

SUBSTITUTE FOR
SENATE BILL NO. 204

A bill to amend 1985 PA 148, entitled
"Self-service storage facility act,"
by amending sections 2, 3, 4, and 5 (MCL 570.522, 570.523, 570.524,
and 570.525), as amended by 2000 PA 443.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (A) "ACTIVE DUTY" MEANS ACTIVE DUTY PURSUANT TO AN EXECUTIVE
3 ORDER OF THE PRESIDENT OF THE UNITED STATES, AN ACT OF CONGRESS, OR
4 AN ORDER OF THE GOVERNOR.

5 (B) "ARMED FORCES" MEANS THAT TERM AS DEFINED IN SECTION 2 OF
6 THE VETERAN RIGHT TO EMPLOYMENT SERVICES ACT, 1994 PA 39, MCL

1 35.1092.

2 (C) ~~(a)~~ "Last known address" means the **STREET** address, **POST**
3 **OFFICE BOX, OR ELECTRONIC MAIL ADDRESS** provided by the tenant in
4 the latest rental agreement or in a subsequent written notice of
5 change of address by hand delivery, ~~or~~ first-class mail, **OR**
6 **ELECTRONIC MAIL.**

7 ~~—— (b) "Rental agreement" means an agreement or lease that~~
8 ~~establishes or modifies terms, conditions, rules, or any other~~
9 ~~provision concerning the use and occupancy of a self-service~~
10 ~~storage facility or use of a self-container storage unit.~~

11 (D) **"MICHIGAN NATIONAL GUARD" MEANS THAT TERM AS DEFINED IN**
12 **SECTION 105 OF THE MICHIGAN MILITARY ACT, 1967 PA 150, MCL 32.505.**

13 (E) ~~(e)~~ "Owner" means the owner, operator, lessor, or
14 sublessor of a self-service storage facility or self-contained
15 storage unit or his or her agent or any other person authorized by
16 him or her to manage the facility or to receive rent from a tenant
17 under a rental agreement.

18 ~~—— (d) "Self-service storage facility" or "facility" means any~~
19 ~~real property designed or used for the purpose of renting or~~
20 ~~leasing individual storage space to tenants who are to have access~~
21 ~~to that space for the purpose of storing and removing personal~~
22 ~~property.~~

23 (F) **"RENTAL AGREEMENT" MEANS AN AGREEMENT OR LEASE THAT**
24 **ESTABLISHES OR MODIFIES TERMS, CONDITIONS, RULES, OR ANY OTHER**
25 **PROVISION CONCERNING THE USE AND OCCUPANCY OF A SELF-SERVICE**
26 **STORAGE FACILITY OR USE OF A SELF-CONTAINED STORAGE UNIT.**

27 (G) ~~(e)~~ "Self-contained storage unit" means a unit not less

1 than 500 cubic feet in size, including, but not limited to, a
2 trailer, box, or other shipping container, that is leased by a
3 tenant primarily for use as storage space whether the unit is
4 located at a facility owned or operated by the owner or at another
5 location designated by the tenant.

6 (H) "SELF-SERVICE STORAGE FACILITY" OR "FACILITY" MEANS ANY
7 REAL PROPERTY DESIGNED OR USED FOR THE PURPOSE OF RENTING OR
8 LEASING INDIVIDUAL STORAGE SPACE TO TENANTS WHO ARE TO HAVE ACCESS
9 TO THAT SPACE FOR THE PURPOSE OF STORING AND REMOVING PERSONAL
10 PROPERTY.

11 (I) "SERVICE MEMBER" MEANS A MEMBER OF THE ARMED FORCES, A
12 RESERVE BRANCH OF THE ARMED FORCES, OR THE MICHIGAN NATIONAL GUARD.

13 (J) ~~(f)~~—"Tenant" means a person or the person's sublessee,
14 successor, or assign entitled to the use of storage space to the
15 exclusion of others at a self-service storage facility or in a
16 self-contained storage unit under a rental agreement.

17 Sec. 3. (1) The owner of a self-service storage facility or a
18 self-contained storage unit and the heirs, personal
19 representatives, successors, and assignees of the owner have a lien
20 upon all personal property, whether or not owned by the tenant,
21 located at the self-service storage facility or self-contained
22 storage unit for rent or other lawful charges incurred relative to
23 the storage of the personal property, including expenses necessary
24 for its preservation, or reasonably incurred in its sale pursuant
25 to this act. The lien attaches ~~as of~~ ON the date the personal
26 property arrives at the self-service storage facility or self-
27 contained storage unit or the date a rental agreement for the

1 storage space is signed by the tenant, whichever is earlier.

2 (2) The priority of a lien under this act ~~shall be~~ **IS** as
3 provided in section 5(13).

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

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

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

23 Sec. 4. (1) Upon the failure of a tenant to pay the rent **FOR**
24 **THE STORAGE SPACE OR UNIT** when it becomes due, the owner may,
25 without notice, not less than 5 days after the date the rent is
26 due, deny the tenant access to the personal property located in the
27 self-service storage facility or ~~self-storage~~ **SELF-CONTAINED**

1 **STORAGE** unit.

