

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

House Bill 5237 as enrolled
Public Act 443 of 2000
Second Analysis (1-9-01)

Sponsor: Rep. David Mead
House Committee: Family and Civil Law
Senate Committee: Judiciary

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 include self-contained storage units in the act; revise provisions relating to a storage facility owner's lien on property stored in the facility; limit the owner's liability with respect to property subject to that lien; allow the owner to deny the tenant access to the storage

space and move the property under certain circumstances; and require a tenant who signed a rental agreement to disclose in writing the name, address, and telephone number of the occupant if the occupant were not the tenant who signed the agreement.

Upon a tenant's failure to pay rent when it became due, an owner could, without notice and within five days after the due date, deny the tenant access to the stored property.

The act requires notification of the sale of personal property to satisfy an owner's claim. The notice must indicate that unless the occupant vacates the storage space within 15 days or the claim is paid within the time stated in the notice, the property will be sold. Under the bill, the notice would have to indicate that unless the claim was paid within a specified time, the property would be sold. The bill would delete a provision that an occupant who vacates the facility within 15 days may do so despite any rental charge due. The notice also must include a demand for payment within 30 days; under the bill, the owner could demand payment within a specified time of not less than 14 days.

After the period specified in the notice, an advertisement of the proposed sale must be published or posted. Under the bill, after the specified period expired, the property could be moved to another storage space pending its sale. Under the act, a sale may take place no sooner than 30 days after the first publication or posting. Under the bill, the sale could take place no sooner than 15 days after the first advertisement.

Before a sale, the occupant may pay the amount owed and redeem the property. Upon receiving payment, the owner is required to return the property to the occupant. If upon receiving such payment, the owner

returns the property in substantially the same condition, the bill would provide that the owner would have no further liability with respect to the personal property.

The bill specifies that the act would not impair or affect the rights of parties to create liens by special contract or agreement or affect any other lien not provided for under the act. The bill also states that, except for actions permitted under the act or a rental agreement, an owner would not have care, custody, or control of a tenant's property.

MCL 570.523 et al.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bill has no fiscal implications. (12-11-00)

ARGUMENTS:

For:

The bill will help owners of storage units and 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 storage facility and unit owners, permitting them to take action against 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 storage facility and unit owners to offset those costs through increased rental rates, thereby protecting consumer interests in the self-service storage facility and self-contained storage unit rental market.

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