



February 26, 2014

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# ENGROSSED HOUSE BILL No. 1385

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DIGEST OF HB 1385 (Updated February 24, 2014 11:59 am - DI 106)

**Citations Affected:** IC 26-3.

**Synopsis:** Self-service storage facilities. Allows the owner of a self-storage facility to send a notice of default by verified mail or electronic mail. Provides that if: (1) the renter's stored property is a motor vehicle or watercraft; and (2) the renter does not pay an amount in default within 30 days after the owner's notice of the default; as an alternative to conducting a sale of the property, the owner may cause the renter's property to be towed or removed from the facility. Provides that in conducting a sale to enforce a lien under the statute, the owner, as an  
(Continued next page)

**Effective:** July 1, 2014.

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## Speedy, Moed

(SENATE SPONSORS — SCHNEIDER, BANKS, ARNOLD J)

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January 15, 2014, read first time and referred to Committee on Commerce, Small Business and Economic Development.

January 23, 2014, amended, reported — Do Pass.

January 27, 2014, read second time, ordered engrossed. Engrossed.

January 28, 2014, read third time, passed. Yeas 87, nays 5.

SENATE ACTION

February 4, 2014, read first time and referred to Committee on Civil Law.

February 25, 2014, amended, reported favorably — Do Pass.

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## Digest Continued

alternative to advertising the sale by publication in a newspaper, may advertise the sale in another commercially reasonable manner that is likely to attract at least three independent bidders to the sale. Provides that a sale to enforce a lien under the statute may be conducted through a publicly accessible Internet web site. Provides that: (1) a rental agreement may specify a limit on the value of personal property that may be stored in a rented space; and (2) if a rental agreement specifies such a limit, the limit specified is considered the maximum value of the renter's stored property.



February 26, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1385

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A BILL FOR AN ACT to amend the Indiana Code concerning commercial law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 26-3-8-0.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2014]: **Sec. 0.5. As used in this chapter, "electronic mail" means**  
4 **the transmission, by use of a computer or through other electronic**  
5 **means, of information or a communication that is sent to a person**  
6 **identified by a unique address.**

7 SECTION 2. IC 26-3-8-3 IS AMENDED TO READ AS FOLLOWS  
8 [EFFECTIVE JULY 1, 2014]: Sec. 3. As used in this chapter, "last  
9 known address" means the **postal address or electronic mail address**  
10 provided to the owner by the renter:

11 (1) for the purposes of the latest rental agreement; or  
12 (2) in a written notice of a change of **postal address or electronic**  
13 **mail address** after the latest rental agreement.

14 SECTION 3. IC 26-3-8-7 IS AMENDED TO READ AS FOLLOWS  
15 [EFFECTIVE JULY 1, 2014]: Sec. 7. As used in this chapter, "personal  
16 property" means movable property not affixed to land. The term

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1 includes goods, wares, merchandise, ~~and~~ household items, **motor**  
 2 **vehicles, and watercraft.**

3 SECTION 4. IC 26-3-8-9.5 IS ADDED TO THE INDIANA CODE  
 4 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 5 1, 2014]: **Sec. 9.5. As used in this chapter, "verified mail" means**  
 6 **any method of mailing that:**

7 **(1) is offered by the United States Postal Service or a private**  
 8 **delivery service; and**

9 **(2) provides evidence of mailing.**

10 SECTION 5. IC 26-3-8-12 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 12. (a) After a renter  
 12 has been in default continuously for **at least** thirty (30) days, an owner  
 13 may begin enforcement of the owner's lien under this chapter.

14 (b) An owner enforcing the owner's lien under this chapter may:

15 (1) deny the renter access to the rented space; and

16 (2) move the renter's personal property from the rented space to  
 17 another storage space pending ~~its~~ **the** redemption, sale, or other  
 18 disposition **of the personal property** under this chapter.

