

Senate Bill 61

By: Senator Stone of the 23rd

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 change the short title; to provide for
3 definitions; to change the due date for monthly rental payments; to provide procedures for
4 sending notice of default; to provide for print or electronic publication of notice of public
5 sale of property; to provide for limitations on an owner's liability; to provide for towing of
6 motor vehicles and watercraft; to provide for delay in filing an owner's lien if an occupant
7 is deployed overseas by the armed services; to exempt certain rental agreements; to provide
8 for related matters; to provide for an effective date; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**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 as follows:

14 style="text-align:center">"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 2013.'

18 10-4-211.

19 For purposes of this article, the term:

20 (1) 'Active duty' means full-time duty status in the active uniformed services of the
21 United States, including members of the National Guard and Reserve on active duty
22 orders pursuant to 10 U.S.C. Sections 1209 and 1211.

23 (2) 'E-mail' means an electronic message or an executable program or computer file that
24 contains an image of a message that is transmitted between two or more computers or

25 electronic terminals. The term includes electronic messages that are transmitted within
 26 or between computer networks.

27 ~~(1)~~(3) 'Last known address' means that the street address, post office box address, or
 28 e-mail address provided by the occupant in the latest rental agreement or the address
 29 provided by the occupant in a subsequent written notice of a change of address by hand
 30 delivery, verified mail, or e-mail.

31 ~~(2)~~(4) 'Occupant' means a person, his or her sublessee, successor, or assign entitled to the
 32 use of the storage space at a self-service storage facility under a rental agreement, to the
 33 exclusion of others.

34 ~~(3)~~(5) 'Owner' means the owner, operator, lessor, or sublessor of a self-service storage
 35 facility, his or her agent, or any other person authorized ~~by him~~ to manage the facility or
 36 to receive rent from an occupant under a rental agreement.

37 ~~(4)~~(6) 'Personal property' means movable property not affixed to land and includes, but
 38 is not limited to, goods, wares, merchandise, motor vehicles, watercraft, and household
 39 items and furnishings.

40 ~~(5)~~(7) 'Rental agreement' means any agreement or lease, written or oral, that establishes
 41 or modifies the terms, conditions, rules, or any other provisions concerning the use and
 42 occupancy of a self-service storage facility.

43 ~~(6)~~(8) 'Self-service storage facility' means any real property designed and used for the
 44 purpose of renting or leasing individual storage space to occupants who are to have
 45 access to such for the purpose of storing and removing personal property. No occupant
 46 shall use a self-service storage facility for residential purposes. A self-service storage
 47 facility is not a warehouse within the meaning of Article 1 of this chapter, known as the
 48 'Georgia State Warehouse Act,' and the provisions of law relative to bonded public
 49 warehousemen shall not apply to the owner of a self-service storage facility. A
 50 self-service storage facility is not a safe-deposit box or vault maintained by banks, trust
 51 companies, or other financial entities.

52 (9) 'Service member' means a member of the armed forces, a reserve branch of the armed
 53 forces, or the Georgia National Guard.

54 (10) 'Verified mail' means the method of mailing that is offered by the United States
 55 Postal Service or statutory overnight delivery that provides evidence of mailing.

56 10-4-212.

57 The owner of a self-service storage facility and his or her heirs, executors, administrators,
 58 successors, and assigns have a lien upon all personal property located at a self-service
 59 storage facility for rent, labor, or other charges, present or future, in relation to the personal
 60 property and for expenses necessary for its preservation or expenses reasonably incurred

61 in its sale or other disposition pursuant to this article. The lien provided for in this Code
 62 section is superior to any other lien or security interest except those which are perfected
 63 and recorded prior to the date of the rental agreement in Georgia in the name of the
 64 occupant, either in the county of the occupant's last known address or in the county where
 65 the self-service storage facility is located, except any tax lien as otherwise provided by law
 66 and except any lienholder with an interest in the property of whom the owner has
 67 knowledge either through the disclosure provision of the rental agreement or through other
 68 written notice. The lien attaches as of the date the personal property is brought to the
 69 self-service storage facility.

70 10-4-213.

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

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

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

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

91 Occupant further agrees to pay the sum of one month's fees, which shall be used as a
 92 clean-up and maintenance fund, and is to be used, if required, for the repair of any
 93 damage done to the space and to clean up the space at the termination of the agreement.
 94 In the event that the space is left in a good state of repair, and in a broom-swept
 95 condition, then this amount shall be refunded to ~~the~~ Occupant. However, it is agreed to

96 between the parties that ~~the~~ Owner may set off any claims it may have against ~~the~~
 97 Occupant from this fund.

