

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 655, Page 2, Section 67.281, Line 17, by
2 inserting after all of said section and line the following:

3
4 "415.400. Sections 415.400 to [415.430] 415.425 shall be known and may be cited as the
5 "Self-Service Storage Facilities Act".

6 415.405. As used in sections 415.400 to [415.430] 415.425, the following terms shall mean:

7 (1) "Default", the failure to perform on time any obligation or duty set forth in a rental
8 agreement;

9 (2) "Electronic mail", an electronic message or an executable program or computer file that
10 contains an image of a message that is transmitted between two or more computers or electronic
11 terminals and includes electronic messages that are transmitted within or between computer
12 networks;

13 (3) "Last known address", that postal address or electronic mail address provided by the
14 occupant in the latest rental agreement or the postal or electronic mail address provided by the
15 occupant in a subsequent written notice of a change of address, one of which may be designated in
16 writing by the occupant as the preferred method of contact which shall be used by the operator;

17 [(3)] (4) "Leased space", the individual storage space at the self-service facility which is
18 rented to an occupant pursuant to a rental agreement;

19 [(4)] (5) "No commercial value", includes but not limited to any property offered for sale in
20 a commercially reasonable manner that receives no bid or offer;

21 [(5)] (6) "Occupant", a person, lessee, sublessee, successor or assignee entitled to the use of
22 a leased space at a self-service storage facility under a rental agreement;

23 [(6)] (7) "Operator", the owner, operator, lessor or sublessor of a self-service storage
24 facility, or an agent or any other person authorized to manage the facility; except that, the term
25 "operator" does not include a warehouseman, unless the operator issues a warehouse receipt, bill of
26 lading, or other document of title for the personal property stored;

27 [(7)] (8) "Personal property", movable property which is not affixed to land, including, but
28 not limited to, goods, wares, merchandise, motor vehicles, watercraft, household items, and
29 furnishings;

30 [(8)] (9) "Private sale", [an unadvertised] a sale negotiated and concluded directly between
31 the buyer and seller;

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1 [(9)] (10) "Public sale", a sale made after public notice and includes but is not limited to a
 2 sale at the self-service storage facility or a sale conducted online at a publically accessible website;

3 [(10)] (11) "Rental agreement", any written contract or agreement that establishes or
 4 modifies the terms, conditions or rules concerning the use and occupancy of a self-service storage
 5 facility, which is signed by the occupant and the operator;

6 [(11)] (12) "Self-service storage facility", any real property used for renting or leasing
 7 individual storage spaces in which the occupants themselves customarily store and remove their own
 8 personal property on a self-service basis;

9 (13) "Verified mail", any method of mailing that is offered by the United States Postal
 10 Service or private delivery service that provides evidence of mailing.

11 415.410. 1. An operator may not knowingly permit a leased space at a self-service storage
 12 facility to be used for residential purposes. An occupant may not use a leased space for residential
 13 purposes.

14 2. An operator may enter the leased space at all times which are reasonably necessary to
 15 insure the protection and preservation of the self-service storage facility or any personal property
 16 stored therein.

17 3. Prior to placing any personal property into his or her leased space, each occupant shall
 18 deliver a written statement to the operator or indicate in the rental agreement of such leased space
 19 containing the name and address of each person having a valid lien against such personal property
 20 and the name and address of any third party owner of personal property stored or to be stored in the
 21 leased space along with a description of such personal property.

22 4. The lessee shall be informed in writing that the lessor either does or does not have
 23 casualty insurance on the lessee's property.

24 5. If the rental agreement contains a limit on the value of property stored in occupant's space,
 25 such limit shall be deemed to be the maximum value of the stored property and the maximum
 26 liability of the owner for any claim for loss of or damage to stored property.

27 415.415. 1. The operator of a self-service storage facility has a lien on all personal property
 28 stored within each leased space for rent, labor, or other charges, and for expenses reasonably
 29 incurred in sale of such personal property, as provided in sections 415.400 to [415.430] 415.425.
 30 The lien established by this subsection shall have priority over all other liens except those liens that
 31 have been perfected and recorded on personal property. The rental agreement shall contain a
 32 statement, in bold type, advising the occupant of the existence of such lien and that property stored in
 33 the leased space may be sold to satisfy such lien if the occupant is in default, and that any proceeds
 34 from the sale of the property which remain after satisfaction of the lien will be paid to the state
 35 treasurer if unclaimed by the occupant within one year after the sale of the property.

36 2. If the occupant is in default for a period of more than [thirty] forty-five days, the operator
 37 may enforce the lien granted in subsection 1 of this section and sell the property stored in the leased
 38 space for cash. Sale of the property stored on the premises may be done at a public or private sale,
 39 may be done as a unit or in parcels, or may be by way of one or more contracts, and may be at any
 40 time or place and on any terms as long as the sale is done in a commercially reasonable manner in
 41 accordance with the provisions of section 400.9-627. The operator may otherwise dispose of any

1 property which has no commercial value.

2 3. The proceeds of any sale made under this subsection shall be applied to satisfy the lien,
3 with any surplus being held for delivery on demand to the occupant or any other lienholders which
4 the operator knows of or which are contained in the statement filed by the occupant pursuant to
5 subsection 3 of section 415.410 for a period of one year after receipt of proceeds of the sale and
6 satisfaction of the lien. No proceeds shall be paid to an occupant until such occupant files a sworn
7 affidavit with the operator stating that there are no other valid liens outstanding against the property
8 sold and that he or she, the occupant, shall indemnify the operator for any damages incurred or
9 moneys paid by the operator due to claims arising from other lienholders of the property sold. After
10 the one-year period set in this subsection, any proceeds remaining after satisfaction of the lien shall
11 be considered abandoned property to be reported and paid to the state treasurer in accordance with
12 laws pertaining to the disposition of unclaimed property.

