

## **SELF-SERVICE STORAGE FACILITY ACT; LIMIT OWNER LIABILITY**

### **House Bill 5237 (Substitute H-2) First Analysis (5-2-00)**

**Sponsor: Rep. David Mead  
Committee: Family and Civil Law**

#### ***THE APPARENT PROBLEM:***

The self-service facility business has been a rapidly growing industry for some time. In 1985 the legislature enacted the Self-Service Storage Facility Act (Public Act 148 of 1985) to help facility owners deal with non-paying customers. Before the act took effect facility owners had no uniform statutory recourse for recovering the losses incurred in attempting to track down delinquent renters. In some jurisdictions, a facility owner was treated in the same fashion as a landlord, while others treated the owner as a warehouse owner or bailee (requiring a greater degree of responsibility for and control over the stored property).

The act provided facility owners with a lien against the personal property stored at the facility and provides for the enforcement of liens for delinquent accounts; recovery of attorney fees and incidental costs; and the public sale of a renter's personal property for delinquent accounts. Under the act, a facility owner may attach a lien against the stored personal property for non-payment, up to the time the property was placed in the storage facility. The owner is required to inform the renter of the delinquency on the account and to provide notice of a public sale. Unless the renter vacates the storage facility within 15 days of receiving the notice or pays the money owed to the facility, the owner may sell the property.

It has been suggested that the Self-Service Storage Facility Act should be updated. Despite the provisions of the act, some storage facility owners still have problems dealing with people who fail to pay their rent.

#### ***THE CONTENT OF THE BILL:***

The bill would amend the Self-Service Storage Facility Act to limit the liability of storage facility owners. Under current law, an owner of a facility has a lien against the property stored in the facility that attaches as of the date the property arrives at the storage facility. The bill would provide that the lien would attach either when the property arrived or as of the date that the rental agreement for the storage space was signed by

the occupant (the person whose property is stored in the storage space), whichever was earlier. Furthermore, a person who signed a rental agreement for a storage space would be required to disclose in writing the identity of the occupant, if it was someone other than the person who signed the agreement. The occupant would also be required to notify the owner of the facility *in writing* of a change of his or her mailing address.

The act's provisions regarding the enforcement of a facility owner's lien would also be amended. Under the bill, an owner could install a manager's lock on the storage unit of an occupant whose rental payments were late by 4 weeks or more. Any owner who did this would have to send a delinquent payment notice to the occupant's last known address by personal delivery or first-class and certified mail. The notice would have to include the amount due, the date the amount was due, and a demand for payment.

Under current law, in order to enforce an owner's lien, an owner must notify the occupant, and the person that the occupant had designated, if any, by personal delivery or by first-class and certified mail, that the occupant's property will be sold to at a public sale to satisfy the lien claim. The notice must include an itemized statement of the facility owner's claim showing the amount due and the date that the amount came due; a demand for payment within a period of 30 days after the notice's delivery; and a conspicuous statement, printed in not less than 10-point type, that unless the occupant vacates the storage space within 15 days or pays the amount due within 30 days, the property will be advertised for sale and sold at a specified time and place.

The bill would remove the provision allowing an occupant to vacate the storage space within 15 days after receiving notice of delinquency without paying, and would delete the requirement that the notice include such information. Furthermore, after the

expiration of the 30 days, the bill would allow the owner to deny the occupant access to the storage space and/or move the property from the storage space to another storage space pending its disposition. If the owner denied the occupant access or moved the property, he or she would be required to perform an inventory of the property.

If an occupant paid the amount that he or she owed in accordance with the act's provisions and the owner returned the property to the occupant in substantially the same condition, the bill would provide that the owner would have no further liability to any person with respect to the property.

If the occupant fails to pay, after the 30 day period passes, an owner may advertise and sell the property from the storage space. The act includes specifics as to how the advertisement must be run and the information the advertisement must contain. In addition to the act's existing requirements, the bill would require that the advertisement include a statement that the owner has denied the occupant access to the storage space or that the owner has removed the occupant's property from the rented storage space to another storage space (if the owner has taken either of these actions).

Inventory. Before the stored property is sold, the act requires an owner to complete an inventory of the property. In addition, the bill would require that an inventory also be made if the owner denies the occupant access to the storage space or moves the occupant's property into a different storage space. Under the bill, the inventory could include the contents of a closed trunk, valise, box, or other container. In order to make such an inventory, the owner could open any closed container that was locked, fastened, or sealed, or tied in a manner that deterred immediate access to the contents for inventory. Furthermore, the owner would not be liable for any incidental damage to the container that occurred as a result of opening a closed container.

MCL 570.523 et al.

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill has no fiscal implications. (5-1-00)

### ***ARGUMENTS:***

#### ***For:***

The bill will help owners of storage facilities to deal with those renters who are delinquent in the payment. Most owners would prefer to be able to work out payment plans with people who are having difficulty meeting their rental obligations, rather than being forced to sell the property left behind. Rarely, if ever, does the sale of abandoned property raise enough money to pay the rent owed. The bill would protect the private property rights of self-storage owners, permitting them to act on non-paying customers by eliminating the ambiguities in existing law and creating succinct statutory lien rights and procedures for the collection of delinquent lease revenues. Allowing self-storage owners to minimize the financial consequences of delinquent rent will mitigate the need for self-storage owners to offset those costs through increased rental rates, thereby protecting consumer interests in the self storage rental market.

#### ***POSITIONS:***

The Self Storage Association submitted testimony in support of the bill. (4-27-00)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.