

HOUSE BILL NO. 4774

May 04, 2021, Introduced by Reps. Young, Aiyash, Cavanagh, Scott, Thanedar, Brenda Carter and Yancey and referred to the Committee on Commerce and Tourism.

A bill to amend 1985 PA 148, entitled
"Self-service storage facility act,"
by amending sections 2 and 5 (MCL 570.522 and 570.525), section 2
as amended by 2009 PA 177 and section 5 as amended by 2014 PA 61.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Active duty" means active duty pursuant to an executive
- 3 order of the ~~president~~**President** of the United States, an act of
- 4 ~~congress~~**Congress**, or an order of the governor.

1 (b) "Armed forces" means ~~that term as defined in section 2 of~~
2 ~~the veteran right to employment services act, 1994 PA 39, MCL~~
3 ~~35.1092.~~ **the Army, Air Force, Navy, Marine Corps, Coast Guard, or**
4 **other military force designated by Congress as a part of the Armed**
5 **Forces of the United States.**

6 (c) "End of the COVID-19 pandemic" means the earliest date
7 after the effective date of the amendatory act that added this
8 definition on which none of the following are in effect:

9 (i) A presidential declaration of national emergency under the
10 national emergencies act, 50 USC 1601 to 1651, relating to COVID-
11 19.

12 (ii) An executive order issued by the governor during a state
13 of disaster or emergency declared under the emergency management
14 act, 1976 PA 390, MCL 30.401 to 30.421, or 1945 PA 302, MCL 10.31
15 to 10.33, relating to COVID-19.

16 (iii) An emergency order issued under section 2253 of the public
17 health code, 1978 PA 368, MCL 333.2253, relating to COVID-19.

18 (d) ~~(e)~~ "Last known address" means the street address, post
19 office box, or ~~electronic mail~~ **email** address provided by the tenant
20 in the latest rental agreement or in a subsequent written notice of
21 change of address by hand delivery, first-class mail, or ~~electronic~~
22 ~~mail~~ **email**.

23 (e) ~~(d)~~ "Michigan national guard" means that term as defined
24 in section 105 of the Michigan military act, 1967 PA 150, MCL
25 32.505.

26 (f) ~~(e)~~ "Owner" means the owner, operator, lessor, or
27 sublessor of a self-service storage facility or self-contained
28 storage unit or his or her agent or any other person authorized by
29 him or her to manage the facility or to receive rent from a tenant

1 under a rental agreement.

2 (g) ~~(f)~~—"Rental agreement" means an agreement or lease that
 3 establishes or modifies terms, conditions, rules, or any other
 4 provision concerning the use and occupancy of a self-service
 5 storage facility or use of a self-contained storage unit.

6 (h) ~~(g)~~—"Self-contained storage unit" means a unit not less
 7 than 500 cubic feet in size, including, but not limited to, a
 8 trailer, box, or other shipping container, that is leased by a
 9 tenant primarily for use as storage space whether the unit is
 10 located at a facility owned or operated by the owner or at another
 11 location designated by the tenant.

12 (i) ~~(h)~~—"Self-service storage facility" or "facility" means
 13 any real property designed or used for the purpose of renting or
 14 leasing individual storage space to tenants who are to have access
 15 to that space for the purpose of storing and removing personal
 16 property.

17 (j) ~~(i)~~—"Service member" means a member of the armed forces, a
 18 reserve branch of the armed forces, or the Michigan national guard.

19 (k) ~~(j)~~—"Tenant" means a person or the person's sublessee,
 20 successor, or assign entitled to the use of storage space to the
 21 exclusion of others at a self-service storage facility or in a
 22 self-contained storage unit under a rental agreement.

23 Sec. 5. (1) An owner's lien under section 3 ~~shall~~**must** be
 24 enforced only as provided in this section.

25 (2) The tenant and any occupant designated by the tenant under
 26 section 4(2) ~~shall~~**must** be notified of the owner's intent to
 27 enforce the owner's lien by written notice delivered in person, by
 28 first-class mail, or by ~~electronic mail~~**email** to the tenant's and,
 29 if applicable, occupant's last known address. The notice ~~shall~~**must**

1 include all of the following:

2 (a) An itemized statement of the owner's claim, showing the
3 amount due at the time of the notice and the date when the amount
4 became due.

5 (b) A demand for payment within a specified time not less than
6 14 days after delivery of the notice.

7 (c) A conspicuous statement that, unless the claim is paid
8 within the time stated in the notice, the personal property will be
9 advertised for sale or other disposition and will be sold or
10 otherwise disposed of at a specified time and place as provided in
11 subsection (5).

