

Senate Bill 403

By: Senators Cheeks of the 23rd, Brush of the 24th and Hall of the 22nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 4 of Title 10 of the Official Code of Georgia Annotated, the
2 "Georgia Self-service Storage Facility Act," so as to change a certain definition; to provide
3 that the owner of a self-service storage facility shall not be a bailee; to provide for presumed
4 delivery of notice; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 5 of Chapter 4 of Title 10 of the Official Code of Georgia Annotated, the "Georgia
8 Self-service Storage Facility Act," is amended by striking in its entirety paragraph (4) of
9 Code Section 10-4-211, relating to definitions, and inserting in lieu thereof the following:
10 "(4) 'Personal property' means movable property not affixed to land and includes, but is
11 not limited to, goods, wares, merchandise, motor vehicles, watercraft, and household
12 items and furnishings. ~~It specifically excludes motor vehicles or other property evidenced~~
13 ~~by certificate of title."~~

14 **SECTION 2.**

15 Said article is further amended by striking in its entirety Code Section 10-4-213, relating to
16 the enforcement of a lien without judicial intervention, and inserting in lieu thereof the
17 following:
18 "10-4-213.
19 Provided that it complies with the requirements of this Code section, an owner may enforce
20 the lien without judicial intervention. Owner shall obtain from occupant a written rental
21 agreement which includes the following language:

22 This agreement, made and entered into this _____ day of _____, _____, by
23 and between _____, hereinafter called Owner, and _____,
24 hereinafter called Occupant, whose last known address is _____. For the
25 consideration hereinafter stated, the Owner agrees to let the Occupant use and occupy a

1 space in the self-service storage facility, known as _____, situated in
 2 the City of _____, County of _____, State of Georgia, and more particularly
 3 described as follows: Building # _____, Space # _____, Size _____. Said space is to
 4 be occupied and used for the purposes specified herein and subject to the conditions set
 5 forth for a period of _____, beginning on the _____ day of _____, _____,
 6 and continuing month to month until terminated.

7 'Space,' as used in this agreement, will be that part of the self-service storage facility as
 8 described above. The Occupant agrees to pay the Owner, as payment for the use of the
 9 space and improvements thereon, the monthly sum of \$_____. Monthly installments
 10 are payable in advance on or before the first of each month, in the amount of \$_____,
 11 and a like amount for each month thereafter, until the termination of this agreement.

12 If any monthly installment is not paid by the tenth of the month due, or if any check given
 13 in payment is dishonored, Occupant shall be deemed to be in default.

14 Occupant further agrees to pay the sum of one month's fees, which shall be used as a
 15 clean-up and maintenance fund, and is to be used, if required, for the repair of any
 16 damage done to the space and to clean up the space at the termination of the agreement.

17 In the event that the space is left in a good state of repair, and in a broom-swept
 18 condition, then this amount shall be refunded to the Occupant. However, it is agreed to
 19 between the parties that the Owner may set off any claims it may have against the
 20 Occupant from this fund.

21 The space named herein is to be used by the Occupant solely for the purpose of storing
 22 any personal property belonging to the Occupant. The Occupant agrees not to store any
 23 explosives or any highly inflammable goods or any other goods in the space which would
 24 cause danger to the space. The Occupant agrees that the property will not be used for any
 25 unlawful purposes and the Occupant agrees not to commit waste, nor alter, nor affix signs
 26 on the space, and to keep the space in good condition during the term of this agreement.

27 **OWNER HAS A LIEN ON ALL PERSONAL PROPERTY STORED IN OCCUPANT'S**
 28 **SPACE FOR RENT, LABOR, OR OTHER CHARGES, PRESENT OR FUTURE, IN**
 29 **RELATION TO THE PERSONAL PROPERTY, AND FOR ITS PRESERVATION OR**
 30 **EXPENSES REASONABLY INCURRED IN ITS SALE OR OTHER DISPOSITION**
 31 **PURSUANT TO THIS AGREEMENT. PERSONAL PROPERTY STORED IN**
 32 **OCCUPANT'S SPACE WILL BE SOLD OR OTHERWISE DISPOSED OF IF NO**
 33 **PAYMENT HAS BEEN RECEIVED FOR A CONTINUOUS THIRTY-DAY PERIOD**
 34 **AFTER DEFAULT. IN ADDITION, UPON OCCUPANT'S DEFAULT, OWNER MAY**
 35 **WITHOUT NOTICE DENY OCCUPANT ACCESS TO THE PERSONAL PROPERTY**
 36 **STORED IN OCCUPANT'S SPACE UNTIL SUCH TIME AS PAYMENT IS**
 37 **RECEIVED. IF ANY MONTHLY INSTALLMENT IS NOT MADE BY THE TENTH**

1 OF THE MONTH DUE, OR IF ANY CHECK GIVEN IN PAYMENT IS
 2 DISHONORED, THE OCCUPANT IS IN DEFAULT FROM DATE PAYMENT WAS
 3 DUE.

