

House Bill 934 (AS PASSED HOUSE AND SENATE)

By: Representatives Momtahan of the 17th, Mathis of the 149th, Gullett of the 19th, Cannon of the 172nd, Gunter of the 8th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 4 of Title 10 of the Official Code of Georgia Annotated,
2 relating to self-service storage facilities, so as to provide for enforcement of unsigned rental
3 agreements under certain circumstances; to provide for the execution and delivery of a rental
4 agreement electronically; to provide for the vacating of and removal of personal property
5 from self-storage service facilities by occupants under certain circumstances; to provide for
6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 5 of Chapter 4 of Title 10 of the Official Code of Georgia Annotated, relating to
10 self-service storage facilities, is amended by revising Code Section 10-4-213, relating to
11 enforcement of lien without judicial intervention, as follows:

12 "10-4-213.

13 (a) Provided that it complies with the requirements of this Code section, an owner may
14 enforce the lien without judicial intervention. The owner shall obtain from the occupant
15 a written rental agreement which includes the following language:

16 This agreement, made and entered into this _____ day of _____, _____, by
17 and between _____, hereinafter called Owner, and _____,
18 hereinafter called Occupant, whose last known address is _____. For the
19 consideration hereinafter stated, Owner agrees to let Occupant use and occupy a space
20 in the self-service storage facility, known as _____, situated in the City
21 of _____, County of _____, State of Georgia, and more particularly described
22 as follows: Building # _____, Space # _____, Size _____. Said space is to be
23 occupied and used for the purposes specified herein and subject to the conditions set forth
24 for a period of _____, beginning on the _____ day of _____, _____, and
25 continuing month to month until terminated.

26 'Space,' as used in this agreement, will be that part of the self-service storage facility as
27 described above. Occupant agrees to pay Owner, as payment for the use of the space and
28 improvements thereon, the monthly sum of \$ _____. Monthly installments are
29 payable in advance on or before the first of each month, in the amount of \$ _____, and
30 a like amount for each month thereafter, until the termination of this agreement.

31 If any monthly installment is not paid by the seventh calendar day of the month due, or
32 if any check given in payment is dishonored by the financial institution on which it is
33 drawn, Occupant shall be deemed to be in default.

34 Occupant further agrees to pay the sum of one month's fees, which shall be used as a
35 clean-up and maintenance fund, and is to be used, if required, for the repair of any
36 damage done to the space and to clean up the space at the termination of the agreement.
37 In the event that the space is left in a good state of repair, and in a broom-swept
38 condition, then this amount shall be refunded to Occupant. However, it is agreed to
39 between the parties that Owner may set off any claims it may have against Occupant from
40 this fund.

41 The space named herein is to be used by Occupant solely for the purpose of storing any
42 personal property belonging to Occupant. Occupant agrees not to store any explosives

43 or any highly inflammable goods or any other goods in the space which would cause
 44 danger to the space. Occupant agrees that the property will not be used for any unlawful
 45 purposes and Occupant agrees not to commit waste, nor alter, nor affix signs on the
 46 space, and to keep the space in good condition during the term of this agreement.

47 OWNER HAS A LIEN ON ALL PERSONAL PROPERTY STORED IN
 48 OCCUPANT'S SPACE FOR RENT, FEES FOR THE LATE PAYMENT OF
 49 RENT, LABOR, OR OTHER CHARGES, PRESENT OR FUTURE, IN
 50 RELATION TO THE PERSONAL PROPERTY, AND FOR ITS
 51 PRESERVATION OR EXPENSES REASONABLY INCURRED IN ITS SALE
 52 OR OTHER DISPOSITION PURSUANT TO THIS AGREEMENT.
 53 PERSONAL PROPERTY STORED IN OCCUPANT'S SPACE WILL BE SOLD
 54 OR OTHERWISE DISPOSED OF IF NO PAYMENT HAS BEEN RECEIVED
 55 FOR A CONTINUOUS THIRTY-DAY PERIOD AFTER DEFAULT. IN
 56 ADDITION, UPON OCCUPANT'S DEFAULT, OWNER MAY WITHOUT
 57 NOTICE DENY OCCUPANT ACCESS TO THE PERSONAL PROPERTY
 58 STORED IN OCCUPANT'S SPACE UNTIL SUCH TIME AS PAYMENT IS
 59 RECEIVED. IF ANY MONTHLY INSTALLMENT IS NOT MADE BY THE
 60 SEVENTH CALENDAR DAY OF THE MONTH DUE, OR IF ANY CHECK
 61 GIVEN IN PAYMENT IS DISHONORED BY THE FINANCIAL
 62 INSTITUTION ON WHICH IT IS DRAWN, OCCUPANT IS IN DEFAULT
 63 FROM DATE PAYMENT WAS DUE.

