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SELF-SERVICE STORAGE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies requirements for self-service storage facilities.

Highlighted Provisions:

This bill:

- adds additional requirements for the written notice to the occupant before the disposal of personal property; and
- enacts standards for the renewal of a rental agreement with a self-service storage facility.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

38-8-2, as last amended by Laws of Utah 2013, Chapter 163

38-8-3, as last amended by Laws of Utah 2021, Chapter 355

ENACTS:

38-8-6, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **38-8-2** is amended to read:

38-8-2 . Lien against stored property -- Attachment and duration -- Search for financing statement prerequisite to enforcement of lien.

(1) When an owner and an occupant enter into a rental agreement, the owner and the owner's heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at the self-service storage facility for rent, labor, or other

29 charges, present or future, in relation to the personal property and for expenses
 30 necessary for its preservation or expenses reasonably incurred in its sale under this
 31 chapter.

32 (2) The lien described in Subsection (1) attaches on the date the personal property is
 33 brought to the self-service storage facility and continues so long as the owner retains
 34 possession and until any default is corrected or a sale pursuant to a default is conducted
 35 to satisfy the lien.

36 (3) (a) A rental agreement shall state that:

37 ~~[(a)]~~ (i) an owner is entitled to sell, donate, or dispose of all personal property stored
 38 at the self-service storage facility pursuant to the rental agreement if the occupant
 39 is in default for a continuous 30-day period; and

40 ~~[(b)]~~ (ii) the occupant shall disclose to the owner any lienholders that have an interest
 41 in the property that will be stored at the self-service storage facility.

42 (b) (i) An owner may impose and collect a reasonable late fee for each period
 43 described in the rental agreement that an occupant does not timely pay rent, fees,
 44 or other charges due under the rental agreement if the fee and the conditions for
 45 imposing the fee are stated in the rental agreement.

46 (ii) A late fee of the greater of \$20 or 20% of the monthly rent, for each period
 47 described in the rental agreement, is a reasonable fee and is not considered a
 48 penalty.

49 (4) If a rental agreement states a maximum, aggregate value of the personal property that
 50 may be stored at the occupant's storage space, the occupant may not assert that the value
 51 of the personal property actually stored at the occupant's storage space exceeds the
 52 maximum amount stated in the rental agreement.

53 (5) (a) Before an owner takes enforcement action under Section 38-8-3, the owner shall
 54 determine if a financing statement filed in accordance with Title 70A, Chapter 9a,
 55 Part 5, Filing, has been filed with the Division of Corporations and Commercial Code
 56 concerning the property to be sold.

57 (b) A security interest evidenced by a financing statement filed in accordance with Title
 58 70A, Chapter 9a, Part 5, Filing, has priority over the lien provided by this section.
 59 Section 2. Section **38-8-3** is amended to read:

60 **38-8-3 . Enforcement of lien -- Notice requirements -- Sale procedure and effect.**

61 (1) An owner may enforce a lien described in Section 38-8-2 against an occupant ~~[if:]~~ and
 62 sell, donate, or dispose of stored property under Subsection 38-8-3, without liability if:

- 63 (a) the occupant is in default for a continuous 30-day period; and
64 (b) the owner provides written notice of the owner's intent to enforce the lien, in
65 accordance with the requirements of this section, to:
- 66 (i) the occupant;
67 (ii) each lienholder disclosed by the occupant under Subsection 38-8-2(3)(b);
68 (iii) each person that has filed a valid financing statement with the Division of
69 Corporations and Commercial Code; and
70 (iv) each person identified as a lienholder in the records of the Motor Vehicle
71 Division.
- 72 (2) The owner may sell, donate, or dispose of any property remaining at the self-service
73 storage facility at the end of a rental agreement without liability if:
- 74 (a) the owner has provided written notice to the occupant by first-class mail to the
75 occupant's last known address or by email to the occupant's last known email address;
76 (b) the written notice states that the owner will sell, donate, or dispose of the property
77 following a specified date at least 15 days after the date of the notice, unless the
78 occupant removes the property before the specified date; and
79 (c) any proceeds remaining after the owner deducts rent, labor or other charges, and
80 expenses reasonably incurred in the sale or disposal of the personal property are
81 delivered to the Utah state treasurer as unclaimed property.
- 82 [(2)] (3) An owner shall provide the written notice described in Subsection (1)(b):
- 83 (a) in person;
84 (b) by certified mail, to the person's last known address; or
85 (c) subject to Subsection [(3)] (4), by email, to the person's last know email address.
- 86 [(3)] (4) If an owner sends a notice described in Subsection [(2)] (3) by email and does not
87 receive a response, return receipt, or delivery confirmation from the email address to
88 which the notice was sent within three business days after the day on which the notice
89 was sent, the owner shall deliver the notice in person or by certified mail to the person's
90 last known address.
- 91 [(4)] (5) A written notice described in Subsection (1)(b) shall include:
- 92 (a) an itemized statement of the owner's claim showing the sum due at the time of the
93 notice and the date when the sum became due;
94 (b) a brief description of the personal property subject to the lien that permits the person
95 to identify the property, unless the property is locked, fastened, sealed, tied, or
96 otherwise stored in a manner that prevents immediate identification of the property;

