

Act No. 443
Public Acts of 2000
Approved by the Governor
January 9, 2001
Filed with the Secretary of State
January 9, 2001
EFFECTIVE DATE: January 9, 2001

**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 2000**

Introduced by Reps. Mead, Allen, Rick Johnson, Bradstreet and Shackleton

ENROLLED HOUSE BILL No. 5237

AN ACT to amend 1985 PA 148, entitled "An act to provide for a lien on personal property stored at a self-service storage facility in favor of the owner of the facility; and to provide for enforcement," by amending the title and sections 2, 3, 4, 5, 6, and 7 (MCL 570.522, 570.523, 570.524, 570.525, 570.526, and 570.527).

The People of the State of Michigan enact:

TITLE

An act to provide for a lien on personal property stored at a self-service storage facility or self-contained storage unit in favor of the owner of the facility or self-contained storage unit; to limit the liability of self-service storage facility and self-contained storage unit owners; and to provide for enforcement.

Sec. 2. As used in this act:

(a) "Last known address" means the address provided by the tenant in the latest rental agreement or in a subsequent written notice of change of address by hand delivery or first-class mail.

(b) "Rental agreement" means an agreement or lease that establishes or modifies terms, conditions, rules, or any other provision concerning the use and occupancy of a self-service storage facility or use of a self-container storage unit.

(c) "Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility or self-contained storage unit or his or her agent or any other person authorized by him or her to manage the facility or to receive rent from a tenant under a rental agreement.

(d) "Self-service storage facility" or "facility" means any real property designed or used for the purpose of renting or leasing individual storage space to tenants who are to have access to that space for the purpose of storing and removing personal property.

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

(f) "Tenant" means a person or the person's sublessee, successor, or assign entitled to the use of storage space to the exclusion of others at a self-service storage facility or in a self-contained storage unit under a rental agreement.

Sec. 3. (1) The owner of a self-service storage facility or a self-contained storage unit and the heirs, personal representatives, successors, and assignees of the owner have a lien upon all personal property, whether or not owned by the tenant, located at the self-service storage facility or self-contained storage unit for rent or other lawful charges incurred relative to the storage of the personal property, including expenses necessary for its preservation, or reasonably incurred in its sale pursuant to this act. The lien attaches as of the date the personal property arrives at the self-service storage facility or self-contained storage unit or the date a rental agreement for the storage space is signed by the tenant, whichever is earlier.

(2) The priority of a lien under this act shall be as provided in section 5(13).

(3) If a tenant defaults on a rental agreement, the owner shall give notice to all holders of a perfected security interest under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, in which the tenant is named as a debtor.

(4) At the commencement of a rental agreement for storage space at a self-service storage facility or in a self-contained storage unit, the owner shall provide the tenant with the following written notice:

“NOTICE: If you fail to make your required payments, you will have to vacate the unit or your property may later be sold at a public sale. Before the sale, you will be notified by first-class mail and by certified mail of the amount due. The notice will be mailed to your last known address. In order to preserve your right to be notified, it is important that you notify us in writing of any change in your mailing address. Also, you should supply us with the name and address of another person who can reach you if you are not at your mailing address, and we will notify that person at the same time and in the same manner as we notify you.”.

Sec. 4. (1) Upon the failure of a tenant to pay the rent when it becomes due, the owner may, without notice, not less than 5 days after the date the rent is due, deny the tenant access to the personal property located in the self-service storage facility or self-storage unit.

(2) The tenant who signs a rental agreement for storage space at a self-service storage facility shall disclose in writing the identity, including name, address, and telephone number, of the occupant if the occupant is other than the tenant who signs the agreement.

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

(2) The tenant and the person designated, if any, by the tenant in section 4(2) shall be notified by written notice delivered in person or by certified mail to the tenant's last known address. The notice shall include all of the following:

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

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

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

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

(3) A notice given pursuant to this section shall be presumed delivered when it is deposited with the United States postal service and properly addressed with postage prepaid.

(4) After the expiration of the time given in the notice described in subsection (2), the contents of the storage space may be moved to another storage space pending its sale or other disposition under this act.

(5) After the expiration of the time given in the notice described in subsection (2), except as provided in subsection (6), an advertisement of the sale or other disposition shall be published once a week for 2 consecutive weeks in a newspaper of general circulation in the area where the self-service storage facility or self-contained storage unit is located. Regardless whether a sale may involve the property of more than 1 tenant, a single advertisement may be used to advertise the disposal of property at any 1 sale. An advertisement under this section shall include:

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

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

(c) The time, place, and manner of the sale or other disposition. The sale or other disposition shall not take place sooner than 15 days after the first publication of the advertisement under this section.