2 (2) The tenant who signs a rental agreement for storage space
3 at a self-service storage facility shall disclose in writing the
4 identity, including name, address, and telephone number, of the
5 occupant if the occupant is other than the tenant who signs the
6 agreement.

7 (3) **A TENANT WHO IS A SERVICE MEMBER AND WHO IS TRANSFERRED OR**
8 **DEPLOYED OVERSEAS ON ACTIVE DUTY FOR A PERIOD OF 180 DAYS OR MORE**
9 **MAY NOTIFY THE OWNER OF THE TRANSFER OR DEPLOYMENT. THE TENANT**
10 **SHALL PROVIDE WRITTEN EVIDENCE OF THE TRANSFER OR DEPLOYMENT WITH**
11 **THE NOTICE.**

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

14 (2) The tenant and ~~the person~~ **ANY OCCUPANT** designated ~~, if~~
15 ~~any,~~ by the tenant in section 4(2) shall be notified **OF THE OWNER'S**
16 **INTENT TO ENFORCE THE OWNER'S LIEN** by written notice delivered in
17 person, ~~or by certified~~ **FIRST-CLASS** mail, **OR BY ELECTRONIC MAIL** to
18 the tenant's **AND, IF APPLICABLE, OCCUPANT'S** last known address. The
19 notice shall include all of the following:

20 (a) An itemized statement of the owner's claim, showing the
21 ~~sum~~ **AMOUNT** due at the time of the notice and the date when the ~~sum~~
22 **AMOUNT** became due.

23 (b) A demand for payment within a specified time not less than
24 14 days after delivery of the notice.

25 (c) A conspicuous statement that, unless the claim is paid
26 within the time stated in the notice, the personal property will be
27 advertised for sale or other disposition and will be sold or

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otherwise disposed of at a specified time and place **AS PROVIDED IN**
SUBSECTION (5) .

(d) The name, street address, and telephone number of the
owner whom the tenant may contact to respond to the notice.

(E) A STATEMENT THAT IF THE TENANT IS A SERVICE MEMBER AND IS
TRANSFERRED OR DEPLOYED OVERSEAS ON ACTIVE DUTY FOR A PERIOD OF 180
DAYS OR MORE, THE TENANT IS ENTITLED TO GIVE THE OWNER NOTICE OF
THAT TRANSFER OR DEPLOYMENT AND IS ENTITLED TO PROTECTIONS UNDER
THIS ACT OR OTHER LAW.

(3) A notice given pursuant to this section shall be presumed
delivered when it is deposited with the United States postal
service and properly addressed with postage prepaid **OR WHEN IT IS**
TRANSMITTED BY ELECTRONIC MAIL TO THE TENANT'S LAST KNOWN

ELECTRONIC MAIL ADDRESS. [AN OWNER WHO GIVES NOTICE UNDER SUBSECTION (2)
SHALL MAKE AN AFFIDAVIT STATING HOW AND WHEN THE NOTICE WAS DELIVERED TO
THE TENANT AND SHALL ATTACH A COPY OF THE NOTICE TO THE AFFIDAVIT. THE
OWNER SHALL RETAIN THE AFFIDAVIT FOR INTRODUCTION INTO EVIDENCE IN ANY
POTENTIAL ACTION UNDER SECTION 6(1).]

~~(4) After~~ **SUBJECT TO SUBSECTION (15), AFTER** the expiration of
the time given in the notice described in subsection (2), the
contents of the storage space may be moved to another storage space
pending its sale or other disposition under this act.

(5) After the expiration of the time given in the notice
described in subsection (2), except as provided in subsection (6),
an advertisement of the sale or other disposition shall be
published once a week for 2 consecutive weeks in **THE PRINT OR**
ELECTRONIC VERSION OF a newspaper of general circulation in the
area where the self-service storage facility or self-contained
storage unit is located **OR POSTED ONCE PER WEEK FOR 2 CONSECUTIVE**
WEEKS ON A PUBLICLY AVAILABLE WEBSITE IDENTIFIED IN THE RENTAL
AGREEMENT. Regardless **OF** whether a sale ~~may involve~~ **INVOLVES** the

1 property of more than 1 tenant, a single advertisement may be used
2 to advertise the disposal of property at ~~any 1~~ **THE** sale. An
3 advertisement under this section shall include **ALL OF THE**
4 **FOLLOWING:**

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

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

11 (c) The time, place, and manner of the sale or other
12 disposition. ~~The~~ **SUBJECT TO SUBSECTION (15), THE** sale or other
13 disposition shall not take place sooner than 15 days after the
14 first publication of the advertisement under this section.