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

118 For purposes of Owner's lien: 'personal property' means movable property, not affixed
 119 to land, and includes, but is not limited to, goods, wares, merchandise, motor vehicles,
 120 watercraft, household items, and furnishings; 'last known address' means ~~that~~ the street
 121 address or post office box address provided by ~~the occupant~~ Occupant in the latest rental
 122 agreement or the address provided by ~~the occupant~~ Occupant in a subsequent written
 123 notice of a change of address by hand delivery, verified mail, or e-mail.

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

132 _____ . ~~The~~ Owner's lien attaches as of the date the personal property is brought
133 to the self-service storage facility.

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

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

140 ~~The~~ Occupant shall be notified ~~in writing by delivery in person or by certified mail or~~
141 ~~statutory overnight delivery to the last known address of Occupant~~ of Owner's intent
142 to enforce Owner's lien by written notice delivered in person, by verified mail, or by
143 e-mail. ~~The~~ Owner also shall notify other parties with superior liens or security
144 interests as defined in this rental agreement. ~~A Such notice given pursuant to this rental~~
145 ~~agreement shall be presumed delivered as of the date indicated on the proof of delivery~~
146 ~~or, if there is no proof of delivery, on the fourteenth day after sending as shown by~~ sent
147 when it is deposited with the United States Postal Service or the statutory overnight
148 delivery service properly addressed with postage or delivery fees prepaid or sent by
149 e-mail. If Owner sends notice of a pending sale of property to Occupant's last known
150 e-mail address and does not receive a response or a receipt of delivery to the e-mail
151 address, Owner shall send notice of the sale to Occupant by verified mail to Occupant's
152 last known postal address before proceeding with the sale.

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

167 After the expiration of the time given in Owner's notice, Owner shall publish an
168 advertisement of the public sale to the highest bidder, once a week, for two consecutive

169 weeks, in a newspaper of general circulation where the self-service storage facility is
 170 located the legal organ for the county where the self-service storage facility is located.
 171 The sale shall be deemed commercially reasonable if at least three (3) independent
 172 bidders attend the sale at the time and place advertised. 'Independent bidder' means a
 173 bidder who is not related to and who has no controlling interest in, or common pecuniary
 174 interest with, Owner or any other bidder. The advertisement shall include: a brief and
 175 general description of the personal property, reasonably adequate to permit its
 176 identification; the address of the self-service storage facility, and the number, if any, of
 177 the space where the personal property is located, and the name of ~~the~~ Occupant; and the
 178 time, place, and manner of the public sale. The public sale to the highest bidder shall take
 179 place not sooner than fifteen (15) days after the first publication. ~~If there is no newspaper~~
 180 ~~of general circulation where the self-service storage facility is located, the advertisement~~
 181 ~~shall be posted at least ten (10) days before the date of the public sale and in not less than~~
 182 ~~six (6) conspicuous places in the neighborhood where the self-service storage facility is~~
 183 ~~located.~~ Regardless of whether a sale involves the property of more than one Occupant,
 184 a single advertisement may be used to advertise the disposal of property at the sale. A
 185 public sale includes offering the property on a publicly accessible website that regularly
 186 conducts online auctions of personal property. Such sale shall be considered incidental
 187 to the self-storage business and no license shall be required.

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

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

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

200 In the event of a sale, ~~the~~ Owner may satisfy his or her lien from the proceeds of the sale.
 201 ~~The~~ Owner shall hold the balance of the proceeds, if any, for ~~the~~ Occupant or any notified
 202 secured interest holder. If not claimed within two years of the date of sale, the balance
 203 of the proceeds shall be disposed of in accordance with Article 5 of Chapter 12 of Title
 204 44, the 'Disposition of Unclaimed Property Act.' In no event shall ~~the~~ Owner's liability
 205 exceed the proceeds of the sale.

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

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

215 10-4-214.

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

225 10-4-215.

226 All rental agreements entered into before July 1, ~~1982~~ 2013, and not extended or renewed
 227 after that date; and the rights and duties and interests flowing from them shall remain valid
 228 and may be enforced or terminated in accordance with their terms or as permitted by any
 229 other statute or law of this state."

230 **SECTION 2.**

231 This Act shall become effective on July 1, 2013.

232 **SECTION 3.**

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