

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1225
97TH GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industry, May 13, 2014, with recommendation that the Senate Committee Substitute do pass.

5063S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 415.400, 415.405, 415.410, 415.415, 415.417, 415.420, and 415.425, RSMo, and to enact in lieu thereof seven new sections relating to self-service storage facilities, with an effective date for certain sections.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 415.400, 415.405, 415.410, 415.415, 415.417, 415.420,
2 and 415.425, RSMo, are repealed and seven new sections enacted in lieu thereof,
3 to be known as sections 415.400, 415.405, 415.410, 415.415, 415.417, 415.420, and
4 415.425, to read as follows:

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

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

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

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

10 (3) "Last known address", that **postal address or electronic mail**
11 **address** provided by the occupant in the **latest** rental agreement or the **postal**
12 **or electronic mail** address provided by the occupant in a subsequent written

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 notice of a change of address, **one of which may be designated in writing**
14 **by the occupant as the preferred method of contact which shall be used**
15 **by the operator;**

16 [(3)] (4) "Leased space", the individual storage space at the self-service
17 facility which is rented to an occupant pursuant to a rental agreement;

18 [(4)] (5) "No commercial value", **includes but not limited to** any
19 property offered for sale in a commercially reasonable manner that receives no
20 bid or offer;

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

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

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

32 [(8)] (9) "Private sale", [an unadvertised] a sale negotiated and
33 concluded directly between the buyer and seller;

34 [(9)] (10) "Public sale", a sale made after public notice **and includes**
35 **but is not limited to a sale at the self-service storage facility or a sale**
36 **conducted online at a publically accessible website;**

37 [(10)] (11) "Rental agreement", any written contract or agreement that
38 establishes or modifies the terms, conditions or rules concerning the use and
39 occupancy of a self-service storage facility, which is signed by the occupant and
40 the operator;

41 [(11)] (12) "Self-service storage facility", any real property used for
42 renting or leasing individual storage spaces in which the occupants themselves
43 customarily store and remove their own personal property on a self-service basis;

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

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

3 not use a leased space for residential purposes.

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

7 3. Prior to placing any personal property into his or her leased space, each
8 occupant shall deliver a written statement to the operator **or indicate in the**
9 **rental agreement** of such leased space containing the name and address of each
10 person having a valid lien against such personal property **and the name and**
11 **address of any third party owner of personal property stored or to be**
12 **stored in the leased space along with a description of such personal**
13 **property.**

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

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

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

12 2. If the occupant is in default for a period of more than [thirty] **forty-**
13 **five** days, the operator may enforce the lien granted in subsection 1 of this
14 section and sell the property stored in the leased space for cash. Sale of the
15 property stored on the premises may be done at a public or private sale, may be
16 done as a unit or in parcels, or may be by way of one or more contracts, and may
17 be at any time or place and on any terms as long as the sale is done in a
18 commercially reasonable manner in accordance with the provisions of section
19 400.9-627. The operator may otherwise dispose of any property which has no

20 commercial value.

21 3. The proceeds of any sale made under this subsection shall be applied
22 to satisfy the lien, with any surplus being held for delivery on demand to the
23 occupant or any other lienholders which the operator knows of or which are
24 contained in the statement filed by the occupant pursuant to subsection 3 of
25 section 415.410 for a period of one year after receipt of proceeds of the sale and
26 satisfaction of the lien. No proceeds shall be paid to an occupant until such
27 occupant files a sworn affidavit with the operator stating that there are no other
28 valid liens outstanding against the property sold and that he or she, the
29 occupant, shall indemnify the operator for any damages incurred or moneys paid
30 by the operator due to claims arising from other lienholders of the property
31 sold. After the one-year period set in this subsection, any proceeds remaining
32 after satisfaction of the lien shall be considered abandoned property to be
33 reported and paid to the state treasurer in accordance with laws pertaining to the
34 disposition of unclaimed property.

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

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

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

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

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

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

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

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

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

64 **5. If the property is a vehicle, watercraft, or trailer and rent and**
65 **other charges remain unpaid for sixty days, the owner may treat the**
66 **vehicle, watercraft, or trailer as an abandoned vehicle and have the**
67 **vehicle, watercraft, or trailer towed from the self-service storage**
68 **facility. When the vehicle, watercraft, or trailer is towed from the self-**
69 **service storage facility, the owner shall not be liable for the vehicle,**
70 **watercraft, or trailer for any damages to the motor vehicle, watercraft,**
71 **or trailer once the tower takes possession of the property.**

72 [5.] 6. At any time before a sale under this section, the occupant may pay
73 the amount necessary to satisfy the lien and redeem the occupant's personal
74 property.

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

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

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

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

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

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

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

4 2. If the operator complies with the provisions of sections 415.400 to
5 [415.430] **415.425**, the operator's liability to the occupant shall be limited to the
6 net proceeds received from the sale of the personal property, and to other
7 lienholders shall be limited to the net proceeds received from the sale of any
8 personal property covered by the other lien.

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

11 4. Unless otherwise specifically provided in sections 415.400 to [415.430]
12 **415.425**, all notices required by sections 415.400 to [415.430] **415.425** shall be
13 sent by [registered or certified mail] **verified mail or electronic mail to the**
14 **last known address as defined in section 415.400**. Notices sent to the
15 operator shall be sent to the self-service storage facility where the occupant's
16 property is stored. Notices to the occupant shall be sent to the occupant at the
17 occupant's last known address. Notices shall be deemed delivered when deposited
18 with the United States postal service, properly addressed as provided in
19 subsection 4 of section 415.415, with postage prepaid **or sent via electronic**
20 **mail to the last known address**.

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

 Section B. The provisions of sections 379.1640, 379.1645, 379.1650,
2 379.1655, 379.1660, 379.1665, 379.1670, 379.1675, 379.1680, 379.1685, and
3 379.1690 of this act shall become effective January 1, 2015.

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