

No. 1982-325

AN ACT

HB 1079

Regulating self-service storage and providing for owners' liens and the enforcement thereof.

In recognition of the fact that the self-service storage industry is a recent and useful addition to the economy of the Commonwealth of Pennsylvania and that it is in the public interest to make such facilities broadly accessible, it shall be the public policy of this Commonwealth to enhance broad accessibility by the public to self-service storage facilities by providing a simple but fair procedure for the enforcement of rights in the event of default by providing a lien on all personal property stored at such facilities in favor of the owners thereof.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the "Self-Service Storage Facility Act."

Section 2. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Default." The failure timely to perform any obligation or duty set forth in this act or the rental agreement.

"Last known address." That address provided by the occupant in the latest rental agreement or the address provided by the occupant in a subsequent written notice of a change of address.

"Leased space." The individual storage space at the self-service storage facility which is leased or rented to an occupant pursuant to a rental agreement.

"Occupant." A person, his sublessee, successor or assign, entitled to the use of leased space at a self-service storage facility under a rental agreement, to the exclusion of others.

"Owner." The owner, operator, lessor or sublessor of a self-service storage facility, his agent or any person authorized by him to manage the facility or to receive rent from an occupant under a rental agreement or any of his employee's. An owner is not a warehouseman as defined in 13 Pa.C.S. § 7102 (relating to definitions and index of definitions). If, however, an owner shall issue any warehouse receipt, bill of lading or other document of title for the personal property stored, the owner and occupant shall be subject to 13 Pa.C.S. Div. 7 (relating to warehouse receipts, bills of lading and other documents of title) and this act shall not apply.

"Personal property." Movable property not affixed to land and includes, but is not limited to, goods, wares, merchandise, furniture and household items.

"Rental agreement." Any written agreement or lease, that establishes or modifies the terms, conditions, rules or other provisions concerning the use and occupancy of a self-service storage facility.

"Self-service storage facility." Any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such space for the purpose of storing and removing personal property. No occupant shall use a self-service storage facility for residential purposes.

Section 3. Access.

(a) General rule.—Upon the reasonable request of the owner, the occupant shall provide access to the owner to enter the leased space for the purposes of inspection, repair, alteration, improvement or to supply necessary or agreed services. In case of emergency, the owner may enter the leased space for any of the above stated purposes without notice to or consent from the occupant.

(b) Definition.—As used in this section "emergency" shall mean any sudden, unexpected occurrence or circumstance which demands immediate action.

Section 4. Owner's lien.

The owner of a self-service storage facility and his heirs, executors, administrators, successors and assigns shall have a lien upon all personal property, while located at a self-service storage facility, for rent, labor or other charges, present or future, incurred for storing said property, and

for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to this act. The lien provided for in this section is superior to any other lien or security interest; however any lien existing prior to the date the personal property was placed at the self-service storage facility supersedes any lien of the owner. The lien attaches as of the date the personal property is placed at the self-service storage facility and the rental agreement shall contain a statement in bold type notifying the occupant of the existence of the lien.

Section 5. Enforcement of lien.

(a) **Default.**—No enforcement action shall be taken by the owner until the occupant has been in default continuously for a period of 30 days.

(b) **Rights of owner.**—After the occupant has been in default continuously for a period of 30 days, the owner shall have the right to deny the occupant's access to the leased space. The owner may also enter and remove the personal property from the leased space to another suitable storage space pending its sale or other disposition.

Section 6. Notice.

(a) **Service.**—The owner shall give written notice of the default and any other action taken in regard to the occupant's property, to the occupant by personal service or by certified mail, return receipt requested, sent to the occupant's last known address. A notice shall be presumed to be served when it is deposited with the United States Postal Service and properly addressed with postage prepaid.

(b) **Contents.**—The notice shall contain the following:

(1) An itemized statement of the owner's claim showing the sum due at the time of the notice and the date when the sum became due.

(2) A demand for payment of the sum due within a specified time not less than 30 days after the date of notice.

(3) A statement that the contents of the occupant's leased space are subject to the owner's lien.

(4) The name, street address and telephone number of the owner or his designated agent who the occupant may contact to respond to the notice.

(5) A conspicuous statement in bold print that unless the claim is paid within the time and at the place stated, the personal property will be advertised for sale or will be otherwise disposed of at a specified time and place, not less than 30 days after the date of the notice.