19 (c) An owner enforcing the owner's lien shall send the renter, by  
 20 ~~registered or certified~~ **electronic mail or verified mail** (~~return receipt~~  
 21 ~~requested~~) **and** addressed to the last known address of the renter, a  
 22 written notice that includes:

23 (1) an itemized statement of the owner's claim showing the  
 24 amount due at the time of the notice and the date when the  
 25 amount became due;

26 (2) a demand for payment of the amount due before a specified  
 27 time at least thirty (30) days after the date of the mailing of the  
 28 notice;

29 (3) a statement that the contents of the renter's rented space are  
 30 subject to the owner's lien;

31 (4) a statement advising the renter that the owner has denied the  
 32 renter access to the rented space, if the owner has done this under  
 33 subsection (b);

34 (5) a statement advising the renter that the owner has removed the  
 35 renter's personal property from the rented space to another  
 36 suitable storage space, if the owner has done this under subsection  
 37 (b);

38 (6) the name, street address, and telephone number of the owner  
 39 or of any other person the renter may contact to respond to the  
 40 notice; and

41 (7) a conspicuous statement that unless the owner's claim is paid  
 42 within the time stated under subdivision (2), the personal



1 property:

2 (A) will:

3 (i) be advertised for sale, or will be otherwise disposed of,  
4 to be sold in a manner permitted under section 15 of this  
5 chapter; or

6 (ii) be otherwise disposed of;

7 at a specified place (if applicable) and time, which must be at  
8 least ninety (90) days after the renter's default; or

9 (B) will be disposed of in the manner described in  
10 subsection (d), if:

11 (i) the renter's personal property stored in the rented  
12 space is a motor vehicle or watercraft; and

13 (ii) the owner chooses to dispose of the renter's motor  
14 vehicle or watercraft in the manner permitted under  
15 subsection (d).

16 (d) If:

17 (1) the renter's personal property stored in the rented space  
18 is a motor vehicle or watercraft; and

19 (2) the renter does not pay the owner's claim within the time  
20 specified in subsection (c)(2);

21 as an alternative to conducting a sale under section 15 of this  
22 chapter, the owner may cause the renter's motor vehicle or  
23 watercraft to be towed or removed from the self-service storage  
24 facility.

25 (e) Any sale or other disposition of the personal property  
26 undertaken by the owner to enforce the owner's lien must conform to  
27 be conducted in the same manner, and at the same place (if  
28 applicable) and time, specified by the owner in the notice given  
29 under subsection (c)(7).

30 SECTION 6. IC 26-3-8-14 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 14. (a) After the  
32 expiration of the time stated in the owner's notice under section  
33 12(c)(2) of this chapter, if the personal property has not been otherwise  
34 disposed of under in a notice provided under manner described in  
35 section ~~12(c)(7)~~ 12(c)(7)(A)(ii) or 12(c)(7)(B) of this chapter, an  
36 owner enforcing the owner's lien shall prepare for a sale of the personal  
37 property under this section.

38 (b) Except as otherwise permitted under subsection (c), the  
39 owner shall cause an advertisement of sale to be published one (1) time  
40 before the date of the sale in a newspaper of general circulation in the  
41 county in which the self-service storage facility is located. The  
42 advertisement must include:

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- 1 (1) a statement that the personal property stored in the renter's  
 2 rented space will be sold to satisfy the owner's lien;  
 3 (2) the address of the self-service storage facility, the number or  
 4 other designation (if any) of the space where the personal property  
 5 is located, and the name of the renter; ~~and~~  
 6 (3) the ~~time, place, and~~ manner of the sale; **and**  
 7 **(4) the time and place of the sale, as applicable.**

8 **(c) As an alternative to the publication described in subsection**  
 9 **(b), the owner may advertise the sale in any other commercially**  
 10 **reasonable manner that is likely to attract at least three (3)**  
 11 **independent bidders to the sale. An advertisement by an**  
 12 **alternative method permitted under this section must include the**  
 13 **information required under subsection (b)(1) through (b)(4).**

14 ~~(c)~~ **(d)** The sale must be held at least ten (10) days after:

- 15 (1) the publication under subsection (b); **or**  
 16 **(2) the first publication, transmission, or communication of an**  
 17 **advertisement under subsection (c);**

18 **as applicable.** If, after the publication, **transmission, or other**  
 19 **communication** of notice under this section, the sale of the personal  
 20 property is not consummated, the owner shall notify the renter in  
 21 writing at the renter's last known address of the other disposition the  
 22 owner intends for the property.

23 SECTION 7. IC 26-3-8-15 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 15. (a) Any sale of the  
 25 personal property under this chapter shall be held:

- 26 **(1)** at the self-service storage facility or, if that facility is not a  
 27 suitable place for a sale, at the suitable place nearest to where the  
 28 property is held or stored; **or**  
 29 **(2) through a publicly accessible Internet web site.**

30 (b) The owner may buy the personal property at any sale under this  
 31 chapter.

