

A Bill for an Act Relating to Self-Service Storage.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
SELF-SERVICE STORAGE FACILITIES**

§ -1 **Definitions.** Whenever used in this chapter, unless the context otherwise requires:

- (1) “Last known address” means the address provided by the occupant in the latest rental agreement, or the address provided by the occupant in a subsequent written notice of a change of address.
- (2) “Occupant” means a person, or the person’s sublessee, successor, or assign, or who is entitled to the use of designated or individual storage space at a self-service storage facility under a rental agreement, to the exclusion of others.
- (3) “Owner” means the owner, operator, lessor, or sublessor of a self-service storage facility, an agent thereof, or any other person authorized to manage the facility, or to receive rent from an occupant under a rental agreement, and no real estate license is required.
- (4) “Personal property” means movable property not affixed to land, and includes, but is not limited to, goods, merchandise, furniture, household items, motor vehicles, and boats.
- (5) “Rental agreement” means any written agreement or lease which establishes or modifies the terms, conditions, rules, or any other provision concerning the use and occupancy of a self-service storage facility.
- (6) “Self-service storage facility” means any real property designed and used for the purpose of renting or leasing designated or individual storage space to occupants who are to have access to the space for the purpose of storing and removing personal property, but does not include a garage or other storage area in a private residence. No occupant shall use a self-service storage facility for residential purposes. A self-service storage facility is not a warehouse, nor a public utility. If an owner issues any warehouse receipt, bill of lading, or other document of title for the personal property stored, the owner and the occupant are subject to chapter 490, and this chapter does not apply.

§ -2 **Owner's lien.** The owner of a self-service storage facility and the owner's heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at a self-service storage facility for rent, labor, or other charges, present or future, incurred pursuant to the rental agreement, and for expenses necessary for the preservation, sale, or disposition of personal property subject to the provisions of this chapter. The lien may be enforced consistent with this chapter. However, any lien on a motor vehicle or boat which has attached and is set forth in the documents of title to the motor vehicle or boat shall have priority over any lien created pursuant to this chapter.

§ -3 **Rent due; notice of default and lien.** When any part of the rent or other charges due from an occupant remain unpaid for fifteen consecutive days, an owner may deny the right of access to the occupant to the storage space at a self-service storage facility; provided that notice is sent to the occupant's last known address, postage prepaid, containing all of the following:

- (1) A statement of the owner's claim showing the sums due at the time of the notice and the date when the sums became due.
- (2) A statement that the occupant is in default of the rental agreement.
- (3) A statement that the occupant's right to use the storage space will be denied unless and until all sums due are paid by the occupant.
- (4) A notice that the occupant has been denied access to the storage space and that an owner's lien, as provided for in section -2, may be imposed if all sums due are not paid within fifteen days of the notice.
- (5) The name, street address, and telephone number of the owner, or a designated agent, whom the occupant may contact to respond to the notice.

§ -4 **Notice of lien.** If a notice has been sent, as required by section -3, and the total sum due has not been paid as specified in the notice, the owner may deny an occupant access to the space, enter the space, and remove any property found in the space to a place of safe keeping; provided that the owner shall send to the occupant, addressed to the occupant's last known address, postage prepaid, a notice of lien which shall state all of the following:

- (1) That the occupant's right to use the storage space has terminated and that the occupant no longer has access to the stored property.
- (2) That the stored property is subject to a lien, and the amount of the lien.
- (3) That the owner will seize and take possession of the property to satisfy the lien after a specified date which is not less than fifteen days from the date of mailing the notice unless the amount of the lien is paid.