(c) **Notice of denial of space, entry or removal.**—If the owner elects to deny the occupant access to the leased space or elects to enter and/or remove the occupant's personal property from the leased space to other suitable storage space, a statement so advising the occupant shall be included in the notice.

Section 7. Advertisement of sale.

(a) **Publication.**—After the expiration of the time stated in the notice and if the personal property has not otherwise been disposed of, the owner shall cause an advertisement of sale to be published two times pre-

ceding the date of sale in a newspaper of general circulation which serves the area where the self-service storage facility is located. The advertisement shall include:

(1) A statement that the contents of the occupant's leased space shall be sold to satisfy the owner's lien.

(2) The address of the self-service storage facility and the number or other description, if any, of the space where the personal property is located and the name of the occupant.

(3) The time, place and manner of sale.

(b) Posting of sale notice.—If there is no newspaper of general circulation where the self-service storage facility is located, the owner shall post written advertisements containing all of the required information at least ten days before the date of the sale in not less than six conspicuous places in the neighborhood where the self-service storage facility is located.

(c) Time of sale.—The sale shall take place no sooner than ten days after the first publication or posting.

Section 8. Location of sale.

Any sale or other disposition of the personal property shall be held at the self-service storage facility or at the nearest suitable place to where the personal property is held or stored.

Section 9. Payment and satisfaction.

Before any sale or other disposition of personal property, the occupant may pay the amount necessary to satisfy the owner's lien and other reasonable expenses incurred hereunder and thereby redeem the personal property. Upon the payment and satisfaction of the amount necessary to satisfy the owner's lien and the reasonable expenses incurred, the owner shall return the personal property and the owner shall thereafter have no liability to any person with respect to such personal property.

Section 10. Conformance with notice.

(a) Conformance with terms.—Any sale or other disposition of the personal property shall conform to the terms of the notification as provided for in this section.

(b) Nonconsummated sale.—If the personal property is advertised for sale and the sale is not consummated, the owner shall give written notice to the occupant of other disposition of the personal property.

Section 11. Title to goods purchased.

A purchaser in good faith of the personal property sold to satisfy the owner's lien takes the property free of any rights of persons against whom the lien was valid, despite noncompliance by the owner with the requirements of this section.

Section 12. Right of owner to purchase.

The owner may buy at any sale of personal property to enforce the owner's lien.

Section 13. Excess balance from sale.

In the event of a sale under this section, the owner may satisfy his lien from the proceeds of the sale but shall hold the balance, if any, for deliv-

ery on demand to the occupant. If the occupant does not claim the balance of the proceeds within six months of the date of the sale, such balance shall be deemed to be abandoned and the owner shall pay such balance to the Secretary of the Commonwealth who shall receive, hold and dispose of same in accordance with the act of August 9, 1971 (P.L.286, No.74), known as the "Disposition of Abandoned and Unclaimed Property Act."

Section 14. Care, custody and control.

Unless the rental agreement specifically provides otherwise, the exclusive care, custody and control of any and all personal property stored in the leased space shall remain vested in the occupant, who shall bear all risks of loss or damage to such property not caused by any negligence of the owner.

Section 15. Limitation on liability of owner.

(a) Sale or removal.—An owner shall not be liable to an occupant or a third party for the removal or sale of personal property which is not the property of the occupant or upon which a prior lien has attached, unless notice shall have been given to the owner by the occupant that the property placed in the leased space was not that of the occupant.

(b) Rental agreements.—All rental agreements shall contain a provision setting forth subsection (a), and requiring the occupant to inform the owner of the nature and identity of any property placed in the leased space which is not the property of the occupant.

Section 16. Construction of act.

Nothing in this act shall be construed as in any manner impairing or affecting the right of the parties to create additional rights, duties and obligations in and by virtue of the rental agreement. The rights provided by this act shall be in addition to all other rights allowed by law to a creditor against his debtor.

Section 17. Savings clause.

All rental agreements entered into before the effective date of this act, and not extended or renewed after that date, and the rights and duties and interests flowing from them shall remain valid, and may be enforced or terminated in accordance with their terms or as permitted by any other statute or law of this Commonwealth.

Section 18. Effective date.

This act shall take effect in 60 days and shall apply to all rental agreements executed or renewed on and after that date.

APPROVED—The 20th day of December, A. D. 1982.

DICK THORNBURGH