household items.

13 ~~(6)~~(9) "Rental agreement" means any written agreement or lease that establishes or
14 modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy
15 of a self-service storage facility.

16 ~~(7)~~(10) "Self-service storage facility" means any real property designed and used for the
17 purpose of renting or leasing individual storage space to occupants who are to have access to the
18 space for the purpose of storing and removing personal property. No occupant shall use a self-
19 service storage facility for residential purposes.

20 **34-42-3. Owner's lien.** -- (a) The owner of a self-service storage facility and his or her
21 heirs, executors, administrators, successors, and assigns shall have a lien on all personal property
22 located at a self-service storage facility for rent, labor, insurance, or other valid charges, present
23 or future, in relation to the personal property stored, and for expenses necessary for the
24 preservation of the personal property or reasonably incurred in its sale pursuant to law. ~~Any lien~~
25 ~~existing prior to the date the personal property was placed at the self-service storage facility~~
26 ~~supersedes any lien of the owner.~~ The lien attaches as of the date the personal property is stored
27 in the self-service storage facility, and the rental agreement shall contain a conspicuous statement
28 notifying the occupant of the existence of the lien.

29 (b) The owner loses its lien on any personal property that it voluntarily delivers or that it
30 unjustifiably refuses to deliver.

31 **34-42-4. Enforcement of owner's lien.** -- (a) After default, an owner may deny an
32 occupant access to the storage space, terminate the right of the occupant to use the storage space,
33 enter the storage space and remove any personal property found therein to a place of safekeeping,
34 and enforce its lien by selling the stored property at a public or private sale, in accordance with

1 the following procedure:

2 (1) No sooner than ~~thirty (30)~~ five (5) days after default, but before the owner takes any
3 action to enforce its lien, the occupant and all other persons known to claim an interest in the
4 personal property stored shall be notified. The notice shall be delivered in person or by regular
5 mail to the last known address of the person or persons to be notified, or by verified electronic
6 mail, to the person or persons to be notified. ~~The notice shall be delivered in person or sent by~~
7 ~~certified mail, return receipt requested, to the person or persons to be notified.~~ The notice shall
8 include:

9 (i) An itemized statement of the claim showing the sums due at the time of the notice and
10 the date when the sums became due;

11 (ii) A statement that, based on the default, the owner has the right to deny the occupant
12 access to the leased space;

13 (iii) A general description of the personal property subject to the lien if known;

14 (iv) A demand for payment of the claim by a specified date not less than ~~thirty (30) days~~
15 ~~after mailing of the notice~~ five (5) days after mailing or delivery of the notice pursuant to section
16 1;

17 (v) A conspicuous statement that unless the claim is paid by the specified date, the
18 occupant's right to use the storage space will terminate, and the personal property will be
19 advertised for sale or will be otherwise disposed of at a specified time and place; and

20 (vi) The name, street address, and telephone number of the owner who the occupant may
21 contact to respond to the notice.

22 ~~(2) If the owner is not able to obtain personal service on those persons entitled to notice~~
23 ~~or if the certified mail return receipt is not signed by the person to whom notice must be sent then~~
24 ~~the owner shall be required to give notice by publication once a week for three (3) successive~~
25 ~~weeks in a newspaper of general circulation in the city or town where the person to receive the~~
26 ~~notice was last known to reside.~~

27 ~~(3) When notice is by publication, the notice does not have to include an itemized~~
28 ~~statement of the claim but only a statement as to the amount of money due or the time of the final~~
29 ~~notice, nor is a general description of the personal property subject to the lien required. The~~
30 ~~demand for payment of the claim by a specified date shall set forth a date no less than thirty (30)~~
31 ~~days after the date of the published notice.~~

32 (b) ~~Once notice is sent to an occupant~~ No sooner than five (5) days after default, the
33 owner may deny the occupant access to the leased space in a reasonable and peaceful manner;
34 provided, however, that the occupant may have access at any time for the sole purpose of viewing

1 the contents of his or her leased space to verify the contents thereof.

2 (c) After expiration of the time given in the notice, if the claim has not been paid in full
3 as demanded, the occupant's right to use the storage space terminates, and the owner may enter
4 the storage space and remove any personal property found therein to a place of safekeeping.

