

House Bill 649

By: Representative Harbin of the 118th

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,
2 relating to self-service storage facilities, so as to provide a short title; to include an email
3 address in the definition of last known address; to provide for definitions; to change the due
4 date for monthly rental payments; to provide procedures for sending notice of default; to
5 provide for print or electronic publication of notice of public sale of property; to provide for
6 late fees; to provide for limitations on an owner's liability; to provide for towing of motor
7 vehicles and watercraft; to provide for delay in filing an owner's lien if an occupant is
8 deployed overseas by the armed services; to provide for related matters; to provide for an
9 effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 5 of Chapter 4 of Title 10 of the Official Code of Georgia Annotated, relating to
13 self-service storage facilities, is revised to read as follows:

14 "ARTICLE 5

15 10-4-210.

16 This article shall be known and may be cited as the 'Georgia Self-service Storage Facility
17 Act of 2011.'

18 10-4-211.

19 For purposes of this article, the term:

20 (1) 'Active duty' means active duty pursuant to an executive order of the President of the
21 United States, an act of Congress, or an order of the Governor.

22 ~~(1)~~(2) 'Last known address' means that the street address, post office box, or electronic
23 mail address provided by the occupant in the latest rental agreement or the address

24 provided by the occupant in a subsequent written notice of a change of address by hand
 25 delivery, verified first-class mail, or electronic delivery with a receipt.

26 ~~(2)~~(3) 'Occupant' means a person, his or her sublessee, successor, or assign entitled to the
 27 use of the storage space at a self-service storage facility under a rental agreement, to the
 28 exclusion of others.

29 ~~(3)~~(4) 'Owner' means the owner, operator, lessor, or sublessor of a self-service storage
 30 facility, his or her agent, or any other person authorized ~~by him~~ to manage the facility or
 31 to receive rent from an occupant under a rental agreement.

32 ~~(4)~~(5) 'Personal property' means movable property not affixed to land and includes, but
 33 is not limited to, goods, wares, merchandise, motor vehicles, watercraft, and household
 34 items and furnishings.

35 ~~(5)~~(6) 'Rental agreement' means any agreement or lease, written or oral, that establishes
 36 or modifies the terms, conditions, rules, or any other provisions concerning the use and
 37 occupancy of a self-service storage facility.

38 ~~(6)~~(7) 'Self-service storage facility' means any real property designed and used for the
 39 purpose of renting or leasing individual storage space to occupants who are to have
 40 access to such for the purpose of storing and removing personal property. No occupant
 41 shall use a self-service storage facility for residential purposes. A self-service storage
 42 facility is not a warehouse within the meaning of Article 1 of this chapter, known as the
 43 'Georgia State Warehouse Act,' and the provisions of law relative to bonded public
 44 warehousemen shall not apply to the owner of a self-service storage facility. A
 45 self-service storage facility is not a safe-deposit box or vault maintained by banks, trust
 46 companies, or other financial entities.

47 (8) 'Service member' means a member of the armed forces, a reserve branch of the armed
 48 forces, or the Georgia National Guard.

49 (9) 'Verified mail' means any method of mailing that is offered by the United States
 50 Postal Service that provides evidence of mailing.

51 10-4-212.

52 The owner of a self-service storage facility and his or her heirs, executors, administrators,
 53 successors, and assigns have a lien upon all personal property located at a self-service
 54 storage facility for rent, labor, or other charges, present or future, in relation to the personal
 55 property and for expenses necessary for its preservation or expenses reasonably incurred
 56 in its sale or other disposition pursuant to this article. The lien provided for in this Code
 57 section is superior to any other lien or security interest except those which are perfected
 58 and recorded prior to the date of the rental agreement in Georgia in the name of the
 59 occupant, either in the county of the occupant's last known address or in the county where

60 the self-service storage facility is located, except any tax lien as otherwise provided by law
 61 and except any lienholder with an interest in the property of whom the owner has
 62 knowledge either through the disclosure provision of the rental agreement or through other
 63 written notice. The lien attaches as of the date the personal property is brought to the
 64 self-service storage facility.

65 10-4-213.

66 Provided that it complies with the requirements of this Code section, an owner may enforce
 67 the lien without judicial intervention. ~~Owner~~ The owner shall obtain from the occupant a
 68 written rental agreement which includes the following language:

69 This agreement, made and entered into this _____ day of _____, _____, by
 70 and between _____, hereinafter called Owner, and _____,
 71 hereinafter called Occupant, whose last known address is _____. For the
 72 consideration hereinafter stated, the Owner agrees to let the Occupant use and occupy a
 73 space in the self-service storage facility, known as _____, situated in
 74 the City of _____, County of _____, State of Georgia, and more particularly
 75 described as follows: Building #_____, Space #_____, Size _____. Said space is to
 76 be occupied and used for the purposes specified herein and subject to the conditions set
 77 forth for a period of _____, beginning on the _____ day of _____, _____,
 78 and continuing month to month until terminated.