- 97 (c) if permitted by the terms of the rental agreement, a notice that the occupant may not
 98 access the occupant's personal property until the occupant complies with the
 99 requirements described in Subsection ~~[(9)]~~ (10);
- 100 (d) the name, street address, and telephone number of the owner or the individual the
 101 occupant may contact to respond to the notification;
- 102 (e) a demand for payment within a specified time not less than 15 days after the day on
 103 which the notice is delivered; and
- 104 (f) a conspicuous statement that, unless the claim is paid within the time stated in the
 105 notice, the owner will:
- 106 (i) sell, donate, or dispose of the personal property[-] ; or
 107 (ii) [will be advertised for sale and will] advertise the personal property to be sold at a
 108 specified time and place.
- 109 ~~[(5)]~~ (6) A notice under this section shall be presumed delivered when it is deposited with
 110 the United States Postal Service and properly addressed with postage prepaid.
- 111 ~~[(6)]~~ (7) (a) (i) After the expiration of the time given in the notice, the owner shall
 112 publish an advertisement of the sale of the personal property subject to the lien
 113 once in a newspaper of general circulation in the county where the self-service
 114 storage facility is located.
- 115 (ii) An advertisement described in Subsection ~~[(6)(a)(i)]~~ (7)(a)(i) shall include:
- 116 (A) the address of the self-service storage facility and the number, if any, of the
 117 space where the personal property is located;
- 118 (B) the name of the occupant; and
- 119 (C) the time, place, and manner of the sale, which shall take place not sooner than
 120 15 days after the day on which the sale is advertised under Subsection ~~[(6)(a)(i)]~~
 121 (7)(a)(i).
- 122 (b) Subsection ~~[(6)(a)]~~ (7)(a) does not apply if:
- 123 (i) the owner:
- 124 (A) provided the notice described in Subsection (1)(b) by email; and
 125 (B) received a response or return receipt from the email address to which the
 126 notice was sent; or
- 127 (ii) the owner:
- 128 (A) provided the notice described in Subsection (1)(b) by certified mail; and
 129 (B) has evidence of providing the notice by certified mail.
- 130 ~~[(7)]~~ (8) A sale of the personal property shall conform to the terms of the notice provided for

131 in this section.

132 ~~[(8)]~~ (9) A sale of the personal property shall be held at the self-service storage facility, at
133 the nearest suitable place to where the personal property is held or stored, or online.

134 ~~[(9)]~~ (10) Before a sale of personal property under this section, the occupant may pay the
135 amount necessary to satisfy the lien and the reasonable expenses incurred under this
136 section and thereby redeem the personal property; upon receipt of this payment, the
137 owner shall return the personal property, and thereafter the owner shall have no liability
138 to any person with respect to that personal property.

139 ~~[(10)]~~ (11) A purchaser in good faith of the personal property sold to satisfy a lien as
140 provided for in this chapter takes the property free of any rights of persons against
141 whom the lien was valid and free of any rights of a secured creditor, despite
142 noncompliance by the owner with the requirements of this section.

143 ~~[(11)]~~ (12) In the event of a sale under this section, the owner may satisfy the lien for the
144 proceeds of the sale, subject to the rights of any prior lienholder; the lien rights of the
145 prior lienholder are automatically transferred to the proceeds of the sale; if the sale is
146 made in good faith and is conducted in a reasonable manner, the owner shall not be
147 subject to any surcharge for a deficiency in the amount of a prior secured lien, but shall
148 hold the balance, if any, for delivery to the occupant, lienholder, or other person in
149 interest; if the occupant, lienholder, or other person in interest does not claim the balance
150 of the proceeds within one year of the date of sale, it shall become the property of the
151 Utah state treasurer as unclaimed property with no further claim against the owner.

152 ~~[(12)]~~ (13) If the requirements of this chapter are not satisfied, if the sale of the personal
153 property is not in conformity with the notice of sale, or if there is a willful violation of
154 this chapter, nothing in this section affects the rights and liabilities of the owner,
155 occupant, or any other person.

156 Section 3. Section **38-8-6** is enacted to read:

157 **38-8-6 . Renewal.**

158 (1) An owner may modify the terms of a rental agreement upon giving notice in writing to
159 the occupant:

160 (a) by first-class mail to the occupant's last known address; or

161 (b) by email to the occupant's last known email address.

162 (2) An owner shall send written notice to modify the terms of the rental agreement at least
163 30 days before the day on which the modified terms take effect.

164 (3) The occupant is bound by the terms of the modified rental agreement if the occupant

165 continues to store personal property at the self-service storage facility beginning on the
166 date the modified rental agreement takes effect if the owner complies with Subsection
167 (1)(a) or (b).

168 Section 4. **Effective date.**

169 This bill takes effect on May 1, 2024.