

HOUSE BILL No. 5905

September 13, 2012, Introduced by Rep. Pettalia and referred to the Committee on Commerce.

A bill to amend 1985 PA 148, entitled "Self-service storage facility act," by amending sections 3 and 5 (MCL 570.523 and 570.525), as amended by 2009 PA 177.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) The owner of a self-service storage facility or a
2 self-contained storage unit and the heirs, personal
3 representatives, successors, and assignees of the owner have a lien
4 upon all personal property, whether or not owned by the tenant,
5 located at the self-service storage facility or self-contained
6 storage unit for rent or other lawful charges incurred relative to
7 the storage of the personal property, including expenses necessary
8 for its preservation, or reasonably incurred in its sale pursuant

1 to this act. The lien attaches on the date the personal property
2 arrives at the self-service storage facility or self-contained
3 storage unit or the date a rental agreement for the storage space
4 is signed by the tenant, whichever is earlier.

5 (2) The priority of a lien under this act is as provided in
6 section ~~5(13)~~-5(14).

7 (3) If a tenant defaults on a rental agreement, the owner
8 shall give notice to all holders of a perfected security interest
9 under the uniform commercial code, 1962 PA 174, MCL 440.1101 to
10 440.11102, in which the tenant is named as a debtor.

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

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

25 (5) **A RENTAL AGREEMENT UNDER THIS SECTION MAY PROVIDE FOR A**
26 **LIMIT ON THE VALUE OF THE PROPERTY STORED AT THE FACILITY OR UNIT.**
27 **THE STATED LIMIT SHALL BE CONSIDERED THE MAXIMUM VALUE OF THE**

1 STORED PROPERTY FOR ALL PURPOSES.

2 (6) A RENTAL AGREEMENT UNDER THIS SECTION MAY PROVIDE FOR A
3 REASONABLE LATE CHARGE FOR FAILURE OF THE TENANT TO TIMELY MAKE
4 PAYMENTS FOR THE STORAGE SPACE WHEN DUE. A MONTHLY LATE FEE OF
5 \$20.00 OR 20% OF THE MONTHLY RENTAL AMOUNT, WHICHEVER IS GREATER,
6 SHALL BE CONSIDERED REASONABLE AND IS NOT A PENALTY. THE OWNER OF
7 THE SELF-SERVICE STORAGE FACILITY OR SELF-CONTAINED STORAGE UNIT
8 HAS THE BURDEN OF JUSTIFYING THE REASONABLENESS OF ANY HIGHER LATE
9 FEE.

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

12 (2) The tenant and any occupant designated by the tenant in
13 section 4(2) shall be notified of the owner's intent to enforce the
14 owner's lien by written notice delivered in person, by first-class
15 mail, or by electronic mail to the tenant's and, if applicable,
16 occupant's last known address. The notice shall include all of the
17 following:

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

21 (b) A demand for payment within a specified time not less than
22 14 days after delivery of the notice.

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

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

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

8 (3) A notice ~~given pursuant to~~ **UNDER** this section ~~shall be~~ **IS**
9 presumed delivered when it is deposited with the United States
10 postal service and properly addressed with postage prepaid or when
11 it is transmitted by electronic mail to the tenant's last known
12 electronic mail address. ~~An owner who gives notice under subsection~~
13 ~~(2) shall make an affidavit stating how and when the notice was~~
14 ~~delivered to the tenant and shall attach a copy of the notice to~~
15 ~~the affidavit. The owner shall retain the affidavit for~~
16 ~~introduction into evidence in any potential action under section~~
17 ~~6(1).~~

18 (4) Subject to subsection ~~(15),~~ **(16)**, after the expiration of
19 the time given in the notice described in subsection (2), the
20 contents of the storage space may be moved to another storage space
21 pending its sale or other disposition under this act.

22 (5) After the expiration of the time given in the notice
23 described in subsection (2), except as provided in subsection (6),
24 an advertisement of the sale or other disposition shall be
25 published once a week for 2 consecutive weeks in the print or
26 electronic version of a newspaper of general circulation in the
27 area where the self-service storage facility or self-contained

1 storage unit is located or posted once per week for 2 consecutive
2 weeks on a publicly available website identified in the rental
3 agreement. Regardless of whether a sale involves the property of
4 more than 1 tenant, a single advertisement may be used to advertise
5 the disposal of property at the sale. An advertisement under this
6 section shall include all of the following:

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

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

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

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

25 (7) The inventory required under subsection (5) shall
26 reasonably identify the property. A container, including, but not
27 limited to, a trunk, valise, or box that is locked, fastened,

1 sealed, or tied in a manner that deters immediate access to its
2 contents may be described as being in that condition, and a
3 description of the container's contents is not required. However, a
4 container closed in such a manner may be opened and its contents
5 inventoried, and those conducting the inventory, the owner, and the
6 owner's employees, agents, and representatives are not liable for
7 incidental damage to the container caused by the inventory.

