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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 (~~4~~)<sup>(2)</sup> "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~~)<sup>(5)</sup> "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, motor vehicles, watercraft, motorcycles, trailers,  
13 recreational vehicles (RVs), furniture, and household items.

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

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

21           (11) "Verified mail" means any method of mailing that is offered by the United States  
22 Postal service, or through electronic mail, that provides evidence of mailing.

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

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

34           **34-42-4. Enforcement of owner's lien.** -- (a) After default, an owner may deny an

1 occupant access to the storage space, terminate the right of the occupant to use the storage space,  
2 enter the storage space and remove any personal property found therein to a place of safekeeping,  
3 and enforce its lien by selling the stored property at a public or private sale, in accordance with  
4 the following procedure:

5 (1) No sooner than ~~thirty (30)~~ five (5) days after default, but before the owner takes any  
6 action to enforce its lien, the occupant and all other persons known to claim an interest in the  
7 personal property stored shall be notified. The notice shall be delivered in person or by regular  
8 mail to the last known address of the person or persons to be notified, or by verified electronic  
9 mail, to the person or persons to be notified. This notice shall include the current balance due  
10 with a reminder to bring the past due balance current or risk the action of the owner to enforce the  
11 owner's lien. ~~The notice shall be delivered in person or sent by certified mail, return receipt~~  
12 ~~requested, to the person or persons to be notified. The notice shall include:~~

13 (2) No sooner than fourteen (14) days after default, the occupant shall again be notified.  
14 The notice shall be delivered in person or sent by regular or verified electronic mail, to the person  
15 or persons to be notified. The notice shall include:

16 (i) ~~An itemized~~ A statement of the claim showing the sums due at the time of the notice  
17 ~~and the date when the sums became due;~~

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

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

21 (iv) A demand for payment of the claim by a specified date not less than fourteen (14)  
22 days after mailing of the notice pursuant to subdivision (2); ~~thirty (30) days after mailing of the~~  
23 ~~notice~~

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

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

29 ~~(2)~~ (3) If the owner is not able to obtain personal service on those persons entitled to  
30 notice or if the certified mail return receipt is not signed by the person to whom notice must be  
31 sent then the owner shall be required to give notice by publication once a week for three (3)  
32 successive weeks in a newspaper of general circulation in the city or town where the person to  
33 receive the notice was last known to reside.

34 ~~(3)~~ (4) When notice is by publication, the notice does not have to include an itemized

1 statement of the claim but only a statement as to the amount of money due or the time of the final  
2 notice, nor is a general description of the personal property subject to the lien required. The  
3 demand for payment of the claim by a specified date shall set forth a date no less than thirty (30)  
4 days after the date of the published notice.

5 (b) ~~Once notice is sent to an occupant~~ No sooner than one day after default, the owner  
6 may deny the occupant access to the leased space in a reasonable and peaceful manner; ~~provided,~~  
7 ~~however, that the occupant may have access at any time for the sole purpose of viewing the~~  
8 ~~contents of his or her leased space to verify the contents thereof.~~

9 (c) After expiration of the time given in the second (2<sup>nd</sup>) notice, if the claim has not been  
10 paid in full as demanded, the occupant's right to use the storage space terminates, and the owner  
11 may enter the storage space and remove any personal property found therein to a place of  
12 safekeeping.

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

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

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

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

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

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

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

7 (k) The owner shall not be liable for identity theft or other harm resulting from the misuse  
8 of information contained within the contents of the occupant's storage space, which are sold or  
9 otherwise disposed of to satisfy the owner's lien.

10 (l) If the personal property in the leased space is a motor vehicle, watercraft, trailer,  
11 motorcycle, RV or any other titled vehicle, the owner may have it towed with no liability on its  
12 part.

13 **34-42-8. Notification of local fire departments.** -- (a) The owner of a self-service  
14 storage facility shall require each occupant to specifically identify, in writing, the amount, nature  
15 and composition of any flammable or hazardous material to be stored on the premises. The  
16 occupant shall notify the owner, in writing, within twenty-four (24) hours of the time when the  
17 flammable or hazardous materials are stored in the premises.

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

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

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

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

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

30 **34-42-9. Contents of rental agreement.** – (a) The rental agreement shall contain a  
31 conspicuous statement in bold type notifying the occupant of the following:

32 (1) That the property stored in the leased space is not insured by the owner against loss,  
33 theft or damage.

34 (2) The existence of the lien under this chapter.

1           (3) That property stored in the leased space may be sold to satisfy the lien if the occupant  
2 is in default.

3           (b) If the rental agreement contains a limit on the value of the property that can be stored  
4 in the leased space the limit shall be deemed to be the maximum value of the property stored in  
5 said leased space.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO PROPERTY -- SELF-SERVICE STORAGE FACILITIES

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1           This act would amend the laws regarding enforcement of self-storage facility liens and  
2 would also require certain contractual clauses to be contained in self-storage rental agreements.

3           This act would take effect upon passage.

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