

HOUSE BILL 1265

By Sargent

AN ACT to amend Tennessee Code Annotated, Title 66,
Chapter 31, relative to self service storage
facilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 66-31-102, is amended by deleting subdivision (2) and substituting instead the following:

(2) "Last known address" means for notification purposes the street address, post office box, or electronic mail address provided by the occupant in the latest rental agreement or in a subsequent written notice of a change of address provided by the occupant;

SECTION 2. Tennessee Code Annotated, Section 66-31-102, is amended by deleting subdivision (3) and substituting instead the following:

(3) "Leased space" means the storage space or spaces at the self-service storage facility that are leased or rented to an occupant pursuant to a rental agreement;

SECTION 3. Tennessee Code Annotated, Section 66-31-102, is amended by deleting subdivision (6) and substituting instead the following:

(6) "Personal property" means movable property not affixed to land and includes, but is not limited to, goods, wares, merchandise, household items, and vehicles;

SECTION 4. Tennessee Code Annotated, Section 66-31-102, is amended by deleting subdivision (7) and substituting instead the following:

(7) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of leased space at a self-service storage facility;

SECTION 5. Tennessee Code Annotated, Section 66-31-102, is amended by deleting subdivision (8) and substituting instead the following:

(8) "Self-service storage facility" means any real property designed and used for the purpose of renting or leasing storage space to occupants who are to have access to such space for the purpose of storing and removing personal property; provided, however, "self-service storage facility" does not include any part of the real property used for residential purposes.

SECTION 6. Tennessee Code Annotated, Section 66-31-102, is amended by adding the following new subdivisions, to be appropriately designated:

() "Vehicle" means a motor vehicle, a trailer, or a semitrailer as defined in §§ 55-1-103 and 55-1-105 and a vessel as defined in § 69-9-204;

() "Division" means the wildlife resources agency in the case of motorized watercraft and the department of revenue, taxpayer and vehicle services division in the case of all other vehicles;

() "Verified mail" means any method of mailing that is offered by the United States postal service and that provides evidence of mailing;

SECTION 7. Tennessee Code Annotated, Section 66-31-104, is amended by deleting the last sentence and substituting instead the following

The lien attaches when personal property is placed in the leased space or when a rental agreement for the leased space is signed by the occupant, whichever is earlier.

SECTION 8. Tennessee Code Annotated, Section 66-31-104, is further amended by designating the existing language as amended as subsection (a) and by adding the following new subsections:

(b) The rental agreement shall contain a statement in bold type notifying the occupant of the existence of the lien and the method of its enforcement. If the rental agreement contains a limit on the value of property stored in the occupant's storage space, the limit shall be deemed to be the maximum value of the property stored in that space.

(c) The owner may impose a lien fee. The owner may also impose a reasonable late fee on the occupant for each month the occupant does not pay rent when due. For purposes of this section, a reasonable late fee may be computed as the greater of forty dollars (\$40.00) a month or twenty percent (20%) of monthly rent. Any late fee imposed by the owner pursuant to this section is in addition to any other remedy provided by law or contract.

(d) The owner shall provide adequate notice to the occupant before a late fee is imposed. Adequate notice is provided if the rental agreement complies with subsection (b) or if a notice is sent to the occupant at the last known address and notifies the occupant that a late fee may be charged for any month in which the occupant does not pay rent when due.

SECTION 9. Tennessee Code Annotated, Section 66-31-105, is amended by deleting the following language:

The enforcement of the owner's lien against an occupant who is in default shall be in accordance with the following:

- (1) No enforcement action shall be taken by the owner until the occupant has been in default continuously for a period of thirty (30) days;
- (2) After the occupant has been in default continuously for a period of thirty (30) days, the owner shall have the right to enforce the owner's lien in accordance with the following:

and by substituting instead the following:

The enforcement of the owner's lien against an occupant who is in default may be done in accordance with either or both of the following procedures:

(1)

(A) In the case of short term default, denial of access.

(B) Upon the failure of a occupant to pay the rent for the storage space or unit when it becomes due, the owner may, without notice, deny the occupant access to the personal property located in the self-service storage facility or self-contained storage unit and the owner without notice, not less than five (5) days after the date the rent is due, may enter and/or remove the personal property from the leased space to other suitable storage space pending its sale or other disposition;

(C) The owner shall notify the occupant of the owner's intent to enforce the owner's lien by written notice delivered by hand delivery, by verified mail, or by electronic mail to the occupant's last known address;

(2) In the case of long term default, which is a continuous fifteen (15) days, the owner may enforce the owner's lien in accordance with the following procedures:

SECTION 10. Tennessee Code Annotated, Section 66-31-105, is further amended by deleting subdivision (2)(A) in its entirety.

