

Senate Bill 61

By: Senator Stone of the 23rd

AS PASSED SENATE

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 publication of notice of public sale of property; to
5 provide for limitations on an owner's liability; to provide for towing of motor vehicles,
6 trailers, and watercraft; to exempt certain rental agreements; to provide for related matters;
7 to provide for an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

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

12 "ARTICLE 5

13 10-4-210.

14 This article shall be known and may be cited as the 'Georgia Self-service Storage Facility
15 Act of 2013.'

16 10-4-211.

17 For purposes of this article, the term:

18 (1) 'E-mail' means an electronic message or an executable program or computer file that
19 contains an image of a message that is transmitted between two or more computers or
20 electronic terminals. The term includes electronic messages that are transmitted within
21 or between computer networks.

22 ~~(1)~~(2) 'Last known address' means that the street address, post office box address, or
23 e-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 mail, or e-mail.

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, trailers, watercraft, and
 34 household 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) 'Verified mail' means the method of mailing that is offered by the United States
 48 Postal Service or statutory overnight delivery that provides evidence of mailing.

49 10-4-212.

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

60 knowledge either through the disclosure provision of the rental agreement or through other
 61 written notice. The lien attaches as of the date the personal property is brought to the
 62 self-service storage facility.

63 10-4-213.

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

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

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

82 If any monthly installment is not paid by the ~~tenth~~ seventh calendar day of the month due,
 83 or if any check given in payment is dishonored by the financial institution on which it is
 84 drawn, Occupant shall be deemed to be in default.

85 Occupant further agrees to pay the sum of one month's fees, which shall be used as a
 86 clean-up and maintenance fund, and is to be used, if required, for the repair of any
 87 damage done to the space and to clean up the space at the termination of the agreement.
 88 In the event that the space is left in a good state of repair, and in a broom-swept
 89 condition, then this amount shall be refunded to ~~the~~ Occupant. However, it is agreed to
 90 between the parties that ~~the~~ Owner may set off any claims it may have against ~~the~~
 91 Occupant from this fund.

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

96 unlawful purposes and ~~the~~ Occupant agrees not to commit waste, nor alter, nor affix signs
 97 on the space, and to keep the space in good condition during the term of this agreement.
 98 OWNER HAS A LIEN ON ALL PERSONAL PROPERTY STORED IN OCCUPANT'S
 99 SPACE FOR RENT, LABOR, OR OTHER CHARGES, PRESENT OR FUTURE, IN
 100 RELATION TO THE PERSONAL PROPERTY, AND FOR ITS PRESERVATION OR
 101 EXPENSES REASONABLY INCURRED IN ITS SALE OR OTHER DISPOSITION
 102 PURSUANT TO THIS AGREEMENT. PERSONAL PROPERTY STORED IN
 103 OCCUPANT'S SPACE WILL BE SOLD OR OTHERWISE DISPOSED OF IF NO
 104 PAYMENT HAS BEEN RECEIVED FOR A CONTINUOUS THIRTY-DAY PERIOD
 105 AFTER DEFAULT. IN ADDITION, UPON OCCUPANT'S DEFAULT, OWNER MAY
 106 WITHOUT NOTICE DENY OCCUPANT ACCESS TO THE PERSONAL PROPERTY
 107 STORED IN OCCUPANT'S SPACE UNTIL SUCH TIME AS PAYMENT IS
 108 RECEIVED. IF ANY MONTHLY INSTALLMENT IS NOT MADE BY THE ~~TENTH~~
 109 SEVENTH CALENDAR DAY OF THE MONTH DUE, OR IF ANY CHECK GIVEN
 110 IN PAYMENT IS DISHONORED BY THE FINANCIAL INSTITUTION ON WHICH
 111 IT IS DRAWN, ~~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 trailers, watercraft, household items, and furnishings; 'last known address' means ~~that the~~
 116 street address or post office box address provided by ~~the occupant~~ Occupant in the latest
 117 rental agreement or the address provided by ~~the occupant~~ Occupant in a subsequent
 118 written notice of a change of address by hand delivery, verified mail, or e-mail.

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

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

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

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

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

162 After the expiration of the time given in Owner's notice, Owner shall publish an
 163 advertisement of the public sale to the highest bidder, once a week, for two consecutive
 164 weeks, ~~in a newspaper of general circulation where the self-service storage facility is~~
 165 ~~located~~ the legal organ for the county where the self-service storage facility is located.
 166 The sale shall be deemed commercially reasonable if at least three (3) independent
 167 bidders attend the sale at the time and place advertised. 'Independent bidder' means a
 168 bidder who is not related to and who has no controlling interest in, or common pecuniary
 169 interest with, Owner or any other bidder. The advertisement shall include: a brief and

170 general description of the personal property, reasonably adequate to permit its
 171 identification; the address of the self-service storage facility, and the number, if any, of
 172 the space where the personal property is located, and the name of ~~the~~ Occupant; and the
 173 time, place, and manner of the public sale. The public sale to the highest bidder shall take
 174 place not sooner than fifteen (15) days after the first publication. ~~If there is no newspaper~~
 175 ~~of general circulation where the self-service storage facility is located, the advertisement~~
 176 ~~shall be posted at least ten (10) days before the date of the public sale and in not less than~~
 177 ~~six (6) conspicuous places in the neighborhood where the self-service storage facility is~~
 178 ~~located.~~ Regardless of whether a sale involves the property of more than one Occupant,
 179 a single advertisement may be used to advertise the disposal of property at the sale. A
 180 public sale includes offering the property on a publicly accessible website that regularly
 181 conducts online auctions of personal property. Such sale shall be considered incidental
 182 to the self-storage business and no license shall be required.

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

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

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

195 In the event of a sale, ~~the~~ Owner may satisfy his or her lien from the proceeds of the sale.
 196 ~~The~~ Owner shall hold the balance of the proceeds, if any, for ~~the~~ Occupant or any notified
 197 secured interest holder. If not claimed within two years of the date of sale, the balance
 198 of the proceeds shall be disposed of in accordance with Article 5 of Chapter 12 of Title
 199 44, the 'Disposition of Unclaimed Property Act.' In no event shall ~~the~~ Owner's liability
 200 exceed the proceeds of the sale.

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

204 If the property upon which the lien is claimed is a motor vehicle, trailer, or watercraft and
 205 rent and other charges related to the property remain unpaid or unsatisfied for 60 days
 206 following the maturity of the obligation to pay rent, Owner may have the property towed

207 in lieu of foreclosing on the lien. If a motor vehicle, trailer, or watercraft is towed as
208 authorized in this section, Owner shall not be liable for the motor vehicle, trailer, or
209 watercraft or any damages to the motor vehicle, trailer, or watercraft once the tower takes
210 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.

216 10-4-215.

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

221 **SECTION 2.**

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

223 **SECTION 3.**

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