Senate Bill 97
By: Senators Stone of the 23rd and Anderson of the 24th

AS PASSED

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, relating to self-service storage facilities, so as to provide for and limit fees charged and collected by self-service storage facilities for the late payment of rent; to provide for liens and the enforcement of liens for fees for the late payment of rent; to update and revise definitions for clarity and conformity; to provide for applicability; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 5 of Chapter 4 of Title 10 of the Official Code of Georgia Annotated, relating to self-service storage facilities, is amended by revising paragraphs (1), (2), (4), and (7) of Code Section 10-4-211, relating to definitions, as follows:

"(1) 'Email' means an electronic message or an executable program or computer file that contains an image of a message that is transmitted between two or more computers or electronic terminals. The term includes electronic messages that are transmitted within or between computer networks.

(2) 'Last known address' means the street address, post office box address, or email 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 by hand delivery, verified mail, or email.

(4) 'Owner' means the owner, operator, lessor, or sublessor of, or person having an ownership interest in, a self-service storage facility, his or her agent, an agent of such operator, lessor, or sublessor, or any other person authorized to manage the facility or to receive rent from an occupant under a rental agreement.

(7) 'Self-service storage facility' means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such for the purpose of storing and removing personal property—No occupant
shall use a self-service storage facility for residential purposes. A self-service storage facility is not a warehouse; provided, however, that such term shall not mean a:

(A) Warehouse within the meaning of Article 1 of this chapter, known as the 'Georgia State Warehouse Act,' and the provisions of law relative to bonded public warehousemen shall not apply to the owner of a self-service storage facility. A self-service storage facility is not a safe-deposit Act'; or

(B) Safe-deposit box or vault maintained by banks, trust companies, or other financial entities."

SECTION 2.

Said article is further amended by revising Code Section 10-4-212, relating to lien of owner of self-service storage facility upon property located at facility, priority, and attachment, as follows:

10-4-212. The owner of a self-service storage facility and his or her heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at a self-service storage facility for rent, fees for the late payment of rent, labor, or other charges, present or future, in relation to the personal property and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to this article. The lien provided for in this Code section is superior to any other lien or security interest except those which are perfected and recorded prior to the date of the rental agreement in Georgia in the name of the occupant, either in the county of the occupant's last known address or in the county where the self-service storage facility is located, except any tax lien as otherwise provided by law and except any lienholder with an interest in the property of whom the owner has knowledge either through the disclosure provision of the rental agreement or through other written notice. The lien attaches as of the date the personal property is brought to the self-service storage facility."

SECTION 3.

Said article is further amended by revising Code Section 10-4-213, relating to enforcement of lien without judicial intervention, as follows:

10-4-213. Provided that it complies with the requirements of this Code section, an owner may enforce the lien without judicial intervention. The owner shall obtain from the occupant a written rental agreement which includes the following language:

This agreement, made and entered into this ______ day of ______________, ____ by and between ____________, hereinafter called Owner, and ______________.
hereinafter called Occupant, whose last known address is _______________. For the consideration hereinafter stated, Owner agrees to let Occupant use and occupy a space in the self-service storage facility, known as __________________, situated in the City of __________, County of ________, State of Georgia, and more particularly described as follows: Building #______, Space #______, Size ________. Said space is to be occupied and used for the purposes specified herein and subject to the conditions set forth for a period of _______, beginning on the ______ day of ______________, ____, and continuing month to month until terminated.

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

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

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

The space named herein is to be used by Occupant solely for the purpose of storing any personal property belonging to Occupant. Occupant agrees not to store any explosives or any highly inflammable goods or any other goods in the space which would cause danger to the space. Occupant agrees that the property will not be used for any unlawful purposes and Occupant agrees not to commit waste, nor alter, nor affix signs on the space, and to keep the space in good condition during the term of this agreement.

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

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

___________________________________________________________ (hand delivery)
____________________________________________________________ (verified mail)
___________________________________________________________ (e-mail).

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

___________________________________________________________ (hand delivery)
____________________________________________________________ (verified mail)
___________________________________________________________ (e-mail).

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

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

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

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

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

After the expiration of the time given in Owner's notice, Owner shall publish an advertisement of the public sale to the highest bidder, once a week, for two consecutive weeks, in the legal organ for the county where the self-service storage facility is located. The sale shall be deemed commercially reasonable if at least three (3) independent bidders attend the sale at the time and place advertised. 'Independent bidder' means a bidder who is not related to and who has no controlling interest in, or common pecuniary interest with, Owner or any other bidder. The advertisement shall include: a brief and general description of the personal property, reasonably adequate to permit its identification; the address of the self-service storage facility, and the number, if any, of the space where the personal property is located, and the name of Occupant; and the time, place, and manner of the public sale. The public sale to the highest bidder shall take place not sooner than fifteen (15) days after the first publication. Regardless of whether
a sale involves the property of more than one Occupant, a single advertisement may be
used to advertise the disposal of property at the sale. A public sale includes offering the
property on a publicly accessible website that regularly conducts online auctions of
personal property. Such sale shall be considered incidental to the self-storage business
and no license shall be required.
If no one purchases the property at the public sale and if Owner has complied with the
foregoing procedures, Owner may otherwise dispose of the property and shall notify
Occupant of the action taken. Any sale or disposition of the personal property shall be
held at the self-service storage facility or at the nearest suitable place to where the
personal property is held or stored.
Before any sale or other disposition of personal property pursuant to this agreement,
Occupant may pay the amount necessary to satisfy the lien and the reasonable expenses
incurred and thereby redeem the personal property and thereafter Owner shall have no
liability to any person with respect to such personal property.
A Purchaser in good faith of the personal property sold to satisfy Owner's lien takes the
property free of any rights of persons against whom the lien was valid, despite
noncompliance by Owner with the requirements of this agreement.
In the event of a sale, Owner may satisfy his or her lien from the proceeds of the sale.
Owner shall hold the balance of the proceeds, if any, for Occupant or any notified secured
interest holder. If not claimed within two years of the date of sale, the balance of the
proceeds shall be disposed of in accordance with Article 5 of Chapter 12 of Title 44, the
'Disposition of Unclaimed Property Act.' In no event shall Owner's liability exceed the
proceeds of the sale.
If the rental agreement contains a limit on the value of property stored in Occupant's
storage space, the limit shall be deemed to be the maximum value of the property stored
in that space.
If the property upon which the lien is claimed is a motor vehicle, trailer, or watercraft and
rent and other charges related to the property remain unpaid or unsatisfied for 60 days
following the maturity of the obligation to pay rent, Owner may have the property towed
in lieu of foreclosing on the lien. If a motor vehicle, trailer, or watercraft is towed as
authorized in this section, Owner shall not be liable for the motor vehicle, trailer, or
watercraft or any damages to the motor vehicle, trailer, or watercraft once the tower takes
possession of the property."

SECTION 4.
Said article is further amended by adding new Code sections to read as follows:
10-4-216.
(a) No occupant shall use a self-service storage facility for residential purposes.
(b) The provisions of law relative to bonded public warehousemen shall not apply to any
owner of a self-service storage facility.

10-4-217.
(a) Pursuant to the terms of a rental agreement, an owner may charge and collect a fee
from an occupant for the late payment of rent that is to be paid under a rental agreement.
Such fee shall be no more than $20.00 per month for each month there is a late payment
of rent or 20 percent of the monthly rent for each month there is a late payment of rent,
whichever is greater.
(b) This Code section shall only apply to rental agreements entered into, extended, or
renewed, and the late payment of rent occurring, on or after July 1, 2019."

SECTION 5.
All laws and parts of laws in conflict with this Act are repealed.