

**SUBSTITUTE FOR
HOUSE BILL NO. 4484**

A bill to amend 1985 PA 148, entitled
"Self-service storage facility act,"
by amending sections 3 and 5 (MCL 570.523 and 570.525), as amended
by 2009 PA 177.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) The owner of a self-service storage facility or a
2 self-contained storage unit and the heirs, personal
3 representatives, successors, and assignees of the owner have a lien
4 upon all personal property, whether or not owned by the tenant,
5 located at the self-service storage facility or self-contained
6 storage unit for rent or other lawful charges incurred relative to
7 the storage of the personal property, including expenses necessary
8 for its preservation, or reasonably incurred in its sale pursuant
9 to this act. The lien attaches on the date the personal property

1 arrives at the self-service storage facility or self-contained
2 storage unit or the date a rental agreement for the storage space
3 is signed by the tenant, whichever is earlier.

4 (2) The priority of a lien under this act is as provided in
5 section ~~5(13)~~. **5(14)**.

6 (3) If a tenant defaults on a rental agreement, the owner
7 shall give notice to all holders of a perfected security interest
8 under the uniform commercial code, 1962 PA 174, MCL 440.1101 to
9 440.11102, in which the tenant is named as a debtor.

10 (4) At the commencement of a rental agreement for storage
11 space at a self-service storage facility or in a self-contained
12 storage unit, the owner shall provide the tenant with the following
13 written notice:

14 "NOTICE: If you fail to make your required payments, you will
15 have to vacate the unit or your property may later be sold at a
16 public sale. Before the sale, you will be notified by first-class
17 mail or by electronic mail of the amount due. The notice will be
18 mailed to your last known address. In order to preserve your right
19 to be notified, it is important that you notify us in writing of
20 any change in your mailing address. Also, you should supply us with
21 the name and address of another person who can reach you if you are
22 not at your mailing address, and we will notify that person at the
23 same time and in the same manner as we notify you.".

24 **(5) A RENTAL AGREEMENT UNDER THIS SECTION MAY PROVIDE FOR A**
25 **LIMIT ON THE VALUE OF THE PROPERTY STORED AT THE FACILITY OR UNIT.**
26 **THE STATED LIMIT SHALL BE CONSIDERED THE MAXIMUM VALUE OF THE**
27 **STORED PROPERTY FOR ALL PURPOSES.**

1 (6) A RENTAL AGREEMENT UNDER THIS SECTION MAY PROVIDE FOR A
2 REASONABLE LATE CHARGE FOR FAILURE OF THE TENANT TO TIMELY MAKE
3 PAYMENTS FOR THE STORAGE SPACE WHEN DUE. A MONTHLY LATE FEE OF
4 \$20.00 OR 20% OF THE MONTHLY RENTAL AMOUNT, WHICHEVER IS GREATER,
5 SHALL BE CONSIDERED REASONABLE AND IS NOT A PENALTY. THE OWNER OF
6 THE SELF-SERVICE STORAGE FACILITY OR SELF-CONTAINED STORAGE UNIT
7 HAS THE BURDEN OF JUSTIFYING THE REASONABLENESS OF ANY HIGHER LATE
8 FEE.

9 Sec. 5. (1) An owner's lien under section 3 shall be enforced
10 only as provided in this section.

11 (2) The tenant and any occupant designated by the tenant ~~in~~
12 UNDER section 4(2) shall be notified of the owner's intent to
13 enforce the owner's lien by written notice delivered in person, by
14 first-class mail, or by electronic mail to the tenant's and, if
15 applicable, occupant's last known address. The notice shall include
16 all of the following:

17 (a) An itemized statement of the owner's claim, showing the
18 amount due at the time of the notice and the date when the amount
19 became due.

20 (b) A demand for payment within a specified time not less than
21 14 days after delivery of the notice.

22 (c) A conspicuous statement that, unless the claim is paid
23 within the time stated in the notice, the personal property will be
24 advertised for sale or other disposition and will be sold or
25 otherwise disposed of at a specified time and place as provided in
26 subsection (5).

27 (d) The name, street address, and telephone number of the

1 owner whom the tenant may contact to respond to the notice.

2 (e) A statement that if the tenant is a service member and is
3 transferred or deployed overseas on active duty for a period of 180
4 days or more, the tenant is entitled to give the owner notice of
5 that transfer or deployment and is entitled to protections under
6 this act or other law.