4 For purposes of Owner's lien: 'personal property' means movable property, not affixed
 5 to land, and includes, but is not limited to, goods, wares, merchandise, motor vehicles,
 6 watercraft, household items, and furnishings; 'last known address' means that address
 7 provided by the Occupant in the latest rental agreement or the address provided by the
 8 Occupant in a subsequent written notice of a change of address.

9 The Owner's lien is superior to any other lien or security interest, except those which are
 10 evidenced by a certificate of title or perfected and recorded prior to the date of this rental
 11 agreement in Georgia, in the name of the Occupant, either in the county of the
 12 Occupant's 'last known address' or in the county where the self-service storage facility
 13 is located, except any tax lien as provided by law and except those liens or security
 14 interests of whom the Owner has knowledge through the Occupant's disclosure in this
 15 rental agreement or through other written notice. Occupant attests that the personal
 16 property in his space(s) is free and clear of all liens and secured interests except for
 17 _____. The Owner's lien attaches as of the date the personal property is brought
 18 to the self-service storage facility.

19 Except as otherwise specifically provided in this rental agreement, the exclusive care,
 20 custody, and control of any and all personal property stored in the leased space shall
 21 remain vested in the Occupant. The Owner does not become a bailee of the Occupant's
 22 personal property by the enforcement of the Owner's lien.

23 If Occupant has been in default continuously for thirty (30) days, Owner may enforce its
 24 lien, provided Owner shall comply with the following procedure:

25 The Occupant shall be notified in writing by delivery in person or by certified mail or
 26 statutory overnight delivery to the last known address of Occupant. The Owner also
 27 shall notify other parties with superior liens or security interests as defined in this rental
 28 agreement. Such notice shall be presumed delivered ~~when notice of delivery, failure to~~
 29 ~~accept delivery, or the impossibility of delivery is received by Owner~~ seven (7)
 30 business days after the date of mailing as evidenced by the receipt provided by the
 31 United States Postal Service or such other evidence of mailing as prescribed or accepted
 32 by the United States Postal Service.

33 Owner's notice to Occupant shall include an itemized statement of the Owner's claim
 34 showing the sum due, at the time of the notice, and the date when the sum became due.
 35 It shall briefly and generally describe the personal property subject to the lien. The
 36 description shall be reasonably adequate to permit the person(s) notified to identify it,
 37 except that any container included, but not limited to, a trunk, valise, or box that is

1 locked, fastened, sealed, or tied in a manner which deters immediate access to its
2 contents may be described as such without describing its contents. Owner's notice shall
3 notify Occupant of denial of access to the personal property and provide the name,
4 street address, and telephone number of the Owner or its designated agent, whom the
5 Occupant may contact to respond to this notice. Owner's notice shall demand payment
6 within a specified time, not less than fourteen (14) days after delivery of the notice. It
7 shall state that, unless the claim is paid, within the time stated in the notice, the personal
8 property will be advertised for public sale to the highest bidder, and will be sold at a
9 public sale to the highest bidder, at a specified time and place.

10 After the expiration of the time given in Owner's notice, Owner shall publish an
11 advertisement of the public sale to the highest bidder, once a week, for two consecutive
12 weeks, in a newspaper of general circulation where the self-service storage facility is
13 located. The advertisement shall include: a brief and general description of the personal
14 property, reasonably adequate to permit its identification; the address of the self-service
15 storage facility, and the number, if any, of the space where the personal property is
16 located, and the name of the Occupant; and the time, place, and manner of the public sale.
17 The public sale to the highest bidder shall take place not sooner than fifteen (15) days
18 after the first publication. If there is no newspaper of general circulation where the
19 self-service storage facility is located, the advertisement shall be posted at least ten (10)
20 days before the date of the public sale and in not less than six (6) conspicuous places in
21 the neighborhood where the self-service storage facility is located.

22 If no one purchases the property at the public sale and if the Owner has complied with
23 the foregoing procedures, the Owner may otherwise dispose of the property and shall
24 notify the Occupant of the action taken. Any sale or disposition of the personal property
25 shall be held at the self-service storage facility or at the nearest suitable place to where
26 the personal property is held or stored.

27 Before any sale or other disposition of personal property pursuant to this agreement, the
28 Occupant may pay the amount necessary to satisfy the lien and the reasonable expenses
29 incurred and thereby redeem the personal property and thereafter the Owner shall have
30 no liability to any person with respect to such personal property.

31 A Purchaser in good faith of the personal property sold to satisfy Owner's lien takes the
32 property free of any rights of persons against whom the lien was valid, despite
33 noncompliance by the Owner with the requirements of this agreement.

34 In the event of a sale, the Owner may satisfy his lien from the proceeds of the sale. The
35 Owner shall hold the balance of the proceeds, if any, for the Occupant or any notified
36 secured interest holder. If not claimed within two years of the date of sale, the balance of
37 the proceeds shall be disposed of in accordance with Article 5 of Chapter 12 of Title 44,

1 the 'Disposition of Unclaimed Property Act.' In no event shall the Owner's liability
2 exceed the proceeds of the sale."

3 **SECTION 3.**

4 All laws and parts of laws in conflict with this Act are repealed.