12 (d) The name, street address, and telephone number of the
13 owner whom the tenant may contact to respond to the notice.

14 (e) A statement that if the tenant is a service member and is
15 transferred or deployed overseas on active duty for a period of 180
16 days or more, the tenant is entitled to give the owner notice of
17 that transfer or deployment and is entitled to protections under
18 this act or other law.

19 (3) A notice under this section is presumed delivered when it
20 is deposited with the United States ~~postal service~~ **Postal Service**
21 and properly addressed with postage prepaid or when it is
22 transmitted by ~~electronic mail~~ **email** to the tenant's last known
23 ~~electronic mail~~ **email** address.

24 (4) Subject to ~~subsection~~ **subsections** (16) **and (20)**, after the
25 expiration of the time given in the notice described in subsection
26 (2), the contents of the storage space may be moved to another
27 storage space pending its sale or other disposition under this act.

28 (5) After the expiration of the time given in the notice
29 described in subsection (2), except as provided in subsection (6),

1 an advertisement of the sale or other disposition ~~shall~~**must** be
2 published once a week for 2 consecutive weeks in the print or
3 electronic version of a newspaper of general circulation in the
4 area where the self-service storage facility or self-contained
5 storage unit is located or posted once per week for 2 consecutive
6 weeks on a publicly available website identified in the rental
7 agreement. Regardless of whether a sale involves the property of
8 more than 1 tenant, a single advertisement may be used to advertise
9 the disposal of property at the sale. An advertisement under this
10 section ~~shall~~**must** include all of the following:

11 (a) A brief, general inventory, as described in subsection
12 (7), of the personal property subject to the lien that is to be
13 sold.

14 (b) The address of the self-storage facility or the address
15 where the self-contained storage unit is located and the name of
16 the tenant.

17 (c) The time, place, and manner of the sale or other
18 disposition. Subject to ~~subsection~~**subsections** (16) **and (20)**, the
19 sale or other disposition ~~shall~~**must** not take place sooner than 15
20 days after the first publication of the advertisement under this
21 section.

22 (6) If there is no newspaper of general circulation in the
23 area where the self-service storage facility or self-contained
24 storage unit is located and a publicly available website is not
25 identified in the rental agreement, the advertisement ~~shall~~**must** be
26 posted not less than 10 days before the date of the sale or other
27 disposition in not less than 3 conspicuous places in the
28 neighborhood where the self-service storage facility or self-
29 contained storage unit is located.

1 (7) The inventory required under subsection (5) ~~shall~~**must**
2 reasonably identify the property. A container, including, but not
3 limited to, a trunk, valise, or box that is locked, fastened,
4 sealed, or tied in a manner that deters immediate access to its
5 contents may be described as being in that condition, and a
6 description of the container's contents is not required. However, a
7 container closed in such a manner may be opened and its contents
8 inventoried, and those conducting the inventory, the owner, and the
9 owner's employees, agents, and representatives are not liable for
10 incidental damage to the container caused by the inventory.

11 (8) A sale or other disposition of personal property under
12 this section ~~shall~~**must** conform to the terms of the notification as
13 provided in this section and ~~shall~~**must** be conducted in a
14 commercially reasonable manner.

15 (9) Before a sale or other disposition of personal property
16 under this section, the tenant may pay the amount necessary to
17 satisfy the lien and the reasonable expenses incurred under this
18 section to redeem the personal property. Upon receipt of the
19 redemption amount, the owner shall return the personal property to
20 the tenant. After returning the personal property to the tenant
21 under this subsection, the owner is not liable to any person
22 concerning that personal property. If the tenant fails to redeem
23 the personal property or satisfy the lien, including reasonable
24 expenses under this section, the tenant ~~shall be~~**is** considered to
25 have unjustifiably abandoned the personal property and the owner
26 may resume possession of the self-service storage facility or self-
27 contained storage unit.

28 (10) If any property to which a lien attaches under section 3
29 is a motor vehicle, aircraft, mobile home, moped, motorcycle,

1 snowmobile, trailer, or watercraft and the rent and other storage
2 charges remain unpaid or unsatisfied for 60 days, the owner may, in
3 ~~lieu~~**place** of a sale of the property, have the property towed from
4 the facility by an independent motor carrier with a proper
5 certificate of authority from the Michigan public service
6 commission under the motor carrier act, 1933 PA 254, MCL 475.1 to
7 ~~479.43.~~**479.42**. An owner who has property towed under this
8 subsection is not liable or responsible for the property after the
9 transfer of possession of the property to the motor carrier.