7 (3) A notice ~~given pursuant to~~ **UNDER** this section ~~shall be~~ **IS**
8 presumed delivered when it is deposited with the United States
9 postal service and properly addressed with postage prepaid or when
10 it is transmitted by electronic mail to the tenant's last known
11 electronic mail address. ~~An owner who gives notice under subsection~~
12 ~~(2) shall make an affidavit stating how and when the notice was~~
13 ~~delivered to the tenant and shall attach a copy of the notice to~~
14 ~~the affidavit. The owner shall retain the affidavit for~~
15 ~~introduction into evidence in any potential action under section~~
16 ~~6(1).~~

17 (4) Subject to subsection ~~(15),~~ **(16)**, after the expiration of
18 the time given in the notice described in subsection (2), the
19 contents of the storage space may be moved to another storage space
20 pending its sale or other disposition under this act.

21 (5) After the expiration of the time given in the notice
22 described in subsection (2), except as provided in subsection (6),
23 an advertisement of the sale or other disposition shall be
24 published once a week for 2 consecutive weeks in the print or
25 electronic version of a newspaper of general circulation in the
26 area where the self-service storage facility or self-contained
27 storage unit is located or posted once per week for 2 consecutive

1 weeks on a publicly available website identified in the rental
2 agreement. Regardless of whether a sale involves the property of
3 more than 1 tenant, a single advertisement may be used to advertise
4 the disposal of property at the sale. An advertisement under this
5 section shall include all of the following:

6 (a) A brief, general inventory, as described in subsection
7 (7), of the personal property subject to the lien that is to be
8 sold.

9 (b) The address of the self-storage facility or the address
10 where the self-contained storage unit is located and the name of
11 the tenant.

12 (c) The time, place, and manner of the sale or other
13 disposition. Subject to subsection ~~(15)~~, ~~(16)~~, the sale or other
14 disposition shall not take place sooner than 15 days after the
15 first publication of the advertisement under this section.

16 (6) If there is no newspaper of general circulation in the
17 area where the self-service storage facility or self-contained
18 storage unit is located and a publicly available website is not
19 identified in the rental agreement, the advertisement shall be
20 posted not less than 10 days before the date of the sale or other
21 disposition in not less than 3 conspicuous places in the
22 neighborhood where the self-service storage facility or self-
23 contained storage unit is located.

24 (7) The inventory required under subsection (5) shall
25 reasonably identify the property. A container, including, but not
26 limited to, a trunk, valise, or box that is locked, fastened,
27 sealed, or tied in a manner that deters immediate access to its

1 contents may be described as being in that condition, and a
2 description of the container's contents is not required. However, a
3 container closed in such a manner may be opened and its contents
4 inventoried, and those conducting the inventory, the owner, and the
5 owner's employees, agents, and representatives are not liable for
6 incidental damage to the container caused by the inventory.

7 (8) A sale or other disposition of personal property under
8 this section shall conform to the terms of the notification as
9 provided in this section and shall be conducted in a commercially
10 reasonable manner.

11 (9) Before a sale or other disposition of personal property
12 under this section, the tenant may pay the amount necessary to
13 satisfy the lien and the reasonable expenses incurred under this
14 section to redeem the personal property. Upon receipt of the
15 redemption amount, the owner shall return the personal property to
16 the tenant. After returning the personal property to the tenant
17 under this subsection, the owner is not liable to any person
18 concerning that personal property. If the tenant fails to redeem
19 the personal property or satisfy the lien, including reasonable
20 expenses under this section, the tenant shall be considered to have
21 unjustifiably abandoned the personal property and the owner may
22 resume possession of the self-service storage facility or self-
23 contained storage unit.

24 (10) IF ANY PROPERTY TO WHICH A LIEN ATTACHES UNDER SECTION 3
25 IS A MOTOR VEHICLE, AIRCRAFT, MOBILE HOME, MOPED, MOTORCYCLE,
26 SNOWMOBILE, TRAILER, OR WATERCRAFT AND THE RENT AND OTHER STORAGE
27 CHARGES REMAIN UNPAID OR UNSATISFIED FOR 60 DAYS, THE OWNER MAY, IN

1 LIEU OF A SALE OF THE PROPERTY, HAVE THE PROPERTY TOWED FROM THE
2 FACILITY BY AN INDEPENDENT MOTOR CARRIER WITH A PROPER CERTIFICATE
3 OF AUTHORITY FROM THE MICHIGAN PUBLIC SERVICE COMMISSION UNDER THE
4 MOTOR CARRIER ACT, 1933 PA 254, MCL 475.1 TO 479.43. AN OWNER WHO
5 HAS PROPERTY TOWED UNDER THIS SUBSECTION IS NOT LIABLE OR
6 RESPONSIBLE FOR THE PROPERTY AFTER THE TRANSFER OF POSSESSION OF
7 THE PROPERTY TO THE MOTOR CARRIER.