64 I hereby agree that all notices other than bills and invoices shall be given by hand
 65 delivery, verified mail, or email at the following addresses:

66 _____ (hand delivery)
 67 _____ (verified mail)
 68 _____ (email).

69 and I further understand that I may designate to owner an agent to receive such notice by
 70 providing:

71 _____ (hand delivery)

72 _____ (verified mail)

73 _____ (email).

74 For purposes of Owner's lien: 'personal property' means movable property, not affixed
 75 to land, and includes, but is not limited to, goods, wares, merchandise, motor vehicles,
 76 trailers, watercraft, household items, and furnishings; 'last known address' means the
 77 street address or post office box address provided by Occupant in the latest rental
 78 agreement or the address provided by Occupant in a subsequent written notice of a
 79 change of address by hand delivery, verified mail, or email.

80 Owner's lien is superior to any other lien or security interest, except those which are
 81 evidenced by a certificate of title or perfected and recorded prior to the date of this rental
 82 agreement in Georgia, in the name of Occupant, either in the county of Occupant's 'last
 83 known address' or in the county where the self-service storage facility is located, except
 84 any tax lien as provided by law and except those liens or security interests of whom
 85 Owner has knowledge through Occupant's disclosure in this rental agreement or through
 86 other written notice. Occupant attests that the personal property in Occupant's space(s)
 87 is free and clear of all liens and secured interests except for _____. Owner's lien
 88 attaches as of the date the personal property is brought to the self-service storage facility.
 89 Except as otherwise specifically provided in this rental agreement, the exclusive care,
 90 custody, and control of any and all personal property stored in the leased space shall
 91 remain vested in Occupant. Owner does not become a bailee of Occupant's personal
 92 property by the enforcement of Owner's lien.

93 If Occupant has been in default continuously for thirty (30) days, Owner may enforce its
 94 lien, provided Owner shall comply with the following procedure:

95 Occupant shall be notified of Owner's intent to enforce Owner's lien by written notice
96 delivered in person, by verified mail, or by email. Owner also shall notify other parties
97 with superior liens or security interests as defined in this rental agreement. A notice
98 given pursuant to this rental agreement shall be presumed sent when it is deposited with
99 the United States Postal Service or the statutory overnight delivery service properly
100 addressed with postage or delivery fees prepaid or sent by email. If Owner sends notice
101 of a pending sale of property to Occupant's last known email address and does not
102 receive a nonautomated response or a receipt of delivery to the email address, Owner
103 shall send notice of the sale to Occupant by verified mail to Occupant's last known
104 address or to the last known address of the designated agent of the Occupant before
105 proceeding with the sale.

106 Owner's notice to Occupant shall include an itemized statement of Owner's claim
107 showing the sum due at the time of the notice and the date when the sum became due.
108 Owner's notice shall notify Occupant of denial of access to the personal property and
109 provide the name, street address, email address, and telephone number of Owner or its
110 designated agent, whom Occupant may contact to respond to this notice. Owner's
111 notice shall demand payment within a specified time, not less than fourteen (14) days
112 after delivery of the notice. It shall state that, unless the claim is paid, within the time
113 stated in the notice, the personal property will be advertised for public sale to the
114 highest bidder, and will be sold at a public sale to the highest bidder, at a specified time
115 and place.

116 After the expiration of the time given in Owner's notice, Owner shall publish an
117 advertisement of the public sale to the highest bidder, once a week, for two consecutive
118 weeks, in the legal organ for the county where the self-service storage facility is located.
119 The sale shall be deemed commercially reasonable if at least three (3) independent
120 bidders attend the sale at the time and place advertised. 'Independent bidder' means a
121 bidder who is not related to and who has no controlling interest in, or common pecuniary

122 interest with, Owner or any other bidder. The advertisement shall include: a brief and
123 general description of the personal property, reasonably adequate to permit its
124 identification; the address of the self-service storage facility, and the number, if any, of
125 the space where the personal property is located, and the name of Occupant; and the time,
126 place, and manner of the public sale. The public sale to the highest bidder shall take
127 place not sooner than fifteen (15) days after the first publication. Regardless of whether
128 a sale involves the property of more than one Occupant, a single advertisement may be
129 used to advertise the disposal of property at the sale. A public sale includes offering the
130 property on a publicly accessible website that regularly conducts online auctions of
131 personal property. Such sale shall be considered incidental to the self-storage business
132 and no license shall be required.