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

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

25 (10) IF ANY PROPERTY TO WHICH A LIEN ATTACHES UNDER SECTION 3
26 IS A MOTOR VEHICLE, AIRCRAFT, MOBILE HOME, MOPED, MOTORCYCLE,
27 SNOWMOBILE, TRAILER, OR WATERCRAFT AND THE RENT AND OTHER STORAGE

1 CHARGES REMAIN UNPAID OR UNSATISFIED FOR 60 DAYS, THE OWNER MAY, IN
2 LIEU OF A SALE OF THE PROPERTY, HAVE THE PROPERTY TOWED FROM THE
3 FACILITY BY AN INDEPENDENT MOTOR CARRIER WITH A PROPER CERTIFICATE
4 OF AUTHORITY FROM THE MICHIGAN PUBLIC SERVICE COMMISSION UNDER THE
5 MOTOR CARRIER ACT, 1933 PA 254, MCL 475.1 TO 479.43. AN OWNER WHO
6 HAS PROPERTY TOWED UNDER THIS SUBSECTION IS NOT LIABLE OR
7 RESPONSIBLE FOR THE PROPERTY AFTER THE TRANSFER OF POSSESSION OF
8 THE PROPERTY TO THE MOTOR CARRIER.

9 (11) ~~(10)~~—Before the sale of a motor vehicle, aircraft, mobile
10 home, moped, motorcycle, snowmobile, trailer, or watercraft, the
11 owner shall contact the secretary of state and any other
12 governmental agency as reasonably necessary to determine the name
13 and address of the title holders or lienholders of the item, and
14 the owner shall notify every identified title holder or lienholder
15 of the time and place of the proposed sale. The owner is liable for
16 notifying the holder of a security interest only if the security
17 interest is filed under the name of the person signing the rental
18 agreement, the tenant, or an occupant identified in section 4(2).
19 An owner who fails to make the lien searches required by this
20 section is liable only to valid lienholders injured by that failure
21 as provided in section 6.

22 (12) ~~(11)~~—Before the sale of personal property under this act,
23 a holder of a prior lien on a motor vehicle, aircraft, mobile home,
24 moped, motorcycle, snowmobile, trailer, or watercraft to be sold
25 may pay the owner the amount of the owner's lien attributable to
26 storage of the property, including the reasonable expenses incurred
27 by the owner under this section. The amount payable to the owner

1 shall not exceed the equivalent of 4 months' rent. A payment made
2 to the owner shall be added to the amount of the lien of the prior
3 lienholder who made the payment and shall be subtracted from the
4 amount of the owner's lien.

5 (13) ~~(12)~~—A purchaser in good faith of the personal property
6 sold under this section takes the property free of any right of a
7 person against whom the lien was valid, despite noncompliance by
8 the owner with the requirements of this section.

9 (14) ~~(13)~~—A person conducting a sale under this section shall
10 distribute the proceeds in the following sequence:

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

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

16 (c) Third, to satisfy the balance of the owner's liens,
17 **INCLUDING, BUT NOT LIMITED TO, ALL UNPAID RENT, LATE FEES, AND**
18 **REASONABLE LIEN ENFORCEMENT EXPENSES.**

19 (15) ~~(14)~~—Any proceeds of a sale under this section remaining
20 after the distribution is made under subsection ~~(13)~~-(14) shall be
21 returned to the tenant by mailing the proceeds to the tenant's last
22 known address by certified mail and by notifying the tenant by
23 first-class mail. If the tenant does not claim the remaining
24 proceeds within 2 years after the date of sale, the remaining
25 proceeds shall escheat to this state. The owner shall maintain
26 proper records of money received in any sale held under this
27 section, and the records are subject to audit by the department of

1 treasury.

2 (16) ~~(15)~~—If an owner receives a notice with supporting
3 evidence under section 4(3) from a tenant, the owner shall not
4 enforce an owner's lien until 90 days after the end of the tenant's
5 overseas service.

6 (17) AN OWNER IS NOT LIABLE FOR ANY DAMAGES OR CLAIMS RELATED
7 TO THE RELEASE, USE, OR MISUSE OF CONFIDENTIAL, PROPRIETARY, OR
8 PERSONAL IDENTIFICATION INFORMATION CONTAINED IN ANY DOCUMENTS OR
9 OTHER MEDIA STORED BY A TENANT IN THE FACILITY OR UNIT AFTER THE
10 SALE OR OTHER DISPOSITION OF THE DOCUMENTS OR MEDIA.

11 (18) IF AN OWNER REASONABLY BELIEVES THAT A STORAGE SPACE
12 CONTAINS ANY DOCUMENTS OR OTHER MEDIA CONTAINING CONFIDENTIAL,
13 PROPRIETARY, OR PERSONAL IDENTIFICATION INFORMATION, THE OWNER MAY
14 DESTROY ANY OR ALL OF THE DOCUMENTS OR MEDIA IN LIEU OF A SALE
15 UNDER THIS SECTION. AN OWNER WHO DESTROYS DOCUMENTS OR MEDIA UNDER
16 THIS SUBSECTION IS NOT LIABLE TO ANY PERSON FOR THE DESTRUCTION.

17 (19) IF AN OWNER HAS KNOWLEDGE OF, AND THE STORAGE SPACE
18 CONTAINS, ANY PROPERTY THAT THE OWNER MAY NOT LAWFULLY SELL, THE
19 OWNER MAY PROPERLY DISPOSE OF THE PROPERTY IN ANY MANNER ALLOWED BY
20 APPLICABLE LAW IN LIEU OF A SALE UNDER THIS SECTION. AN OWNER WHO
21 DISPOSES OF PROPERTY UNDER THIS SUBSECTION IS NOT LIABLE TO ANY
22 PERSON FOR THE DISPOSAL.