

House Bill 131 (AS PASSED HOUSE AND SENATE)

By: Representatives Reeves of the 99th, Gunter of the 8th, Leverett of the 123rd, Oliver of the 84th, Holcomb of the 101st, 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 revise the advertisement requirements
3 before an owner of a self-service storage facility can enforce an owner's lien; to provide for
4 related matters; to provide for an effective date and applicability; to repeal conflicting laws;
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

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

15 'This agreement, made and entered into this _____ day of _____, _____, by
16 and between _____, hereinafter called Owner, and _____,

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

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

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

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

40 The space named herein is to be used by Occupant solely for the purpose of storing any
41 personal property belonging to Occupant. Occupant agrees not to store any explosives
42 or any highly inflammable goods or any other goods in the space which would cause
43 danger to the space. Occupant agrees that the property will not be used for any unlawful

44 purposes and Occupant agrees not to commit waste, nor alter, nor affix signs on the
45 space, and to keep the space in good condition during the term of this agreement.

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

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

- 65 _____ (hand delivery)
- 66 _____ (verified mail)
- 67 _____ (email).

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

70 _____ (hand delivery)

71 _____ (verified mail)
72 _____ (email).

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

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

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

94 Occupant shall be notified of Owner's intent to enforce Owner's lien by written notice
95 delivered in person, by verified mail, or by email. Owner also shall notify other parties
96 with superior liens or security interests as defined in this rental agreement. A notice
97 given pursuant to this rental agreement shall be presumed sent when it is deposited with

98 the United States Postal Service or the statutory overnight delivery service properly
99 addressed with postage or delivery fees prepaid or sent by email. If Owner sends notice
100 of a pending sale of property to Occupant's last known email address and does not
101 receive a nonautomated response or a receipt of delivery to the email address, Owner
102 shall send notice of the sale to Occupant by verified mail to Occupant's last known
103 address or to the last known address of the designated agent of the Occupant before
104 proceeding with the sale.

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

115 After the expiration of the time given in Owner's notice, Owner shall publish an
116 advertisement of the public sale to the highest bidder, ~~once a week, for two consecutive~~
117 ~~weeks,~~ in the legal organ for the county where the self-service storage facility is located;
118 provided, however, that the advertisement of the sale may be done in any other
119 commercially reasonable manner when the property being sold is anything other than a
120 motor vehicle, motorcycle, trailer, any watercraft, or any recreational vehicle. The
121 advertisement and sale shall be deemed commercially reasonable if at least three (3)
122 independent bidders attend the sale at the time and place advertised. "'Independent bidder
123 "' means a bidder who is not related to and who has no controlling interest in, or common
124 pecuniary interest with, Owner or any other bidder. The advertisement shall include: a

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

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

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

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

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