13 4. Before conducting a sale under subsection 2 of this section, the operator shall:

14 (1) At least forty-five days before any disposition of property under this section, which shall
15 run concurrently with subsection 2 of this section, notify the occupant and each lienholder which is
16 contained in any statement filed by the occupant pursuant to subsection 3 of section 415.410 of the
17 default by first-class mail or electronic mail at the occupant's or lienholder's last known address, and
18 shall notify any third party owner identified by the occupant pursuant to subsection 3 of section
19 415.410;

20 (2) No [later] sooner than ten days after mailing the notice required in subdivision (1) of this
21 subsection, mail a second notice of default, by [registered or certified] verified mail or electronic
22 mail, to the occupant at the occupant's or lienholder's last known address, which notice shall include:

23 (a) A statement that the contents of the occupant's leased space are subject to the operator's
24 lien;

25 (b) A statement of the operator's claim, indicating the charges due on the date of the notice,
26 the amount of any additional charges which shall become due before the date of release for sale and
27 the date those additional charges shall become due;

28 (c) A demand for payment of the charges due within a specified time, not less than ten days
29 after the date on which the second notice was mailed;

30 (d) A statement that unless the claim is paid within the time stated, the contents of the
31 occupant's space will be sold after a specified time; and

32 (e) The name, street address and telephone number of the operator, or a designated agent
33 whom the occupant may contact, to respond to the notice;

34 (3) At least seven days before the sale, advertise the time, place and terms of the sale in a
35 newspaper of general circulation in the jurisdiction where the sale is to be held. Such advertisement
36 shall be in the classified section of the newspaper and shall state that the items will be released for
37 sale.

38 5. If the property is a vehicle, watercraft, or trailer and rent and other charges remain unpaid
39 for sixty days, the owner may treat the vehicle, watercraft, or trailer as an abandoned vehicle and
40 have the vehicle, watercraft, or trailer towed from the self-service storage facility. When the vehicle,
41 watercraft, or trailer is towed from the self-service storage facility, the owner shall not be liable for

1 the vehicle, watercraft, or trailer for any damages to the motor vehicle, watercraft, or trailer once the
 2 tower takes possession of the property.

3 [5.] 6. At any time before a sale under this section, the occupant may pay the amount
 4 necessary to satisfy the lien and redeem the occupant's personal property.

5 415.417. 1. For the purposes of this section, "late fee" means a fee or charge assessed by an
 6 operator for an occupant's failure to pay rent when due. A late fee is not interest on a debt, nor is a
 7 late fee a reasonable expense which the operator may incur in the course of collecting unpaid rent in
 8 enforcing his or her lien rights pursuant to sections 415.400 to [415.430] 415.425, or enforcing any
 9 other remedy provided by statute or contract.

10 2. Any late fee charged by the operator shall be stated in the rental agreement. No late fee
 11 shall be collected unless it is written in the rental agreement or an addendum to such agreement.

12 3. An operator may impose a reasonable late fee for each month an occupant does not pay
 13 rent when due.

14 4. A late fee of twenty dollars or twenty percent of the monthly rental amount, whichever is
 15 greater, for each late rental payment shall be deemed reasonable, and shall not constitute a penalty.

16 5. An operator may set a late fee other than that permitted in subsection 4 of this section if
 17 such fee is reasonable. The operator shall have the burden of proof that a higher late fee is
 18 reasonable.

19 6. The operator may recover all reasonable rent collection and lien enforcement expenses
 20 from the occupant in addition to any late fees incurred.

21 415.420. 1. A purchaser in good faith of any personal property sold under sections 415.400
 22 to [415.430] 415.425 takes the property free and clear of any rights of any persons against whom the
 23 lien was valid and other lienholders.

24 2. If the operator complies with the provisions of sections 415.400 to [415.430] 415.425, the
 25 operator's liability to the occupant shall be limited to the net proceeds received from the sale of the
 26 personal property, and to other lienholders shall be limited to the net proceeds received from the sale
 27 of any personal property covered by the other lien.

28 3. If an occupant is in default, the operator may deny the occupant access to the leased space.

29 4. Unless otherwise specifically provided in sections 415.400 to [415.430] 415.425, all
 30 notices required by sections 415.400 to [415.430] 415.425 shall be sent by [registered or certified
 31 mail] verified mail or electronic mail to the last known address as defined in section 415.400.
 32 Notices sent to the operator shall be sent to the self-service storage facility where the occupant's
 33 property is stored. Notices to the occupant shall be sent to the occupant at the occupant's last known
 34 address. Notices shall be deemed delivered when deposited with the United States postal service,
 35 properly addressed as provided in subsection 4 of section 415.415, with postage prepaid or sent via
 36 electronic mail to the last known address.

37 415.425. Except as provided in subsection 3 of section 415.420, unless the rental agreement
 38 specifically provides otherwise and until a lien sale under sections 415.400 to [415.430] 415.425, the
 39 exclusive care, custody and control of all personal property stored in the leased self-service storage
 40 space remains vested in the occupant."; and

41 Further amend said bill by amending the title, enacting clause, and intersectional references

1 accordingly.