

2016 -- S 2057

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO PROPERTY -- SELF-SERVICE STORAGE FACILITIES

Introduced By: Senators Walaska, Lombardo, and McCaffrey

Date Introduced: January 13, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 34-42-4 of the General Laws in Chapter 34-42 entitled "Self-
2 Service Storage Facilities" is hereby amended to read as follows:

3 **34-42-4. Enforcement of owner's lien.** -- (a) After default, an owner may deny an
4 occupant access to the storage space, terminate the right of the occupant to use the storage space,
5 enter the storage space and remove any personal property found therein to a place of safekeeping,
6 and enforce its lien by selling the stored property at a public or private sale, in accordance with
7 the following procedure:

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

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

17 (i) A statement of the claim showing the sums due at the time of the notice;

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

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

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

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

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

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

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

19 (b) No sooner than one day after default, the owner may deny the occupant access to the
20 leased space in a reasonable and peaceful manner.

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

25 (d) After expiration of the time given in the second (2nd) notice, if the claim has not
26 been paid in full as demanded and the owner wishes to sell the personal property to satisfy its
27 lien, an advertisement of the sale must be published once a week for two (2) consecutive weeks
28 on a publicly accessible website identified in the rental agreement. The advertisement must
29 include the name of the person on whose account it is being stored and the time and place of sale.
30 The sale must take place no sooner than ten (10) days after the first publication.

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

33 (f) Before a sale of personal property, any person claiming a right to the personal
34 property may pay the amount necessary to satisfy the lien and the reasonable expenses incurred

1 by the owner to redeem the personal property. Upon receipt of this payment, the owner shall
2 release the personal property to the payor and have no further liability to any person with respect
3 to the personal property.

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

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

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

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

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

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

21 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would eliminate the requirement that the owner of a self-storage facility, in the
2 absence of personal service upon any occupant who has defaulted, notify the occupant of the
3 default and the owner's enforcement of its lien by publication.

4 This act would take effect upon passage.

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