

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 764

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ANDREWS.

1429H.01P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 415.415, 493.050, and 493.070, RSMo, and to enact in lieu thereof three new sections relating to newspapers.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 415.415, 493.050, and 493.070, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 415.415, 493.050, and 493.070, to read as follows:

415.415. 1. The operator of a self-service storage facility has a lien on all personal property stored within each leased space for rent, labor, or other charges, and for expenses reasonably incurred in sale of such personal property, as provided in sections 415.400 to 415.425. The lien established by this subsection shall have priority over all other liens except those liens that have been perfected and recorded on personal property. The rental agreement shall contain a statement, in bold type, advising the occupant of the existence of such lien and that property stored in the leased space may be sold to satisfy such lien if the occupant is in default, and that any proceeds from the sale of the property which remain after satisfaction of the lien will be paid to the state treasurer if unclaimed by the occupant within one year after the sale of the property.

2. If the occupant is in default for a period of more than forty-five days, the operator may enforce the lien granted in subsection 1 of this section and sell the property stored in the leased space for cash. Sale of the property stored on the premises may be done at a public or private sale, may be done as a unit or in parcels, or may be by way of one or more contracts, and may

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 be at any time or place and on any terms as long as the sale is done in a commercially reasonable
16 manner in accordance with the provisions of section 400.9-627. The operator may otherwise
17 dispose of any property which has no commercial value.

18 3. The proceeds of any sale made under this subsection shall be applied to satisfy the
19 lien, with any surplus being held for delivery on demand to the occupant or any other lienholders
20 which the operator knows of or which are contained in the statement filed by the occupant
21 pursuant to subsection 3 of section 415.410 for a period of one year after receipt of proceeds of
22 the sale and satisfaction of the lien. No proceeds shall be paid to an occupant until such occupant
23 files a sworn affidavit with the operator stating that there are no other valid liens outstanding
24 against the property sold and that he or she, the occupant, shall indemnify the operator for any
25 damages incurred or moneys paid by the operator due to claims arising from other lienholders
26 of the property sold. After the one-year period set in this subsection, any proceeds remaining
27 after satisfaction of the lien shall be considered abandoned property to be reported and paid to
28 the state treasurer in accordance with laws pertaining to the disposition of unclaimed property.

29 4. Before conducting a sale under subsection 2 of this section, the operator shall:

30 (1) At least forty-five days before any disposition of property under this section, which
31 shall run concurrently with subsection 2 of this section, notify the occupant and each lienholder
32 which is contained in any statement filed by the occupant pursuant to subsection 3 of section
33 415.410 of the default by first-class mail or electronic mail at the occupant's or lienholder's last
34 known address, and shall notify any third-party owner identified by the occupant pursuant to
35 subsection 3 of section 415.410;

36 (2) No sooner than ten days after mailing the notice required in subdivision (1) of this
37 subsection, mail a second notice of default, by verified mail or electronic mail, to the occupant
38 at the occupant's or lienholder's last known address, which notice shall include:

39 (a) A statement that the contents of the occupant's leased space are subject to the
40 operator's lien;

41 (b) A statement of the operator's claim, indicating the charges due on the date of the
42 notice, the amount of any additional charges which shall become due before the date of release
43 for sale and the date those additional charges shall become due;

44 (c) A demand for payment of the charges due within a specified time, not less than ten
45 days after the date on which the second notice was mailed;

46 (d) A statement that unless the claim is paid within the time stated, the contents of the
47 occupant's space will be sold after a specified time; and

48 (e) The name, street address and telephone number of the operator, or a designated agent
49 whom the occupant may contact, to respond to the notice;

50 (3) At least seven days before the sale, advertise the time, place, and terms of the sale
 51 in **the classified section of** a newspaper of general circulation in the jurisdiction where the sale
 52 is to be held **or in any other commercially reasonable manner.** [~~Such~~] **The manner of**
 53 advertisement shall be [~~in the classified section of the newspaper and shall state that the items~~
 54 ~~will be released for sale.~~] **deemed commercially reasonable if at least three independent**
 55 **bidders attend or view the sale at the time and place advertised.**