15 (6) If there is no newspaper of general circulation in the
16 area where the self-service storage facility or self-contained
17 storage unit is located **AND A PUBLICLY AVAILABLE WEBSITE IS NOT**
18 **IDENTIFIED IN THE RENTAL AGREEMENT**, the advertisement shall be
19 posted not less than 10 days before the date of the sale or other
20 disposition in not less than 3 conspicuous places in the
21 neighborhood where the self-service storage facility or self-
22 contained storage unit is located.

23 (7) The inventory required under subsection (5) shall
24 reasonably identify the property. ~~However, a~~ **A** container,
25 including, but not limited to, a trunk, valise, or box that is
26 locked, fastened, sealed, or tied in a manner that deters immediate
27 access to its contents ~~, may be described as being in such a~~ **THAT**

1 condition, and ~~no~~**A** description of ~~that~~**THE** container's contents is
2 **NOT** required. However, ~~any~~**A** container closed in such a manner may
3 be opened and its contents inventoried, and those conducting the
4 inventory, the owner, ~~its~~**AND THE OWNER'S** employees, agents, and
5 representatives ~~shall~~**ARE** not ~~be~~ liable for incidental damage to
6 the container caused by the inventory.

7 (8) A sale or other disposition of ~~the~~ 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 ~~sum~~**AMOUNT**, the owner shall return the personal property
16 to the tenant. After returning the personal property to the tenant
17 under this subsection, the owner ~~shall~~**IS** not ~~be~~ liable to any
18 person concerning that personal property. If the tenant fails to
19 redeem the personal property or satisfy the lien, including
20 reasonable expenses under this section, the tenant shall be
21 considered to have unjustifiably abandoned the personal property
22 and the owner may resume possession of the self-service storage
23 facility or self-contained storage unit.

24 (10) Before the sale of a motor vehicle, aircraft, mobile
25 home, moped, motorcycle, snowmobile, trailer, or watercraft, the
26 **OWNER SHALL CONTACT THE** secretary of state and any other
27 governmental agency as ~~may be reasonably expected shall be~~

1 ~~contacted~~ **NECESSARY** to determine the name and address of the title
 2 holders or lienholders of ~~these items~~ **THE ITEM**, and **THE OWNER SHALL**
 3 **NOTIFY** every **IDENTIFIED** title holder or lienholder ~~shall be~~
 4 ~~notified~~ of the time and place of the proposed sale. The owner is
 5 liable for notifying the holder of a security interest only if the
 6 security interest is filed under the name of the person signing the
 7 rental agreement, the tenant, or **AN** occupant identified in section
 8 4(2). An owner who fails to make the lien searches required by this
 9 section ~~shall be~~ **IS** liable only to valid lienholders injured by
 10 that failure as provided in section 6.

11 (11) Before the sale of personal property under this act, a
 12 holder of a prior lien on a motor vehicle, aircraft, mobile home,
 13 moped, motorcycle, snowmobile, trailer, or watercraft to be sold
 14 may pay the owner the amount of the owner's lien attributable to
 15 storage of the property, including the reasonable expenses incurred
 16 by the owner under this section. The amount payable to the owner
 17 shall not exceed the equivalent of 4 months' rent. A payment made
 18 to the owner shall be added to the amount of the lien of the prior
 19 lienholder who made the payment and shall be subtracted from the
 20 amount of the owner's lien.

21 (12) A ~~purchase~~ **PURCHASER** in good faith of the personal
 22 property sold under this section takes the property free of any
 23 right of a person against whom the lien was valid, despite
 24 noncompliance by the owner with the requirements of this section.

25 (13) ~~In the event of a sale under this section, the party A~~
 26 **PERSON** conducting ~~the A~~ sale **UNDER THIS SECTION** shall distribute
 27 the proceeds in the following sequence:

1 (a) First, to satisfy the owner's liens up to an amount
2 equivalent to 4 months' rent, minus any amount already paid the
3 owner pursuant to subsection (11).

4 (b) Second, to satisfy outstanding balances owed **TO** prior
5 perfected lienholders.

6 (c) Third, to satisfy the balance of the owner's liens.

7 (14) Any proceeds of ~~the~~**A** sale **UNDER THIS SECTION** remaining
8 after the distribution is made under subsection (13) shall be
9 returned to the tenant by mailing the proceeds to the tenant's last
10 known address by certified mail and by notifying the tenant by
11 first-class mail. If the tenant does not claim the remaining
12 proceeds within 2 years after the date of sale, the remaining
13 proceeds shall escheat to ~~the~~**THIS** state. The owner shall maintain
14 proper records of money received in any sale held under this
15 section, and the records ~~shall be~~**ARE** subject to audit by the ~~state~~
16 department of treasury.

17 **(15) IF AN OWNER RECEIVES A NOTICE WITH SUPPORTING EVIDENCE**
18 **UNDER SECTION 4(3) FROM A TENANT, THE OWNER SHALL NOT ENFORCE AN**
19 **OWNER'S LIEN UNTIL 90 DAYS AFTER THE END OF THE TENANT'S OVERSEAS**
20 **SERVICE.**