133 If no one purchases the property at the public sale and if Owner has complied with the
134 foregoing procedures, Owner may otherwise dispose of the property and shall notify
135 Occupant of the action taken. Any sale or disposition of the personal property shall be
136 held at the self-service storage facility or at the nearest suitable place to where the
137 personal property is held or stored.

138 Before any sale or other disposition of personal property pursuant to this agreement,
139 Occupant may pay the amount necessary to satisfy the lien and the reasonable expenses
140 incurred and thereby redeem the personal property and thereafter Owner shall have no
141 liability to any person with respect to such personal property.

142 A Purchaser in good faith of the personal property sold to satisfy Owner's lien takes the
143 property free of any rights of persons against whom the lien was valid, despite
144 noncompliance by Owner with the requirements of this agreement.

145 In the event of a sale, Owner may satisfy his or her lien from the proceeds of the sale.
146 Owner shall hold the balance of the proceeds, if any, for Occupant or any notified secured
147 interest holder. If not claimed within two years of the date of sale, the balance of the
148 proceeds shall be disposed of in accordance with Article 5 of Chapter 12 of Title 44, the

149 'Disposition of Unclaimed Property Act.' In no event shall Owner's liability exceed the
150 proceeds of the sale.

151 If the rental agreement contains a limit on the value of property stored in Occupant's
152 storage space, the limit shall be deemed to be the maximum value of the property stored
153 in that space.

154 If the property upon which the lien is claimed is a motor vehicle, trailer, or watercraft and
155 rent and other charges related to the property remain unpaid or unsatisfied for 60 days
156 following the maturity of the obligation to pay rent, Owner may have the property towed
157 in lieu of foreclosing on the lien. If a motor vehicle, trailer, or watercraft is towed as
158 authorized in this section, Owner shall not be liable for the motor vehicle, trailer, or
159 watercraft or any damages to the motor vehicle, trailer, or watercraft once the tower takes
160 possession of the property.

161 (b) A rental agreement may be executed and delivered electronically."

162 **SECTION 2.**

163 Said article is further amended by adding a new Code section to read as follows:

164 "10-4-218.

165 (a) If within 14 days of the delivery of a written rental agreement by hand delivery or
166 verified mail by the owner to the occupant the occupant fails to sign such rental agreement,
167 the occupant's continued use of the storage space shall be deemed an acceptance of the
168 rental agreement and such rental agreement shall be enforceable against the occupant as
169 if it had been signed by the occupant, provided said agreement states in bold type no
170 smaller than 12 point font: 'THE OCCUPANT'S CONTINUED USE OF THE STORAGE
171 SPACE SHALL BE DEEMED AN ACCEPTANCE OF THE RENTAL AGREEMENT
172 AND SUCH RENTAL AGREEMENT SHALL BE ENFORCEABLE AGAINST THE
173 OCCUPANT AS IF IT HAD BEEN SIGNED BY THE OCCUPANT'.

174 (b) An occupant shall not use a self-service storage facility after the owner has delivered
175 written notice by hand delivery or verified mail of the termination or nonrenewal of the
176 occupant's rental agreement. Such notice shall provide the occupant with not less than 14
177 days after delivery of such notice to remove all personal property from the self-service
178 storage facility.

179 (c) Prior to the occupant's removal of all personal property from a self-service storage
180 facility pursuant to subsection (b) of this Code section, the owner may place reasonable
181 restrictions on the occupant's use of the self-service storage facility, including denying
182 access to the self-service storage facility except for the occupant to remove personal
183 property during the owner's normal business hours. The owner may dispose of any
184 personal property remaining at the self-service storage facility after the date provided in
185 the written notice pursuant to subsection (b) of this Code section."

186

SECTION 3.

187 All laws and parts of laws in conflict with this Act are repealed.