SELF-SERVICE STORAGE FACILITY ACT

Act 148 of 1985

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.

History: 1985, Act 148, Eff. Mar. 31, 1986 ;-- Am. 2000, Act 443, Imd. Eff. Jan. 9, 2001

The People of the State of Michigan enact:

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570.521 Short title.

Sec. 1.

This act shall be known and may be cited as the "self-service storage facility act".

History: 1985, Act 148, Eff. Mar. 31, 1986

570.522 Definitions.

Sec. 2.

As used in this act:

(a) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of congress, or an order of the governor.

(b) "Armed forces" means that term as defined in section 2 of the veteran right to employment services act, 1994 PA 39, MCL 35.1092.

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

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

(e) "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.

(f) "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-contained storage unit.

(g) "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.

(h) "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.

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

(j) "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.

History: 1985, Act 148, Eff. Mar. 31, 1986 ;-- Am. 2000, Act 443, Imd. Eff. Jan. 9, 2001 ;-- Am. 2009, Act 177, Imd. Eff. Dec. 15, 2009

570.523 Lien; attachment; priority; written notice; limit on property value; late payment charge.

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 on 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 is as provided in section 5(14).

(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 or by electronic 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.".

(5) A rental agreement under this section may provide for a limit on the value of the property stored at the facility or unit. The stated limit shall be considered the maximum value of the stored property for all purposes.

(6) A rental agreement under this section may provide for a reasonable late charge for failure of the tenant to timely make payments for the storage space when due. A monthly late fee of $20.00 or 20% of the monthly rental amount, whichever is greater, shall be considered reasonable and is not a penalty. The owner of the self-service storage facility or self-contained storage unit has the burden of justifying the reasonableness of any higher late fee.

History: 1985, Act 148, Eff. Mar. 31, 1986 ;-- Am. 2000, Act 443, Imd. Eff. Jan. 9, 2001 ;-- Am. 2009, Act 177, Imd. Eff. Dec. 15, 2009 ;-- Am. 2014, Act 61, Eff. June 26, 2014

570.524 Denial of access upon nonpayment of rent; disclosure of nontenant occupant; tenant as service member who is transferred or deployed.

Sec. 4.

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(1) Upon the failure of a tenant to pay the rent for the storage space or unit 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-contained 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.

(3) A tenant who is a service member and who is transferred or deployed overseas on active duty for a period of 180 days or more may notify the owner of the transfer or deployment. The tenant shall provide written evidence of the transfer or deployment with the notice.

History: 1985, Act 148, Eff. Mar. 31, 1986 ;-- Am. 2000, Act 443, Imd. Eff. Jan. 9, 2001 ;-- Am. 2009, Act 177, Imd. Eff. Dec. 15, 2009

570.525 Enforcement of lien.

Sec. 5.

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

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

(a) An itemized statement of the owner's claim, showing the amount due at the time of the notice and the date when the amount 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 as provided in subsection (5).

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

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

(3) A notice under this section is presumed delivered when it is deposited with the United States postal service and properly addressed with postage prepaid or when it is transmitted by electronic mail to the tenant's last known electronic mail address.

(4) Subject to subsection (16), 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 the print or electronic version of a newspaper of general circulation in the area where the self-service storage facility or self-contained storage unit is located or posted once per week for 2 consecutive weeks on a publicly available website identified in the rental agreement. Regardless of whether a sale involves the property of more than 1 tenant, a single advertisement may be used to advertise the disposal of property at the sale. An advertisement under this section shall include all of the following:

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(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. Subject to subsection (16), 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 and a publicly available website is not identified in the rental agreement, 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. 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 that condition, and a description of the container's contents is not required. However, a container closed in such a manner may be opened and its contents inventoried, and those conducting the inventory, the owner, and the owner's employees, agents, and representatives are not liable for incidental damage to the container caused by the inventory.

(8) A sale or other disposition of personal property under this section 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 amount, the owner shall return the personal property to the tenant. After returning the personal property to the tenant under this subsection, the owner is not 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) If any property to which a lien attaches under section 3 is a motor vehicle, aircraft, mobile home, moped, motorcycle, snowmobile, trailer, or watercraft and the rent and other storage charges remain unpaid or unsatisfied for 60 days, the owner may, in lieu of a sale of the property, have the property towed from the facility by an independent motor carrier with a proper certificate of authority from the Michigan public service commission under the motor carrier act, 1933 PA 254, MCL 475.1 to 479.43. An owner who has property towed under this subsection is not liable or responsible for the property after the transfer of possession of the property to the motor carrier.

(11) Before the sale of a motor vehicle, aircraft, mobile home, moped, motorcycle, snowmobile, trailer, or watercraft, the owner shall contact the secretary of state and any other governmental agency as reasonably necessary to determine the name and address of the title holders or lienholders of the item, and the owner shall notify every identified title holder or lienholder 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 an occupant identified in section 4(2). An owner who fails to make the lien searches required by this section is liable only to valid lienholders injured by that failure as provided in section 6.

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(12) 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.

(13) A purchaser 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.

(14) A person conducting a sale under this section 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 (12).

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

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

(15) Any proceeds of a sale under this section remaining after the distribution is made under subsection (14) 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 this state. The owner shall maintain proper records of money received in any sale held under this section, and the records are subject to audit by the department of treasury.

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

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

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

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

History: 1985, Act 148, Eff. Mar. 31, 1986 ;-- Am. 2000, Act 443, Imd. Eff. Jan. 9, 2001 ;-- Am. 2009, Act 177, Imd. Eff. Dec. 15, 2009 ;-- Am. 2014, Act 61, Eff. June 26, 2014

570.526 Action for damages.

Sec. 6.

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(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.

History: 1985, Act 148, Eff. Mar. 31, 1986 ;-- Am. 2000, Act 443, Imd. Eff. Jan. 9, 2001

570.527 Applicability of act.

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.

History: 1985, Act 148, Eff. Mar. 31, 1986 ;-- Am. 2000, Act 443, Imd. Eff. Jan. 9, 2001

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