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

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

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

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

93 The space named herein is to be used by the Occupant solely for the purpose of storing
 94 any personal property belonging to the Occupant. The Occupant agrees not to store any
 95 explosives or any highly inflammable goods or any other goods in the space which would

96 cause danger to the space. The Occupant agrees that the property will not be used for any
 97 unlawful purposes and the Occupant agrees not to commit waste, nor alter, nor affix signs
 98 on the space, and to keep the space in good condition during the term of this agreement.
 99 OWNER HAS A LIEN ON ALL PERSONAL PROPERTY STORED IN OCCUPANT'S
 100 SPACE FOR RENT, LABOR, OR OTHER CHARGES, PRESENT OR FUTURE, IN
 101 RELATION TO THE PERSONAL PROPERTY, AND FOR ITS PRESERVATION OR
 102 EXPENSES REASONABLY INCURRED IN ITS SALE OR OTHER DISPOSITION
 103 PURSUANT TO THIS AGREEMENT. PERSONAL PROPERTY STORED IN
 104 OCCUPANT'S SPACE WILL BE SOLD OR OTHERWISE DISPOSED OF IF NO
 105 PAYMENT HAS BEEN RECEIVED FOR A CONTINUOUS THIRTY-DAY PERIOD
 106 AFTER DEFAULT. IN ADDITION, UPON OCCUPANT'S DEFAULT, OWNER MAY
 107 WITHOUT NOTICE DENY OCCUPANT ACCESS TO THE PERSONAL PROPERTY
 108 STORED IN OCCUPANT'S SPACE UNTIL SUCH TIME AS PAYMENT IS
 109 RECEIVED. IF ANY MONTHLY INSTALLMENT IS NOT MADE BY THE ~~TENTH~~
 110 FIFTH OF THE MONTH DUE, OR IF ANY CHECK GIVEN IN PAYMENT IS
 111 DISHONORED, THE OCCUPANT IS IN DEFAULT FROM DATE PAYMENT WAS
 112 DUE.

113 For purposes of Owner's lien: 'personal property' means movable property, not affixed
 114 to land, and includes, but is not limited to, goods, wares, merchandise, motor vehicles,
 115 watercraft, household items, and furnishings; 'last known address' means ~~that the street~~
 116 address, post office box, or electronic mail address provided by the occupant in the latest
 117 rental agreement or the address provided by the occupant in a subsequent written notice
 118 of a change of address by hand delivery, verified first-class mail, or electronic delivery
 119 with a receipt.

120 The Owner's lien is superior to any other lien or security interest, except those which are
 121 evidenced by a certificate of title or perfected and recorded prior to the date of this rental
 122 agreement in Georgia, in the name of the Occupant, either in the county of the Occupant's
 123 'last known address' or in the county where the self-service storage facility is located,
 124 except any tax lien as provided by law and except those liens or security interests of
 125 whom the Owner has knowledge through the Occupant's disclosure in this rental
 126 agreement or through other written notice. Occupant attests that the personal property
 127 in his Occupant's space(s) is free and clear of all liens and secured interests except for
 128 _____ . The Owner's lien attaches as of the date the personal property is brought
 129 to the self-service storage facility.

130 Except as otherwise specifically provided in this rental agreement, the exclusive care,
 131 custody, and control of any and all personal property stored in the leased space shall

132 remain vested in the Occupant. The Owner does not become a bailee of the Occupant's
 133 personal property by the enforcement of the Owner's lien.

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

136 The Occupant shall be notified ~~in writing by delivery in person or by certified mail or~~
 137 ~~statutory overnight delivery to the last known address of Occupant of the Owner's intent~~
 138 to enforce the Owner's lien by written notice delivered in person, by verified mail, or
 139 by electronic mail to the Occupant's last known address. The Owner also shall notify
 140 other parties with superior liens or security interests as defined in this rental agreement.
 141 ~~Such~~ A notice given pursuant to this section shall be presumed delivered ~~as of the date~~
 142 ~~indicated on the proof of delivery or, if there is no proof of delivery, on the fourteenth~~
 143 ~~day after sending as shown by~~ when it is deposited with the United States Postal
 144 Service ~~or the statutory overnight delivery service. and properly addressed with postage~~
 145 prepaid or when it is transmitted by electronic mail to the Occupant's last known
 146 electronic mail address. The notice shall include all of the following:

147 ~~Owner's notice to Occupant shall include an~~ An itemized statement of the Owner's
 148 claim showing the sum due; at the time of the notice, and the date when the sum
 149 became due. It shall briefly and generally describe the personal property subject to the
 150 lien. The description shall be reasonably adequate to permit the person(s) notified to
 151 identify it, except that any container included, but not limited to, a trunk, valise, or box
 152 that is locked, fastened, sealed, or tied in a manner which deters immediate access to
 153 its contents may be described as such without describing its contents. Owner's notice
 154 shall notify Occupant of denial of access to the personal property and provide the name,
 155 street address, and telephone number of the Owner or its designated agent, whom the
 156 Occupant may contact to respond to this notice. Owner's notice shall demand payment
 157 within a specified time, not less than fourteen (14) days after delivery of the notice. It
 158 shall state that, unless the claim is paid, within the time stated in the notice, the personal
 159 property will be advertised for public sale to the highest bidder, and will be sold at a
 160 public sale to the highest bidder, at a specified time and place.

161 After the expiration of the time given in Owner's notice, Owner shall publish an
 162 advertisement of the public sale to the highest bidder, once a week, for two consecutive
 163 weeks, in the print or electronic version of a newspaper of general circulation where the
 164 self-service storage facility is located. The advertisement shall include: a brief and
 165 general description of the personal property, reasonably adequate to permit its
 166 identification; the address of the self-service storage facility, and the number, if any, of
 167 the space where the personal property is located, and the name of the Occupant; and the
 168 time, place, and manner of the public sale. The public sale to the highest bidder shall take

169 place not sooner than fifteen (15) days after the first publication. If there is no newspaper
170 of general circulation where the self-service storage facility is located, the advertisement
171 shall be posted at least ten (10) days before the date of the public sale and in not less than
172 six (6) conspicuous places in the neighborhood where the self-service storage facility is
173 located or posted once per week for two (2) consecutive weeks on a publicly available
174 website identified in the rental agreement. Regardless of whether a sale involves the
175 property of more than one Occupant, a single advertisement may be used to advertise the
176 disposal of property at the sale.

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

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

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

189 In the event of a sale, the Owner may satisfy his or her lien from the proceeds of the sale.
190 The Owner shall hold the balance of the proceeds, if any, for the Occupant or any notified
191 secured interest holder. If not claimed within two years of the date of sale, the balance
192 of the proceeds shall be ~~disposed of in accordance with Article 5 of Chapter 12 of Title~~
193 ~~44, the 'Disposition of Unclaimed Property Act.'~~ the property of the Owner. In no event
194 shall the Owner's liability exceed the proceeds of the sale.

195 The Owner may impose a reasonable late fee on the Occupant for each month the
196 Occupant does not pay rent when due. Any late fee imposed by the Owner pursuant to
197 this section is in addition to any other remedy provided by law or contract.

198 The Owner shall provide adequate notice to the Occupant before a late fee is imposed.
199 Adequate notice is provided if a notice is sent to the Occupant at the last known address
200 and notifies the Occupant that a late fee may be charged in any month in which the
201 Occupant does not pay rent when due.

202 If the rental agreement contains a limit on the value of property stored in the Occupant's
203 storage space, the limit shall be deemed to be the maximum value of the property stored
204 in that space.

205 If the property upon which the lien is claimed is a motor vehicle or watercraft and rent
 206 and other charges related to the property remain unpaid or unsatisfied for 60 days
 207 following the maturity of the obligation to pay rent, the Owner may have the property
 208 towed in lieu of foreclosing on the lien. If a vehicle or watercraft is towed as authorized
 209 in this section, the Owner shall not be liable for the vehicle or watercraft or any damages
 210 to the vehicle or watercraft once the tower takes possession of the property.

211 10-4-214.

212 Nothing in this article shall be construed as in any manner impairing or affecting the right
 213 of the parties to create additional rights, duties, and obligations in and by virtue of the
 214 rental agreement. The rights provided by this article shall be in addition to all other rights
 215 allowed by law to a creditor against his or her debtor. An occupant who is a service
 216 member and who is transferred or deployed overseas on active duty for a period of 180
 217 days or more may notify the owner of the transfer or deployment. The occupant shall
 218 provide written evidence of the transfer or deployment with the notice. If an owner
 219 receives a notice with supporting evidence from an occupant, the owner shall not enforce
 220 an owner's lien until 90 days after the end of the occupant's overseas deployment.

221 10-4-215.

222 All rental agreements entered into before July 1, ~~1982~~ 2011, and not extended or renewed
 223 after that date; and the rights and duties and interests flowing from them shall remain valid
 224 and may be enforced or terminated in accordance with their terms or as permitted by any
 225 other statute or law of this state."

226 **SECTION 2.**

227 This Act shall become effective on July 1, 2011.

228 **SECTION 3.**

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