5 (d) After expiration of the time given in the notice, if the claim has not been paid in full
6 as demanded and the owner wishes to sell the personal property to satisfy its lien, an
7 advertisement of the sale must be published once a week for two (2) consecutive weeks on a
8 publicly accessible website identified in the rental agreement and in a newspaper of general
9 circulation where the sale is to be held. The advertisement must include a general description of
10 the personal property, the name of the person on whose account it is being stored and the time
11 and place of sale. The sale must take place no sooner than ten (10) days after the first publication.
12 If there is no newspaper of general circulation where the sale is to be held, the advertisement must
13 be posted at least ten (10) days before the sale in not less than six (6) conspicuous places in the
14 neighborhood of the proposed sale.

15 (e) The sale shall be held at the self-service storage facility or the nearest suitable place
16 and it shall conform to the terms of the notification.

17 (f) Before a sale of personal property, any person claiming a right to the personal
18 property may pay the amount necessary to satisfy the lien and the reasonable expenses incurred
19 by the owner to redeem the personal property. Upon receipt of this payment, the owner shall
20 release the personal property to the payor and have no further liability to any person with respect
21 to the personal property.

22 (g) The owner may buy at any sale of personal property pursuant to this section to
23 enforce the owner's lien.

24 (h) A purchaser in good faith of the personal property sold to enforce the owner's lien
25 takes the personal property free of any rights of persons against whom the lien was valid, despite
26 noncompliance by the owner with the requirements of this section.

27 (i) The owner may satisfy its lien from the proceeds of any sale pursuant to this section
28 but must hold the balance, if any, for delivery on demand to any person to whom it would have
29 been bound to deliver the personal property. If the other party does not claim the balance of the
30 proceeds within two (2) years of the date of the sale, it shall eschew to the state.

31 (j) The owner shall be liable for damages caused by failure to comply with the
32 requirements for sale under this section and in case of willful violation is liable for conversion.

33 (k) If the personal property in the leased space is a motor vehicle, watercraft, trailer,
34 motorcycle, RV or any other titled vehicle, the owner may have it towed with no liability on its

1 [part.](#)

2 **34-42-8. Notification of local fire departments.** -- (a) The owner of a self-service
3 storage facility shall require each occupant to specifically identify, in writing, the amount, nature
4 and composition of any flammable or hazardous material to be stored on the premises. The
5 occupant shall notify the owner, in writing, within twenty-four (24) hours of the time when the
6 flammable or hazardous materials are stored in the premises.

7 (b) Every ~~owner and~~ occupant of any self-service storage facility shall notify the local
8 fire department in writing of any flammable or hazardous material stored on the premises.

9 (c) Any person who violates the provisions of this section shall be fined up to one
10 thousand dollars (\$1,000) per day, or imprisoned up to six (6) months, or both.

11 (d) This section shall be enforced by the city or town through its director of public safety
12 and/or fire department and/or fire district in which the self-service storage facility is located.
13 Nothing in this section shall be construed to preempt the duties and responsibilities under the
14 Hazardous Waste Management Act, chapter 19.1 of title 23 as well as any municipal flammable
15 storage ordinances.

16 (e) The provisions of sections 45-13-7 -- 45-13-10 shall not apply to this section.

17 SECTION 2. Chapter 34-42 of the General Laws entitled "Self-Service Storage
18 Facilities" is hereby amended by adding thereto the following section:

19 **34-42-9. Contents of rental agreement.** – [\(a\) The rental agreement shall contain a](#)
20 [conspicuous statement in bold type notifying the occupant of the following:](#)

21 [\(1\) That the property stored in the leased space is not insured by the owner against loss,](#)
22 [theft or damage.](#)

23 [\(2\) The existence of the lien under this chapter.](#)

24 [\(3\) That property stored in the leased space may be sold to satisfy the lien if the occupant](#)
25 [is in default.](#)

26 [\(b\) If the rental agreement contains a limit on the value of the property that can be stored](#)
27 [in the leased space. The limit shall be deemed to be the maximum value of the property stored in](#)
28 [said leased space.](#)

29 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO PROPERTY -- SELF-SERVICE STORAGE FACILITIES

1 This act would allow the owner of a storage unit to take action five (5) days after default
2 and would expand the notice requirement to include verified electronic mail and would also
3 provide clauses to be included in the rental agreement.

4 This act would take effect upon passage.

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