

Senate Bill 97

By: Senators Stone of the 23rd and Anderson of the 24th

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 provide for and limit fees charged and
3 collected by self-service storage facilities for the late payment of rent; to provide for liens
4 and the enforcement of liens for fees for the late payment of rent; to update and revise
5 definitions for clarity and conformity; to provide for applicability; to provide for related
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 5 of Chapter 4 of Title 10 of the Official Code of Georgia Annotated, relating to
10 self-service storage facilities, is amended by revising paragraphs (1), (2), (4), and (7) of Code
11 Section 10-4-211, relating to definitions, as follows:

12 "(1) ~~'E-mail'~~ 'Email' means an electronic message or an executable program or computer
13 file that contains an image of a message that is transmitted between two or more
14 computers or electronic terminals. The term includes electronic messages that are
15 transmitted within or between computer networks.

16 (2) 'Last known address' means the street address, post office box address, or ~~e-mail~~
17 email address provided by the occupant in the latest rental agreement or the address
18 provided by the occupant in a subsequent written notice of a change of address by hand
19 delivery, verified mail, or ~~e-mail~~ email."

20 "(4) 'Owner' means the ~~owner~~, operator, lessor, or sublessor of, or person having an
21 ownership interest in, a self-service storage facility, ~~his or her agent~~, an agent of such
22 operator, lessor, or sublessor; or any other person authorized to manage the facility or to
23 receive rent from an occupant under a rental agreement."

24 "(7) 'Self-service storage facility' means any real property designed and used for the
25 purpose of renting or leasing individual storage space to occupants who are to have
26 access to such for the purpose of storing and removing personal property. ~~No occupant~~

27 ~~shall use a self-service storage facility for residential purposes. A self-service storage~~
 28 ~~facility is not a warehouse; provided, however, that such term shall not mean a:~~
 29 (A) Warehouse within the meaning of Article 1 of this chapter, known as the 'Georgia
 30 State Warehouse Act,' ~~and the provisions of law relative to bonded public~~
 31 ~~warehousemen shall not apply to the owner of a self-service storage facility. A~~
 32 ~~self-service storage facility is not a safe-deposit Act'; or~~
 33 (B) Safe-deposit box or vault maintained by banks, trust companies, or other financial
 34 entities."

35 SECTION 2.

36 Said article is further amended by revising Code Section 10-4-212, relating to lien of owner
 37 of self-service storage facility upon property located at facility, priority, and attachment, as
 38 follows:

39 "10-4-212.

40 The owner of a self-service storage facility and his or her heirs, executors, administrators,
 41 successors, and assigns have a lien upon all personal property located at a self-service
 42 storage facility for rent, fees for the late payment of rent, labor, or other charges, present
 43 or future, in relation to the personal property and for expenses necessary for its preservation
 44 or expenses reasonably incurred in its sale or other disposition pursuant to this article. The
 45 lien provided for in this Code section is superior to any other lien or security interest except
 46 those which are perfected and recorded prior to the date of the rental agreement in Georgia
 47 in the name of the occupant, either in the county of the occupant's last known address or
 48 in the county where the self-service storage facility is located, except any tax lien as
 49 otherwise provided by law and except any lienholder with an interest in the property of
 50 whom the owner has knowledge either through the disclosure provision of the rental
 51 agreement or through other written notice. The lien attaches as of the date the personal
 52 property is brought to the self-service storage facility."

53 SECTION 3.

54 Said article is further amended by revising Code Section 10-4-213, relating to enforcement
 55 of lien without judicial intervention, as follows:

56 "10-4-213.

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

60 This agreement, made and entered into this _____ day of _____, _____, by
 61 and between _____, hereinafter called Owner, and _____,

62 hereinafter called Occupant, whose last known address is _____. For the
 63 consideration hereinafter stated, Owner agrees to let Occupant use and occupy a space
 64 in the self-service storage facility, known as _____, situated in the City
 65 of _____, County of _____, State of Georgia, and more particularly described
 66 as follows: Building #_____, Space #_____, Size _____. Said space is to be
 67 occupied and used for the purposes specified herein and subject to the conditions set forth
 68 for a period of _____, beginning on the _____ day of _____, _____, and
 69 continuing month to month until terminated.

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

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

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

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

91 OWNER HAS A LIEN ON ALL PERSONAL PROPERTY STORED IN
 92 OCCUPANT'S SPACE FOR RENT, FEES FOR THE LATE PAYMENT OF
 93 RENT, LABOR, OR OTHER CHARGES, PRESENT OR FUTURE, IN
 94 RELATION TO THE PERSONAL PROPERTY, AND FOR ITS
 95 PRESERVATION OR EXPENSES REASONABLY INCURRED IN ITS SALE
 96 OR OTHER DISPOSITION PURSUANT TO THIS AGREEMENT.
 97 PERSONAL PROPERTY STORED IN OCCUPANT'S SPACE WILL BE SOLD
 98 OR OTHERWISE DISPOSED OF IF NO PAYMENT HAS BEEN RECEIVED

99 FOR A CONTINUOUS THIRTY-DAY PERIOD AFTER DEFAULT. IN
 100 ADDITION, UPON OCCUPANT'S DEFAULT, OWNER MAY WITHOUT
 101 NOTICE DENY OCCUPANT ACCESS TO THE PERSONAL PROPERTY
 102 STORED IN OCCUPANT'S SPACE UNTIL SUCH TIME AS PAYMENT IS
 103 RECEIVED. IF ANY MONTHLY INSTALLMENT IS NOT MADE BY THE
 104 SEVENTH CALENDAR DAY OF THE MONTH DUE, OR IF ANY CHECK
 105 GIVEN IN PAYMENT IS DISHONORED BY THE FINANCIAL
 106 INSTITUTION ON WHICH IT IS DRAWN, OCCUPANT IS IN DEFAULT
 107 FROM DATE PAYMENT WAS DUE.