§ -5 **Final demand and notice of sale.** If both notices have been sent, as required by sections -3 and -4, and the total sum due has not been paid as

specified in the two prior notices, the owner may prepare for the sale of the occupant's property. The owner shall then send to the occupant, addressed to the occupant's last known address, postage prepaid:

- (1) A notice of final demand and sale which shall state all of the following:
 - (A) That the sums due for rent and charges demanded have not been paid.
 - (B) That the occupant's right to use the designated storage space has been terminated.
 - (C) That the occupant no longer has access to the stored property.
 - (D) That the stored property is subject to a lien and the amount of the lien.
 - (E) That the property will be sold to satisfy the lien after a specified date which is not less than thirty days from the date of mailing the notice unless prior to the specified date, the lien is paid in full.
 - (F) That any excess proceeds of the sale over the lien amount of costs of sale will be retained by the owner and may be reclaimed by the occupant, or claimed by another person, at any time for a period of one year from the sale and that thereafter the proceeds will go to the State under chapter 523.
 - (G) That if the proceeds of sale do not fully cover the amount of lien and costs, the occupant will be held liable for any deficiency.
- (2) An itemized statement of the owner's claim showing all sums due at the time of the notice and the date when sums became due.

§ -6 **Method of sale.** (a) Fifteen days after sending the final demand and notice of sale, pursuant to section - 5(1), an advertisement of the sale shall be published once a week for two weeks consecutively in a newspaper of general circulation published in the judicial district where the sale is to be held. The advertisement shall include a general description of the goods, the name of the person on whose account they are being stored, the total sums due, and the name and location of the storage facility.

(b) The sale shall be conducted in a commercially reasonable manner; and, after deducting the amount of the lien and costs, the owner shall retain any excess proceeds of the sale on the occupant's behalf. The occupant, or any other person having a court order or other judicial process against the property, may claim the excess proceeds, or a portion thereof sufficient to satisfy the particular claim, at anytime within one year of the date of sale. Thereafter, the owner shall pay any remaining excess proceeds to the State as provided in chapter 523.

§ -7 **Security interests, rights.** Any person who has a perfected security interest under chapter 490 may claim any personal property subject to the

security interest and subject to a lien pursuant to this chapter by paying the total amount due, as specified in the final demand and notice of sale. Upon payment of the total amount due, the owner shall deliver possession of the particular property subject to the security interest to the person who paid the total amount due. The owner shall not be liable to any person for action taken pursuant to this section if the owner has fully complied with the requirements of sections -3, -4, and -5.

§ -8 **Payment before sale.** Any person claiming a right to the goods must pay the amount necessary to satisfy the lien and the reasonable expenses incurred for particular actions taken pursuant to this chapter. In that event, the goods shall not be sold, but shall be retained by the owner subject to the terms of this chapter pending a court order directing disposition of the property.

§ -9 **Good faith purchaser.** A purchaser in good faith of goods sold to enforce a lien in favor of the owner on goods stored at a self-service storage facility takes the goods free of any rights of persons against whom the lien was claimed, despite noncompliance by the owner of the storage facility with the requirements of this chapter.

§ -10 **Self-storage contracts.** (a) Each contract for the rental or lease of individual storage space in a self-service storage facility shall be in writing and shall contain, in addition to the provisions otherwise required or permitted by law to be included, a statement that the occupant's property will be subject to a claim of lien and may be sold to satisfy the lien if the rent or other charges due remain unpaid for fifteen consecutive days and that such actions are authorized by this chapter.

(b) This chapter shall not apply, and the lien authorized by this chapter shall not attach, unless the rental agreement or supporting documentation requests, and provides space for, the occupant to give the name and address of another person to whom notices required to be given under this chapter may be sent. If both an address and an alternative address are provided by the occupant, notices pursuant to sections -3 or -4 shall be sent to both addresses. If both addresses are provided by the occupant, the owner shall send the final demand and notice of sale, pursuant to section -5, to both addresses by certified mail, postage prepaid. Failure of an occupant to provide an alternative address shall not affect an owner's remedies under this chapter or under any other provision of law.

§ -11 **Other rights.** Nothing in this chapter shall be construed to impair or affect the right of the parties to create additional rights, duties, and obligations in and by virtue of the rental agreement. The rights provided by this chapter shall be in addition to all other rights provided by law to a creditor against the creditor's debtor.

§ -12 **Applicability.** This chapter shall only apply to rental agreements entered into, or extended, or renewed after the effective date of this chapter."

ACT 239

SECTION 2. This Act shall take effect upon its approval.

(Approved June 4, 1984.)