10 (11) Before the sale of a motor vehicle, aircraft, mobile
11 home, moped, motorcycle, snowmobile, trailer, or watercraft, the
12 owner shall contact the secretary of state and any other
13 governmental agency as reasonably necessary to determine the name
14 and address of the title holders or lienholders of the item, and
15 the owner shall notify every identified title holder or lienholder
16 of the time and place of the proposed sale. The owner is liable for
17 notifying the holder of a security interest only if the security
18 interest is filed under the name of the person signing the rental
19 agreement, the tenant, or an occupant identified in section 4(2).
20 An owner who fails to make the lien searches required by this
21 section is liable only to valid lienholders injured by that failure
22 as provided in section 6.

23 (12) Before the sale of personal property under this act, a
24 holder of a prior lien on a motor vehicle, aircraft, mobile home,
25 moped, motorcycle, snowmobile, trailer, or watercraft to be sold
26 may pay the owner the amount of the owner's lien attributable to
27 storage of the property, including the reasonable expenses incurred
28 by the owner under this section. The amount payable to the owner
29 ~~shall~~**must** not exceed the equivalent of 4 months' rent. A payment

1 made to the owner shall be added to the amount of the lien of the
2 prior lienholder who made the payment and shall be subtracted from
3 the amount of the owner's lien.

4 (13) A purchaser in good faith of the personal property sold
5 under this section takes the property free of any right of a person
6 against whom the lien was valid, despite noncompliance by the owner
7 with the requirements of this section.

8 (14) A person conducting a sale under this section shall
9 distribute the proceeds in the following sequence:

10 (a) First, to satisfy the owner's liens up to an amount
11 equivalent to 4 months' rent, minus any amount already paid the
12 owner ~~pursuant to~~ **under** subsection (12).

13 (b) Second, to satisfy outstanding balances owed to prior
14 perfected lienholders.

15 (c) Third, to satisfy the balance of the owner's liens,
16 including, but not limited to, all unpaid rent, late fees, and
17 reasonable lien enforcement expenses.

18 (15) Any proceeds of a sale under this section remaining after
19 the distribution is made under subsection (14) ~~shall~~ **must** be
20 returned to the tenant by mailing the proceeds to the tenant's last
21 known address by certified mail and by notifying the tenant by
22 first-class mail. If the tenant does not claim the remaining
23 proceeds within 2 years after the date of sale, the remaining
24 proceeds ~~shall~~ escheat to this state. The owner shall maintain
25 proper records of money received in any sale held under this
26 section, and the records are subject to audit by the department of
27 treasury.

28 (16) If an owner receives a notice with supporting evidence
29 under section 4(3) from a tenant, the owner shall not enforce an

1 owner's lien until 90 days after the end of the tenant's overseas
2 service.

3 (17) An owner is not liable for any damages or claims related
4 to the release, use, or misuse of confidential, proprietary, or
5 personal identification information contained in any documents or
6 other media stored by a tenant in the facility or unit after the
7 sale or other disposition of the documents or media.

8 (18) If an owner reasonably believes that a storage space
9 contains any documents or other media containing confidential,
10 proprietary, or personal identification information, the owner is
11 authorized to destroy any or all of the documents or media in ~~lieu~~
12 **place** of a sale under this section. An owner who destroys documents
13 or media under this subsection is not liable to any person for the
14 destruction.

15 (19) If an owner has actual knowledge of, and the storage
16 space contains, any property that the owner may not lawfully sell,
17 the owner is authorized to properly dispose of the property in any
18 manner allowed by applicable law in ~~lieu~~**place** of a sale under this
19 section. An owner who disposes of property under this subsection is
20 not liable to any person for the disposal.

21 **(20) Beginning on the effective date of the amendatory act**
22 **that added this subsection, an owner shall not enforce an owner's**
23 **lien until 6 months after the end of the COVID-19 pandemic. If, on**
24 **the effective date of the amendatory act that added this**
25 **subsection, an owner has provided notice under subsection (2) but**
26 **has not sold or otherwise disposed of the personal property under**
27 **this section, the owner shall notify each tenant and occupant who**
28 **received notice under subsection (2) that enforcement of the**
29 **owner's lien is suspended until 6 months after the end of the**

- 1 COVID-19 pandemic. Notice under this section must be provided in
- 2 the same manner as the notice under subsection (2).