(6) If there is no newspaper of general circulation in the area where the self-service storage facility or self-contained storage unit is located, the advertisement shall be posted not less than 10 days before the date of the sale or other disposition in not less than 3 conspicuous places in the neighborhood where the self-service storage facility or self-contained storage unit is located.

(7) The inventory required under subsection (5) shall reasonably identify the property. However, a container, including, but not limited to, a trunk, valise, or box that is locked, fastened, sealed, or tied in a manner that deters immediate access to its contents, may be described as being in such a condition, and no description of that container's contents is required. However, any container closed in such a manner may be opened and its contents inventoried, and those conducting the inventory, the owner, its employees, agents, and representatives shall not be liable for incidental damage to the container caused by the inventory.

(8) A sale or other disposition of the personal property shall conform to the terms of the notification as provided in this section, and shall be conducted in a commercially reasonable manner.

(9) Before a sale or other disposition of personal property under this section, the tenant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section to redeem the personal property. Upon receipt of the redemption sum, the owner shall return the personal property to the tenant. After returning the personal property to the tenant under this subsection, the owner shall not be liable to any person concerning that personal property. If the tenant fails to redeem the personal property or satisfy the lien, including reasonable expenses under this section, the tenant shall be considered to have unjustifiably abandoned the personal property and the owner may resume possession of the self-service storage facility or self-contained storage unit.

(10) Before the sale of a motor vehicle, aircraft, mobile home, moped, motorcycle, snowmobile, trailer, or watercraft, the secretary of state and any other governmental agency as may be reasonably expected shall be contacted to determine the name and address of the title holders or lienholders of those items, and every title holder or lienholder shall be notified of the time and place of the proposed sale. The owner is liable for notifying the holder of a security interest only if the security interest is filed under the name of the person signing the rental agreement, the tenant, or occupant identified in section 4(2). An owner who fails to make the lien searches required by this section shall be liable only to valid lienholders injured by that failure as provided in section 6.

(11) Before the sale of personal property under this act, a holder of a prior lien on a motor vehicle, aircraft, mobile home, moped, motorcycle, snowmobile, trailer, or watercraft to be sold may pay the owner the amount of the owner's lien attributable to storage of the property, including the reasonable expenses incurred by the owner under this section. The amount payable to the owner shall not exceed the equivalent of 4 months' rent. A payment made to the owner shall be added to the amount of the lien of the prior lienholder who made the payment and shall be subtracted from the amount of the owner's lien.

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

(13) In the event of a sale under this section, the party conducting the sale shall distribute the proceeds in the following sequence:

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

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

(c) Third, to satisfy the balance of the owner's liens.

(14) Any proceeds of the sale remaining after the distribution is made under subsection (13) shall be returned to the tenant by mailing the proceeds to the tenant's last known address by certified mail and by notifying the tenant by first-class mail. If the tenant does not claim the remaining proceeds within 2 years after the date of sale, the remaining proceeds shall escheat to the state. The owner shall maintain proper records of money received in any sale held under this section, and the records shall be subject to audit by the state department of treasury.

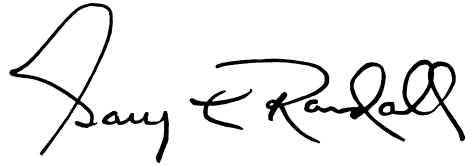
Sec. 6. (1) A tenant who suffers damages because of an owner's failure to comply with this act may bring an action in a court of appropriate jurisdiction for the actual amount of the damages or \$250.00, whichever is greater, together with reasonable attorney fees.

(2) This act shall not be construed in any manner that impairs or affects the rights of parties to create liens by special contract or agreement, or that affects any other lien arising at common law, in equity, or by any statute of this state or any other lien not provided for under this act.

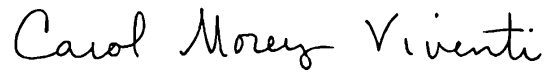
(3) Except for actions that an owner is permitted to take under this act or under a rental agreement concerning personal property stored in a self-service storage facility or self-contained storage unit, an owner does not have care, custody, or control of a tenant's personal property.

Sec. 7. This act does not apply to personal property for which the owner issues a warehouse receipt, bill of lading, or other document of title.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives.



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Secretary of the Senate.

Approved

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Governor.