

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 854**

Introduced by Coash, 27; Seiler, 33.

Read first time January 11, 2016

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to self-service storage facilities; to adopt
- 2 the Self-Service Storage Facilities Act; and to authorize certain
- 3 liens as prescribed.
- 4 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 9 of this act shall be known and may be  
2 cited as the Self-Service Storage Facilities Act.

3           Sec. 2. For purposes of the Self-Service Storage Facilities Act:

4           (1) Commercially reasonable sale means a sale that (a) is conducted  
5 at the self-service storage facility or on a publicly accessible web site  
6 that conducts lien sales and (b) is attended by at least three persons  
7 who appear personally or online, by telephone, or by any other method;

8           (2) Default means the failure to perform on time any obligation or  
9 duty set forth in a rental agreement;

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

15          (4) Emergency means any sudden, unexpected occurrence or  
16 circumstance at or near a self-service storage facility that requires  
17 immediate action to avoid injury to persons or property at or near the  
18 self-service storage facility, including, but not limited to, a fire;

19          (5) Last-known address means the postal address or electronic mail  
20 address provided by an occupant in a rental agreement or the postal  
21 address or electronic mail address provided by the occupant in a  
22 subsequent written notice of a change of address;

23          (6) Leased space means the individual storage space at a self-  
24 service storage facility which is rented to an occupant pursuant to a  
25 rental agreement;

26          (7) Occupant means a person entitled to the use of leased space at a  
27 self-service storage facility under a rental agreement or his or her  
28 successors or assigns;

29          (8) Operator means the owner, operator, lessor, or sublessor of a  
30 self-service storage facility or an agent or any other person authorized  
31 to manage the facility. Operator does not include a warehouseman unless

1 the warehouseman issues a warehouse receipt, bill of lading, or other  
2 document of title for the personal property stored;

3 (9) Personal property means movable property not affixed to land.  
4 Personal property includes, but is not limited to, goods, wares,  
5 merchandise, motor vehicles, watercraft, household items, and  
6 furnishings;

7 (10) Property which has no commercial value means property offered  
8 for sale in a commercially reasonable sale that receives no bid or offer;

9 (11) Rental agreement means any written agreement or lease that  
10 establishes or modifies the terms, conditions, or rules concerning the  
11 use and occupancy of a self-service storage facility; and

12 (12) Self-service storage facility means any real property used for  
13 renting or leasing individual storage spaces in which the occupants  
14 customarily store and remove their own personal property on a self-  
15 service basis.

16 Sec. 3. (1) An operator shall not knowingly permit a leased space  
17 at a self-service storage facility to be used for residential purposes.

18 (2) An occupant shall not use a leased space for residential  
19 purposes.

20 Sec. 4. An occupant, upon reasonable request from the operator,  
21 shall allow the operator to enter a leased space for the purpose of  
22 inspection or repair. If an emergency occurs, an operator may enter a  
23 leased space for inspection or repair without notice to or consent from  
24 the occupant.

25 Sec. 5. (1) The operator of a self-service storage facility and the  
26 operator's heirs, executors, administrators, successors, and assigns  
27 shall have a lien upon all of an occupant's personal property located at  
28 the self-service storage facility for rent, late fees, labor, or other  
29 charges incurred pursuant to a rental agreement and for expenses incurred  
30 for preservation, sale, or disposition of the personal property. The lien  
31 established by this subsection shall have priority over all other liens

1 except for liens that have been perfected and recorded on such personal  
2 property and tax liens.

3 (2) The lien described in subsection (1) of this section attaches on  
4 the date on which personal property is placed in a leased space.

5 (3) The rental agreement shall contain a statement, in bold type,  
6 advising the occupant:

7 (a) Of the existence of the lien; and

8 (b) That personal property stored in the leased space may be sold to  
9 satisfy the lien if the occupant is in default.

10 (4) If the rental agreement specifies a limit on the value of  
11 personal property that the occupant may store in the leased space, such  
12 limit shall be deemed to be the maximum value of the personal property in  
13 the occupant's leased space.

14 Sec. 6. If any part of the rent or other charges due from the  
15 occupant are in default, the operator shall have the right to deny the  
16 occupant access to the leased space at the self-service storage facility.

