

1 State of Arkansas As Engrossed: H1/25/21 S3/1/21

2 93rd General Assembly

A Bill

3 Regular Session, 2021

HOUSE BILL 1027

4

5 By: Representatives Cavanaugh, Pilkington, Evans, Bentley, F. Allen, K. Ferguson

6 By: Senator Hill

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For An Act To Be Entitled

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AN ACT TO AMEND THE LAW CONCERNING THE SALE AND

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REMOVAL PROCEDURE OF PERSONAL PROPERTY FROM A SELF-

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SERVICE STORAGE FACILITY; AND FOR OTHER PURPOSES.

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Subtitle

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TO AMEND THE LAW CONCERNING THE SALE AND

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REMOVAL PROCEDURE OF PERSONAL PROPERTY

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FROM A SELF-SERVICE STORAGE FACILITY.

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code § 18-16-407 is amended to read as follows:

23 (a) As used in this section:

24 (1) "Independent bidder" means a person, partnership,

25 corporation, or any other entity that participates in the sale of personal
26 property by:

27 (A) Making a monetary offer to purchase the personal
28 property in person at the sale or online;

29 (B) Being physically present at the sale of the personal
30 property for the purpose of purchasing the personal property; or

31 (C) Viewing the sale of personal property online for the
32 purpose of purchasing the personal property; and

33 (2) "Commercially reasonable manner" means a

34 manner in conformity with advertising practices among dealers in the type of
35 personal property being sold or removed.

36 (b) Before conducting a sale or removal of personal property under §



1 18-16-406, the operator shall:

2 (1)(A) Notify the occupant in writing of the default.

3 (B) Except as provided in subdivision (a)(1)(D) of this
4 section, notice shall be sent by first class mail with certificate of mailing
5 to the occupant at the occupant's last known address.

6 (C) The notice shall include:

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

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

13 (iii) A demand for payment of the charges due within
14 a specified time, not less than fourteen (14) days after the date that the
15 notice is sent;

16 (iv) A statement that unless the claim is paid
17 within the time stated, the contents of the occupant's space will be sold at
18 a specified time and place or removed from the self-service storage facility
19 on a specified date;

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

23 (vi) Designation of the date, time, and place where
24 the contents will be sold or removed from the self-service storage facility
25 unless the default is remedied before the sale or removal of the personal
26 property.

27 (D) If an occupant provides an ~~electronic mail~~ email
28 address and gives permission to the storage facility to use the ~~electronic~~
29 ~~mail~~ email address as a legal notification for the occupant's last known
30 address, then the operator may use the ~~electronic mail~~ email address to send
31 the notice required by subdivision (a)(1)(C) of this section instead of
32 sending the notice by first class mail with certificate of mailing;

33 (2)(A) At least seven (7) days before the sale or removal of
34 personal property:

35 (i) Publish one (1) advertisement announcing the
36 sale or removal of personal property in a newspaper of general circulation in

1 the county in which the storage facility is located ~~at least seven (7) days~~
2 ~~before the sale or removal of personal property; or~~

3 (ii) Advertise the sale or removal of personal
4 property in a commercially reasonable manner.

5 (B) The advertisement of a sale of personal property is
6 conducted in a commercially reasonable manner if at least three (3)
7 independent bidders participate in the sale of the personal property; and

8 (3)(A) Contact the circuit clerk in the county where the
9 personal property is stored to determine the name and address of any holder
10 of liens or security interests in the personal property being sold or
11 removed.

12 (B)(i) The operator shall notify by first class mail with
13 certificate of mailing each holder of a lien or security interest of the time
14 and place of the proposed sale or removal of the personal property at least
15 ten (10) days before conducting the sale or removing the personal property.

16 (ii) The operator shall be required to notify the
17 holder of a lien or security interest only if the lien or security interest
18 is filed under the name of the occupant.

19 ~~(b)(c)~~ At any time before a sale or removal of personal property under
20 this section, the occupant may pay the amount necessary to satisfy the
21 operator's lien and redeem the occupant's personal property.

22 ~~(e)(d)~~ The sale under this subchapter shall be held at the self-
23 service storage facility where the personal property is stored.

24 ~~(d)(e)~~ A purchaser in good faith of any personal property sold under
25 this subchapter takes the property free and clear of any rights of:

26 (1) Persons against whom the lien was valid; and

27 (2) Other lienholders.

28 ~~(e)(f)~~ If the operator complies with the provisions of this
29 subchapter, the operator's liability:

30 (1) To the occupant shall be limited to the net proceeds
31 received from the sale of the personal property; and

32 (2) To other lienholders shall be limited to the net proceeds
33 received from the sale of any personal property covered by the other liens or
34 the amount owed to such lienholders, whichever is less.

35 ~~(f)(g)~~ The operator shall retain a copy of all notices and return
36 receipts required by subsection ~~(a)(b)~~ of this section for six (6) months

1 following the date of the lien sale or removal of the personal property from
2 the self-service storage facility.

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/s/Cavanaugh

APPROVED: 3/15/21