56 5. If the property is a vehicle, watercraft, or trailer and rent and other charges remain
 57 unpaid for sixty days, the owner may treat the vehicle, watercraft, or trailer as an abandoned
 58 vehicle and have the vehicle, watercraft, or trailer towed from the self-service storage facility.
 59 When the vehicle, watercraft, or trailer is towed from the self-service storage facility, the owner
 60 shall not be liable for the vehicle, watercraft, or trailer for any damages to the motor vehicle,
 61 watercraft, or trailer once the tower takes possession of the property.

62 6. At any time before a sale under this section, the occupant may pay the amount
 63 necessary to satisfy the lien and redeem the occupant's personal property.

493.050. All public advertisements and orders of publication required by law to be made
 2 and all legal publications affecting the title to real estate shall be published in some daily,
 3 triweekly, semiweekly, or weekly newspaper of general circulation in the county where located,
 4 and [~~which~~] **such a newspaper** shall have:

5 (1) Been admitted to the post office as periodicals class matter in the city of publication;
 6 [~~shall have~~]

7 (2) Been **either:**

8 (a) Published regularly and consecutively for a period of [~~three years~~] **one year**, except
 9 that a newspaper of general circulation may be deemed to be the successor to a defunct
 10 newspaper of general circulation, and subject to all of the rights and privileges of said prior
 11 newspaper under this statute, if the successor newspaper shall begin publication no later than
 12 [~~thirty~~] **ninety** consecutive days after the termination of publication of the prior newspaper; [~~shall~~
 13 ~~have~~] **or**

14 (b) **Purchased or newly established by a newspaper that satisfies the requirements**
 15 **of paragraph (a) of this subdivision; and**

16 (3) A list of bona fide subscribers voluntarily engaged as such, who have paid or agreed
 17 to pay a stated price for a subscription for a definite period of time[~~; provided, that when~~].
 18

19 **If a public notice, required by law to be published once a week for a given number of weeks,**
 20 [~~shall~~] **is to** be published in a daily, triweekly, semiweekly, or weekly newspaper, the notice shall
 21 appear once a week, on the same day of each week[~~, and further provided, that~~]. Every affidavit
 22 to proof of publication shall state that the newspaper in which such notice was published has

23 complied with the provisions of this section[; ~~provided further, that~~] . The duration of
24 consecutive publication provided for in this section shall not affect newspapers which have
25 become legal publications prior to September 6, 1937[; ~~provided, however, that when~~] . **If** any
26 newspaper shall be forced to suspend publication in any time of war, due to the owner or
27 publisher being inducted into the Armed Forces of the United States, the newspaper may be
28 reinstated within one year after actual hostilities have ceased, with all the benefits provided
29 pursuant to the provisions of this section, upon the filing with the secretary of state of notice of
30 intention of such owner or publisher, the owner's surviving spouse or legal heirs, to republish
31 such newspaper, setting forth the name of the publication, its volume and number, its frequency
32 of publication, and its readmission to the post office where it was previously entered as
33 periodicals class mail matter, and ~~[when]~~ **if** it ~~[shall have]~~ **has** a list of bona fide subscribers
34 voluntarily engaged as such who have paid or agreed to pay a stated price for subscription for
35 a definite period of time. All laws or parts of laws in conflict with this section except sections
36 493.070 to 493.120, are hereby repealed.

493.070. In all cities of this state which now have, or shall hereafter have, a population
2 of one hundred thousand inhabitants or more, all public notices and advertisements, directed by
3 any court[;] or required by law to be published in a newspaper, shall be published in some daily
4 newspaper of such city, of general circulation therein, which shall have been established and
5 continuously published as such for a period of at least ~~[three consecutive years]~~ **one year** next
6 prior to the publication of any such notice.

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