

AMENDMENTS TO LB492

Introduced by Judiciary.

1           1. Strike the original sections and insert the following new  
2 sections:

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

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

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

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

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

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

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

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

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

4       (8) Operator means the owner, operator, lessor, or sublessor of a  
5 self-service storage facility or an agent or any other person authorized  
6 to manage the facility. Operator does not include a warehouseman if the  
7 warehouseman issues a warehouse receipt, bill of lading, or other  
8 document of title for the personal property stored;

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

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

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

18       (12) Self-service storage facility means any real property used for  
19 renting or leasing individual storage spaces in which the occupants  
20 customarily store and remove their own personal property on a self-  
21 service basis; and

22       (13) Verified mail means any method of mailing offered by the United  
23 States Postal Service that provides evidence of the mailing.

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

26       (2) An occupant shall not use a leased space for residential  
27 purposes.

28       Sec. 4. An occupant, upon reasonable request from the operator,  
29 shall allow the operator to enter a leased space for the purpose of  
30 inspection or repair. If an emergency occurs, an operator may enter a  
31 leased space for inspection or repair without notice to or consent from

1 the occupant.

2       Sec. 5. (1) The operator of a self-service storage facility and the  
3 operator's heirs, executors, administrators, successors, and assigns  
4 shall have a lien upon all of an occupant's personal property located at  
5 the self-service storage facility for delinquent rent, late fees, labor,  
6 or other charges incurred pursuant to a rental agreement and for expenses  
7 incurred for preservation, sale, or disposition of the personal property.  
8 The lien established by this subsection shall have priority over all  
9 other liens except for tax liens and liens or security interests of any  
10 lienholder or security interest holder of record on such personal  
11 property that are perfected or recorded prior to, on, or after the date  
12 on which the personal property is placed in a leased space.

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

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

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

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

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

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

27       Sec. 7. (1) If an occupant is in default for a period of more than  
28 forty-five days, the operator may enforce the lien granted in section 5  
29 of this act by selling the occupant's stored personal property for cash.  
30 Sale of the occupant's personal property may be by public or private  
31 proceedings. Such personal property may be sold as a unit or in parcels,

1 by way of one or more contracts, at any time or place, and on any terms  
2 as long as the sale is a commercially reasonable sale. The operator may  
3 otherwise dispose of any property which has no commercial value.

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

5 (a) At least forty-five days before the sale, send notice of default  
6 to the occupant by verified mail or electronic mail pursuant to  
7 subdivision (8)(a) of this section. The notice of default shall include:

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

10 (ii) A statement of the operator's claim, indicating the charges due  
11 on the date of the notice, the amount of any additional charges which  
12 shall become due before the date of sale, and the date such additional  
13 charges shall become due;

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

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

19 (v) The name, street address, and telephone number of the operator  
20 or a designated agent whom the occupant may contact to respond to the  
21 notice; and

22 (b) At least seven days before the sale, advertise the time, place,  
23 and terms of the sale in any commercially reasonable manner. The manner  
24 of advertisement is deemed commercially reasonable if at least three  
25 independent bidders attend the sale in person or online at the time and  
26 place advertised. A copy of the advertisement of sale shall be provided  
27 at least seven days before the sale to the holder of any lien or security  
28 interest of record on the personal property being sold.

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

31 (4) If the personal property subject to the operator's lien is a

1 vehicle, watercraft, or trailer and rent and other charges remain unpaid  
2 for sixty days, the operator may have the vehicle, watercraft, or trailer  
3 towed from the self-service storage facility. The operator shall not be  
4 liable for any damages to the vehicle, watercraft, or trailer once the  
5 tower takes possession of the property. Removal of any vehicle,  
6 watercraft, or trailer from the self-service storage facility shall not  
7 release the operator's lien.

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

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

13 (a) Apply the proceeds of the sale in the following order:

14 (i) To satisfy the actual expenses incurred in conducting the sale,  
15 including the costs for notice and advertisement of the sale, in an  
16 amount not to exceed five hundred dollars;

17 (ii) To satisfy the obligations secured by the lien or security  
18 interest of any lienholder or security interest holder of record; and

19 (iii) To satisfy the operator's lien; and

20 (b) Hold the balance of the proceeds remaining after the  
21 disbursements described in subdivision (6)(a) of this section, if any,  
22 for delivery on demand to the occupant for a period of one year after the  
23 date of such sale. The operator shall have no liability to any party for  
24 excess proceeds paid to the occupant. After the one-year period, any  
25 remaining proceeds shall be considered abandoned property to be reported  
26 and paid to the State Treasurer in accordance with the Uniform  
27 Disposition of Unclaimed Property Act.

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

1       (8)(a) Notices to the occupant under subdivision (2)(a) of this  
2 section shall be sent to the occupant's last-known address by verified  
3 mail or electronic mail. Notices sent by verified mail shall be deemed  
4 delivered when deposited with the United States Postal Service if they  
5 are properly addressed with postage prepaid. Notices sent by electronic  
6 mail shall be deemed delivered when an electronic message is sent to the  
7 last-known address provided by the occupant. If the operator sends notice  
8 by electronic mail and receives an automated message stating that the  
9 electronic mail cannot be delivered, the operator shall send notice by  
10 verified mail to the occupant's last-known address with postage prepaid.

11       (b) The copy of the advertisement of sale provided to the holder of  
12 any lien or security interest of record under subdivision (2)(b) of this  
13 section shall be sent to the last-known address of the lienholder or  
14 security interest holder by United States mail. The copy of the  
15 advertisement shall be deemed delivered when deposited with the United  
16 States Postal Service if it is properly addressed with postage prepaid.

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

19       (a) To the occupant shall be limited to the net proceeds received  
20 from the sale of the occupant's personal property less any proceeds paid  
21 to the holders of any lien or security interest of record on the personal  
22 property being sold; and

23       (b) To the holders of any lien or security interest of record on the  
24 personal property being sold shall be limited to the net proceeds  
25 received from the sale of any personal property covered by the holder's  
26 lien or security interest.

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

31       Sec. 9. The Self-Service Storage Facilities Act does not impair the

1 power of the parties to a rental agreement to create rights, duties, or  
2 obligations that do not arise from the act. The rights provided to an  
3 operator by the act are in addition to all other rights provided by law  
4 to a creditor against a debtor.