108 I hereby agree that all notices other than bills and invoices shall be given by hand
 109 delivery, verified mail, or ~~e-mail~~ email at the following addresses:

110 _____ (hand delivery)
 111 _____ (verified mail)
 112 _____ (~~e-mail~~ email).

113 and I further understand that I may designate to owner an agent to receive such notice by
 114 providing:

115 _____ (hand delivery)
 116 _____ (verified mail)
 117 _____ (~~e-mail~~ email).

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 trailers, watercraft, household items, and furnishings; 'last known address' means the
 121 street address or post office box address provided by Occupant in the latest rental
 122 agreement or the address provided by Occupant in a subsequent written notice of a
 123 change of address by hand delivery, verified mail, or ~~e-mail~~ email.

124 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 Occupant, either in the county of Occupant's 'last
 127 known address' or in the county where the self-service storage facility is located, except
 128 any tax lien as provided by law and except those liens or security interests of whom
 129 Owner has knowledge through Occupant's disclosure in this rental agreement or through
 130 other written notice. Occupant attests that the personal property in Occupant's space(s)
 131 is free and clear of all liens and secured interests except for _____. Owner's lien
 132 attaches as of the date the personal property is brought to the self-service storage facility.
 133 Except as otherwise specifically provided in this rental agreement, the exclusive care,
 134 custody, and control of any and all personal property stored in the leased space shall

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

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

139 Occupant shall be notified of Owner's intent to enforce Owner's lien by written notice
140 delivered in person, by verified mail, or by ~~e-mail~~ email. Owner also shall notify other
141 parties with superior liens or security interests as defined in this rental agreement. A
142 notice given pursuant to this rental agreement shall be presumed sent when it is
143 deposited with the United States Postal Service or the statutory overnight delivery
144 service properly addressed with postage or delivery fees prepaid or sent by ~~e-mail~~
145 email. If Owner sends notice of a pending sale of property to Occupant's last known
146 ~~e-mail~~ email address and does not receive a nonautomated response or a receipt of
147 delivery to the ~~e-mail~~ email address, Owner shall send notice of the sale to Occupant
148 by verified mail to Occupant's last known address or to the last known address of the
149 designated agent of the Occupant before proceeding with the sale.

150 Owner's notice to Occupant shall include an itemized statement of Owner's claim
151 showing the sum due at the time of the notice and the date when the sum became due.

152 Owner's notice shall notify Occupant of denial of access to the personal property and
153 provide the name, street address, ~~e-mail~~ email address, and telephone number of Owner
154 or its designated agent, whom Occupant may contact to respond to this notice. Owner's
155 notice shall demand payment within a specified time, not less than fourteen (14) days
156 after delivery of the notice. It shall state that, unless the claim is paid, within the time
157 stated in the notice, the personal property will be advertised for public sale to the
158 highest bidder, and will be sold at a public sale to the highest bidder, at a specified time
159 and place.

160 After the expiration of the time given in Owner's notice, Owner shall publish an
161 advertisement of the public sale to the highest bidder, once a week, for two consecutive
162 weeks, in the legal organ for the county where the self-service storage facility is located.

163 The sale shall be deemed commercially reasonable if at least three (3) independent
164 bidders attend the sale at the time and place advertised. 'Independent bidder' means a
165 bidder who is not related to and who has no controlling interest in, or common pecuniary
166 interest with, Owner or any other bidder. The advertisement shall include: a brief and
167 general description of the personal property, reasonably adequate to permit its
168 identification; the address of the self-service storage facility, and the number, if any, of
169 the space where the personal property is located, and the name of Occupant; and the time,
170 place, and manner of the public sale. The public sale to the highest bidder shall take
171 place not sooner than fifteen (15) days after the first publication. Regardless of whether

172 a sale involves the property of more than one Occupant, a single advertisement may be
173 used to advertise the disposal of property at the sale. A public sale includes offering the
174 property on a publicly accessible website that regularly conducts online auctions of
175 personal property. Such sale shall be considered incidental to the self-storage business
176 and no license shall be required.

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

182 Before any sale or other disposition of personal property pursuant to this agreement,
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 Owner shall have no
185 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 Owner with the requirements of this agreement.

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

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

198 If the property upon which the lien is claimed is a motor vehicle, trailer, or watercraft and
199 rent and other charges related to the property remain unpaid or unsatisfied for 60 days
200 following the maturity of the obligation to pay rent, Owner may have the property towed
201 in lieu of foreclosing on the lien. If a motor vehicle, trailer, or watercraft is towed as
202 authorized in this section, Owner shall not be liable for the motor vehicle, trailer, or
203 watercraft or any damages to the motor vehicle, trailer, or watercraft once the tower takes
204 possession of the property."

205 **SECTION 4.**

206 Said article is further amended by adding new Code sections to read as follows:

207 "10-4-216.

208 (a) No occupant shall use a self-service storage facility for residential purposes.

209 (b) The provisions of law relative to bonded public warehousemen shall not apply to any
210 owner of a self-service storage facility.

211 10-4-217.

212 (a) Pursuant to the terms of a rental agreement, an owner may charge and collect a fee
213 from an occupant for the late payment of rent that is to be paid under a rental agreement.

214 Such fee shall be no more than \$20.00 per month for each month there is a late payment
215 of rent or 20 percent of the monthly rent for each month there is a late payment of rent,
216 whichever is greater.

217 (b) This Code section shall only apply to rental agreements entered into, extended, or
218 renewed, and the late payment of rent occurring, on or after July 1, 2019."

219

SECTION 5.

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