8 (11) ~~(10)~~—Before the sale of a motor vehicle, aircraft, mobile
9 home, moped, motorcycle, snowmobile, trailer, or watercraft, the
10 owner shall contact the secretary of state and any other
11 governmental agency as reasonably necessary to determine the name
12 and address of the title holders or lienholders of the item, and
13 the owner shall notify every identified title holder or lienholder
14 of the time and place of the proposed sale. The owner is liable for
15 notifying the holder of a security interest only if the security
16 interest is filed under the name of the person signing the rental
17 agreement, the tenant, or an occupant identified in section 4(2).
18 An owner who fails to make the lien searches required by this
19 section is liable only to valid lienholders injured by that failure
20 as provided in section 6.

21 (12) ~~(11)~~—Before the sale of personal property under this act,
22 a holder of a prior lien on a motor vehicle, aircraft, mobile home,
23 moped, motorcycle, snowmobile, trailer, or watercraft to be sold
24 may pay the owner the amount of the owner's lien attributable to
25 storage of the property, including the reasonable expenses incurred
26 by the owner under this section. The amount payable to the owner
27 shall not exceed the equivalent of 4 months' rent. A payment made

1 to the owner shall be added to the amount of the lien of the prior
2 lienholder who made the payment and shall be subtracted from the
3 amount of the owner's lien.

4 (13) ~~(12)~~—A purchaser in good faith of the personal property
5 sold under this section takes the property free of any right of a
6 person against whom the lien was valid, despite noncompliance by
7 the owner with the requirements of this section.

8 (14) ~~(13)~~—A person conducting a sale under this section shall
9 distribute the proceeds in the following sequence:

10 (a) First, to satisfy the owner's liens up to an amount
11 equivalent to 4 months' rent, minus any amount already paid the
12 owner pursuant to subsection ~~(11)~~—(12).

13 (b) Second, to satisfy outstanding balances owed to prior
14 perfected lienholders.

15 (c) Third, to satisfy the balance of the owner's liens,
16 **INCLUDING, BUT NOT LIMITED TO, ALL UNPAID RENT, LATE FEES, AND**
17 **REASONABLE LIEN ENFORCEMENT EXPENSES.**

18 (15) ~~(14)~~—Any proceeds of a sale under this section remaining
19 after the distribution is made under subsection ~~(13)~~—(14) shall be
20 returned to the tenant by mailing the proceeds to the tenant's last
21 known address by certified mail and by notifying the tenant by
22 first-class mail. If the tenant does not claim the remaining
23 proceeds within 2 years after the date of sale, the remaining
24 proceeds shall escheat to this state. The owner shall maintain
25 proper records of money received in any sale held under this
26 section, and the records are subject to audit by the department of
27 treasury.

1 (16) ~~(15)~~ If an owner receives a notice with supporting
2 evidence under section 4(3) from a tenant, the owner shall not
3 enforce an owner's lien until 90 days after the end of the tenant's
4 overseas service.

5 (17) AN OWNER IS NOT LIABLE FOR ANY DAMAGES OR CLAIMS RELATED
6 TO THE RELEASE, USE, OR MISUSE OF CONFIDENTIAL, PROPRIETARY, OR
7 PERSONAL IDENTIFICATION INFORMATION CONTAINED IN ANY DOCUMENTS OR
8 OTHER MEDIA STORED BY A TENANT IN THE FACILITY OR UNIT AFTER THE
9 SALE OR OTHER DISPOSITION OF THE DOCUMENTS OR MEDIA.

10 (18) IF AN OWNER REASONABLY BELIEVES THAT A STORAGE SPACE
11 CONTAINS ANY DOCUMENTS OR OTHER MEDIA CONTAINING CONFIDENTIAL,
12 PROPRIETARY, OR PERSONAL IDENTIFICATION INFORMATION, THE OWNER IS
13 AUTHORIZED TO DESTROY ANY OR ALL OF THE DOCUMENTS OR MEDIA IN LIEU
14 OF A SALE UNDER THIS SECTION. AN OWNER WHO DESTROYS DOCUMENTS OR
15 MEDIA UNDER THIS SUBSECTION IS NOT LIABLE TO ANY PERSON FOR THE
16 DESTRUCTION.

17 (19) IF AN OWNER HAS ACTUAL KNOWLEDGE OF, AND THE STORAGE
18 SPACE CONTAINS, ANY PROPERTY THAT THE OWNER MAY NOT LAWFULLY SELL,
19 THE OWNER IS AUTHORIZED TO PROPERLY DISPOSE OF THE PROPERTY IN ANY
20 MANNER ALLOWED BY APPLICABLE LAW IN LIEU OF A SALE UNDER THIS
21 SECTION. AN OWNER WHO DISPOSES OF PROPERTY UNDER THIS SUBSECTION IS
22 NOT LIABLE TO ANY PERSON FOR THE DISPOSAL.

23 Enacting section 1. This amendatory act takes effect upon the
24 expiration of 90 days after the date it is enacted into law.