17 Sec. 7. (1) If an occupant is in default for a period of more than  
18 forty-five days, the operator may enforce the lien granted in section 5  
19 of this act by selling the occupant's stored personal property for cash.  
20 Sale of the occupant's personal property may be by public or private  
21 proceedings. Such personal property may be sold as a unit or in parcels,  
22 by way of one or more contracts, at any time or place, and on any terms  
23 as long as the sale is a commercially reasonable sale. The operator may  
24 otherwise dispose of any property which has no commercial value.

25 (2) Before conducting a sale under this section, the operator shall:

26 (a) At least forty-five days before the sale, send notice of default  
27 to the occupant. The notice of default shall include:

28 (i) A statement that the contents of the occupant's leased space are  
29 subject to the operator's lien;

30 (ii) A statement of the operator's claim, indicating the charges due  
31 on the date of the notice, the amount of any additional charges which

1 shall become due before the date of sale, and the date such additional  
2 charges shall become due;

3 (iii) A demand for payment of the charges due within a specified  
4 time, which shall not be less than ten days after the date of the notice;

5 (iv) A statement that unless the claim is paid within the time  
6 stated, the contents of the occupant's leased space will be sold after a  
7 specified time; and

8 (v) The name, street address, and telephone number of the operator  
9 or a designated agent whom the occupant may contact to respond to the  
10 notice.

11 (b) At least seven days before the sale, advertise the time, place,  
12 and terms of the sale in a newspaper of general circulation in the county  
13 where the sale is to be held. Alternatively, the operator may advertise  
14 the sale in any other commercially reasonable manner. The manner of  
15 advertisement is deemed commercially reasonable if at least three  
16 independent bidders attend the sale in person or online at the time and  
17 place advertised.

18 (3) The operator may buy the occupant's personal property at any  
19 public sale held pursuant to this section.

20 (4) If the personal property subject to the operator's lien is a  
21 vehicle, watercraft, or trailer and rent and other charges remain unpaid  
22 for sixty days, the operator may have the vehicle, watercraft, or trailer  
23 towed from the self-service storage facility. The operator shall not be  
24 liable for any damages to the vehicle, watercraft, or trailer once the  
25 tower takes possession of the property. Removal of any vehicle,  
26 watercraft, or trailer from the self-service storage facility shall not  
27 release the operator's lien.

28 (5) At any time before a sale is held under this section or before a  
29 vehicle, watercraft, or trailer is towed under this section, the occupant  
30 may pay the amount necessary to satisfy the lien and redeem the  
31 occupant's personal property.

1       (6) If a sale is held under this section, the operator shall:

2       (a) Satisfy the lien with the proceeds of the sale; and

3       (b) Hold the balance of the proceeds, if any, for delivery on demand  
4 to the occupant or any other recorded lienholders for a period of one  
5 year after the date of such sale. The operator shall have no liability to  
6 any party for excess proceeds paid to the occupant. After the one-year  
7 period, any remaining proceeds shall be considered abandoned property to  
8 be reported and paid to the State Treasurer in accordance with the  
9 Uniform Disposition of Unclaimed Property Act.

10       (7) A purchaser in good faith of any personal property sold pursuant  
11 to this section to satisfy the lien granted in section 5 of this act  
12 takes the property free and clear of any rights of persons against whom  
13 the lien was valid.

14       (8) Notices to the occupant under subsection (2) of this section  
15 shall be sent to the occupant's last-known address by United States mail  
16 or by electronic mail. Notices sent by United States mail shall be deemed  
17 delivered when deposited with the United States Postal Service, properly  
18 addressed with postage prepaid. Notices sent by electronic mail shall be  
19 deemed delivered when an electronic message is sent to the last-known  
20 address provided by the occupant.

21       (9) If the operator complies with the requirements of this section,  
22 the operator's liability:

23       (a) To the occupant shall be limited to the net proceeds received  
24 from the sale of the occupant's personal property; and

25       (b) To other lienholders shall be limited to the net proceeds  
26 received from the sale of any personal property covered by the other  
27 lienholder's lien.

28       Sec. 8. Unless the rental agreement specifically provides otherwise  
29 and until a lien sale under section 7 of this act, the exclusive care,  
30 custody, and control of all personal property stored in a leased space  
31 remains vested in the occupant.

1           Sec. 9. The Self-Service Storage Facilities Act does not impair the  
2 power of the parties to a rental agreement to create rights, duties, or  
3 obligations that do not arise from the act. The rights provided to an  
4 operator by the act are in addition to all other rights provided by law  
5 to a creditor against a debtor.