SECTION 11. Tennessee Code Annotated, Section 66-31-105, is further amended by deleting subdivision (2)(C) and by substituting instead the following:

The notice shall be delivered by hand delivery, by verified mail, or by electronic mail to the occupant's last known address.

SECTION 12. Tennessee Code Annotated, Section 66-31-105, is further amended by deleting subdivision (2)(D)(ii) and by substituting instead the following:

A demand for payment of the sum due within a specified time not less than thirty (30) days after the date of the notice and a statement of the approximate additional expenses which may be incurred between the date of the notice and the date of the sale;

SECTION 13. Tennessee Code Annotated, Section 66-31-105(2)(D)(vi), is amended by deleting the language “ninety (90) days” and substituting instead the language “sixty (60) days.”

SECTION 14. Tennessee Code Annotated, Section 66-31-105, is further amended by deleting subdivision (2)(G) and by substituting instead the following:

(G) After the expiration of the time stated in the notice and if the personal property has not otherwise been disposed, the owner shall advertise the sale of the personal property in a commercially reasonable manner. The manner of advertisement is deemed commercially reasonable if not less than three (3) potential bidders attend the sale at the time and place advertised. The advertisement shall include:

(i) A statement that the contents of the occupant's leased space shall be sold to satisfy the owner's lien;

(ii) The address of the self-service storage facility and the number or other description, if any, of the space where the personal property is located and the name of the occupant; and

(iii) The time, place, and manner of the sale;

SECTION 15. Tennessee Code Annotated, Section 66-31-105(2), is amended by adding the following new subdivision:

(L) If the property upon which the lien is claimed is a vehicle and rent and other charges related to the property remain unpaid or unsatisfied for sixty (60) days after the

maturity of the obligation to pay rent, the facility owner may utilize either of the following options:

(i) The facility owner may have the property towed. If a vehicle is towed as authorized in this subdivision (2)(L)(i), the owner shall not be liable for the vehicle or any damages to the vehicle once the tower takes possession of the property; or

(ii) The facility owner shall contact the appropriate division in such manner as the division prescribes for the purposes of determining the existence and identity of any lien holder and the name and address of the owner of the vehicle, as shown in the records of the division. Within ten (10) days of receipt of such information concerning any lien holder and the owner of such motor vehicle, as shown in the division's records, the owner shall send a written notice to any such lien holder and to the owner, if such owner is not the occupant, by verified mail, stating that:

(a) Such vehicle is being held by the facility owner;

(b) A lien has attached pursuant to this chapter; and

(c) Payment shall be made within thirty (30) days after notification to satisfy the lien. The vehicle owner or lien holder may pay the balance owed and take possession of the vehicle. If the owner or lien holder does not satisfy the lien, the facility owner may sell the vehicle in any manner, including but not limited to, public auction.

SECTION 16. Tennessee Code Annotated, Section 66-31-105(2)(H), is amended by deleting from the first sentence the language "reasonable."

SECTION 17. Tennessee Code Annotated, Section 66-31-105, is further amended by inserting in subdivision (2)(K) the language “and the expenses of such sale” following the language “lien.”

SECTION 18. Tennessee Code Annotated, Section 66-31-105, is further amended by adding the following new subdivisions:

(M) The owner's liability arising from the sale is limited to the net proceeds received from the sale of the personal property;

(N) The owner is not liable for identity theft or other harm resulting from the misuse of information contained in document or electronic storage media:

(i) That are part of the occupant’s property sold or otherwise disposed;

and

(ii) Of which the owner did not have actual knowledge;

(O) Nothing in this section affects the rights and liabilities of the owner or the occupant if:

(i) The requirements of this section are not satisfied;

(ii) The sale of the personal property is not in conformity with the notice of sale; or

(iii) There is a willful violation of this chapter.

SECTION 19. Tennessee Code Annotated, Section 66-31-106, is amended by designating the existing language as subsection (a) and by adding the following new subsection:

(b)

(1) The rental agreement shall contain a notice stating that all property stored under the terms of such agreement may be sold or otherwise disposed of if no payment has been received for a continuous fifteen-day period when due.

(2) The rental agreement shall contain a provision directing the occupant to disclose to the owner any lienholder with an interest in property that is or may be stored in the self-service storage facility.

SECTION 20. This act shall take effect on July 1, 2011, the public welfare requiring it, and shall apply to each rental agreement made or renewed after July 1, 2011.