32 (c) An owner may satisfy the owner's lien from the proceeds of a  
 33 sale under this chapter. If the proceeds of a sale under this chapter  
 34 exceed the amount of the owner's lien, the owner shall hold the balance  
 35 for delivery, upon demand, to the renter. If the renter does not claim the  
 36 balance of the proceeds within one (1) year after the sale, the balance  
 37 shall be treated as unclaimed property under IC 32-34-1.

38 SECTION 8. IC 26-3-8-16 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 16. **(a)** This chapter  
 40 does not impair the power of the parties to a rental agreement to create  
 41 rights, duties, or obligations that do not arise from this chapter. The  
 42 rights provided to an owner by this chapter are in addition to all other



1 rights provided by law to a creditor against a debtor.

2       **(b) A rental agreement may specify a limit on the value of**  
3 **personal property that may be stored in a renter's rented space. If**  
4 **a rental agreement specifies a limit on the value of stored personal**  
5 **property under this subsection, the limit specified in the rental**  
6 **agreement is considered the maximum value of the renter's**  
7 **personal property stored in the renter's rented space.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Small Business and Economic Development, to which was referred House Bill 1385, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, delete ":" and insert "**sent to a person identified by a unique address.**".

Page 1, delete lines 6 through 7.

Page 2, delete lines 18 through 42, begin a new paragraph and insert:

"SECTION 6. IC 26-3-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 12. (a) After a renter has been in default continuously for **at least** thirty (30) days, an owner may begin enforcement of the owner's lien under this chapter.

(b) An owner enforcing the owner's lien under this chapter may:

- (1) deny the renter access to the rented space; and
- (2) move the renter's personal property from the rented space to another storage space pending ~~its~~ **the** redemption, sale, or other disposition **of the personal property** under this chapter.

(c) An owner enforcing the owner's lien shall send the renter, by ~~registered or certified~~ **electronic mail or verified** mail (~~return receipt requested~~) **and** addressed to the last known address of the renter, a written notice that includes:

- (1) an itemized statement of the owner's claim showing the amount due, **including any late fees permitted under section 11.5 of this chapter**, at the time of the notice and the date when the amount became due;
- (2) a demand for payment of the amount due before a specified time at least thirty (30) days after the date of the mailing of the notice;
- (3) a statement that the contents of the renter's rented space are subject to the owner's lien;
- (4) a statement advising the renter that the owner has denied the renter access to the rented space, if the owner has done this under subsection (b);
- (5) a statement advising the renter that the owner has removed the renter's personal property from the rented space to another suitable storage space, if the owner has done this under subsection (b);
- (6) the name, street address, and telephone number of the owner





or of any other person the renter may contact to respond to the notice; and

(7) a conspicuous statement that unless the owner's claim is paid within the time stated under subdivision (2), the personal property:

(A) will:

(i) be advertised for sale, or will be otherwise disposed of, **to be sold in a manner permitted under section 15 of this chapter; or**

(ii) be otherwise disposed of;

at a specified place (if applicable) and time, which must be at least ninety (90) days after the renter's default; or

(B) will be disposed of in the manner described in subsection (d), if:

(i) the renter's personal property stored in the rented space is a motor vehicle or watercraft; and

(ii) the owner chooses to dispose of the renter's motor vehicle or watercraft in the manner permitted under subsection (d).

(d) If:

(1) the renter's personal property stored in the rented space is a motor vehicle or watercraft; and

(2) the renter does not pay the owner's claim within the time specified in subsection (c)(2);

as an alternative to conducting a sale under section 15 of this chapter, the owner may cause the renter's motor vehicle or watercraft to be towed or removed from the self-service storage facility.

~~(d)~~ (e) Any sale or other disposition of the personal property undertaken by the owner to enforce the owner's lien must conform to be conducted in the same manner, and at the same place (if applicable) and time, specified by the owner in the notice given under subsection (c)(7)."

Page 3, delete lines 1 through 37.

and when so amended that said bill do pass.

(Reference is to HB 1385 as introduced.)

MESSMER, Chair

Committee Vote: yeas 12, nays 0.

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COMMITTEE REPORT

Madam President: The Senate Committee on Civil Law, to which was referred House Bill No. 1385, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 10 through 16.

Page 2, line 31, delete "due," and insert "due".

Page 2, line 31, delete "including any late fees permitted under section".

Page 2, line 32, delete "11.5 of this chapter,".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1385 as printed January 24, 2014.)

ZAKAS, Chairperson

Committee Vote: Yeas 8, Nays 0.

