

ONE HUNDRED FIFTH LEGISLATURE - FIRST SESSION - 2017
COMMITTEE STATEMENT
LB492

Hearing Date: Wednesday February 15, 2017
Committee On: Judiciary
Introducer: Harr
One Liner: Adopt the Self-Service Storage Facilities Act and authorize certain liens

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 7 Senators Baker, Ebke, Halloran, Hansen, Krist, Morfeld, Pansing Brooks
Nay:
Absent:
Present Not Voting: 1 Senator Chambers

Verbal Testimony:

Proponents:

Jamison Wyatt
David Carlos Kaslow
William Lange
Dave Paladino

Representing:

Introducing on behalf of Senator Burke Harr
Self Storage Association
Nebraska Self Storage Owners Association
Nebraska Association of Commercial Property Owners
& Dino's Storage

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 492 adopts the Self-Service Storage Facilities Act and provides guidelines for the proper operation of a self-service storage facility, including the leasing, use, and disposition of property left in a self-storage unit.

Section 1 establishes the Act.

Section 2 provides definitions for the terms used throughout the Act, including, among others, the definitions of "commercially reasonable sale", "default", "emergency", "leased space", "occupant", "personal property", and "property which has no commercial value".

Section 3 provides that an operator cannot knowingly lease a self-service facility to be used for residential purposes, and prohibits an occupant from using a leased space for residential purposes.

Section 4 would require an occupant to allow an operator access to a leased space upon reasonable request for purposes of inspection or repair, and allows an operator access without notice in the event of an emergency.

Section 5 would create a lien in favor of an operator on all of an occupant's personal property located at the self-service storage facility for delinquent rent, late fees, labor or other charges incurred pursuant to the rental agreement. The lien would have priority over all other liens except for tax liens and liens or security interests of record that are perfected or

recorded prior to the date such personal property is placed in the leased space. The lien would attach at the time the personal property is placed in the space.

Section 5 further requires the rental agreement to include a statement in bold type advising the occupant that the lien exists and that personal property in the space may be sold if the occupant is in default. Section 5 also provides that if a rental agreement specifies a limit on the value of personal property that the occupant may store there, such limit shall be the maximum value of the property in the space.

Section 6 allows the operator to deny an occupant access if they are in default.

Section 7 allows an operator to enforce the lien created by the Act if the occupant is in default for a period of 45 days. The lien may be enforced by selling the occupant's personal property stored for cash. Such sale may be by public or private proceedings. The property may be sold as a unit, in parcels, by way of one or more contracts, at any time or place, and on any terms as long as the sale is commercially reasonable. Property with no commercial value may be disposed of.

Notice of the sale must be provided to the occupant at least 45 days prior to its commencement. Such notice must include a statement of the contents of the space, a statement of the charges due, a demand for payment within a specified time, but not less than 10 days after date of the notice, and the name, address, and telephone number of the operator who may be contacted to respond to the notice.

At least 7 days before the sale, the operator must advertise the time, place, and terms of the sale in any commercially reasonable manner. Advertisement is considered commercially reasonable if at least three independent bidders attend the sale in person or online at the time and place advertised. The operator may buy the property at the sale.

Proceeds of any sale shall be applied to satisfy expenses incurred in conducting the sale, not to exceed \$500, to satisfy any secured lien or security interest, and finally, to satisfy the operator's lien. If unclaimed for more than a year, any remaining proceeds shall be considered abandoned property and shall be paid to the State Treasurer.

Notice of any sale shall be sent to the occupants last known address. Electronic mail may be utilized. A copy of the advertisement of the sale must be sent as well to the holder of any lien or security interest.

Section 8 provides that until a lien sale is conducted, the care, custody, and control of the personal property remains vested in the occupant.

Section 9 acknowledges that nothing in the Act is meant to impair the ability of the parties to a rental agreement to create additional rights, duties, or obligations.

Explanation of amendments:

The Committee Amendment becomes the bill. The amended language simply changes one word in the definition of an "operator" from "unless" to "if" in cases where the owner of the storage facility acts as a warehouseman.

Laura Ebke, Chairperson