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2 93rd General Assembly
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4

As Engrossed: H1/25/21

A Bill

HOUSE BILL 1027

5 By: Representatives Cavanaugh, Pilkington, Evans, Bentley, F. Allen, K. Ferguson
6 By: Senator Hill
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING THE SALE AND
10 REMOVAL PROCEDURE OF PERSONAL PROPERTY FROM A SELF-
11 SERVICE STORAGE FACILITY; AND FOR OTHER PURPOSES.
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Subtitle

15 TO AMEND THE LAW CONCERNING THE SALE AND
16 REMOVAL PROCEDURE OF PERSONAL PROPERTY
17 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, "commercially reasonable manner" means a
24 manner in conformity with advertising practices among dealers in the type of
25 personal property being sold or removed.

26 (b) Before conducting a sale or removal of personal property under §
27 18-16-406, the operator shall:

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

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

32 (C) The notice shall include:

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

35 (ii) A statement of the operator's claim, indicating
36 the charges due on the date of the notice, the amount of any additional



1 charges that shall become due before the date of sale, and the date the
2 additional charges shall become due;

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

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

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

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

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

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

25 (i) Publish one (1) advertisement announcing the
26 sale or removal of personal property in a newspaper of general circulation in
27 the county in which the storage facility is located ~~at least seven (7) days~~
28 ~~before the sale or removal of personal property; or~~

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

31 (B) The advertisement of a sale of personal property is
32 conducted in a commercially reasonable manner if at least three (3)
33 independent bidders are present at the sale in person or online; and

34 (3)(A) Contact the circuit clerk in the county where the
35 personal property is stored to determine the name and address of any holder
36 of liens or security interests in the personal property being sold or

1 removed.

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

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

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

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

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

- 16 (1) Persons against whom the lien was valid; and
17 (2) Other lienholders.

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

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

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

25 ~~(f)(g)~~ The operator shall retain a copy of all notices and return
26 receipts required by subsection ~~(a)(b)~~ of this section for six (6) months
27 following the date of the lien sale or removal of the personal property from
28 the self-service storage facility.

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30 /s/Cavenaugh

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