

# HB3823



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB3823

Introduced 2/22/2021, by Rep. Michael Halpin

#### SYNOPSIS AS INTRODUCED:

770 ILCS 95/4

from Ch. 114, par. 804

Amends the Self-Service Storage Facility Act. Provides that an owner's lien may be satisfied by sale or other disposition after an advertisement of the sale or other disposition is published once (rather than once a week for 2 consecutive weeks) in a newspaper of general circulation where the self-service storage facility is located or in any other commercially reasonable manner. Provides that the manner of advertisement shall be deemed commercially reasonable if at least 3 bidders who are unrelated to the owner attend or view the sale at the time and place advertised.

LRB102 13072 LNS 18415 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Self-Service Storage Facility Act is  
5 amended by changing Section 4 as follows:

6 (770 ILCS 95/4) (from Ch. 114, par. 804)

7 Sec. 4. Enforcement of lien. An owner's lien as provided  
8 for in Section 3 of this Act for a claim which has become due  
9 may be satisfied as follows:

10 (A) The occupant shall be notified;

11 (B) The notice shall be delivered:

12 (1) in person; or

13 (2) by verified mail or by electronic mail to the last  
14 known address of the occupant;

15 (C) The notice shall include:

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

19 (2) The name of the facility, address, telephone  
20 number, date, time, location, and manner of the lien sale,  
21 and the occupant's name and unit number;

22 (3) A notice of denial of access to the personal  
23 property, if such denial is permitted under the terms of

1 the rental agreement, which provides the name, street  
2 address, and telephone number of the owner, or his  
3 designated agent, whom the occupant may contact to respond  
4 to this notice;

5 (3.5) Except as otherwise provided by a rental  
6 agreement and until a lien sale, the exclusive care,  
7 custody, and control of all personal property stored in  
8 the leased self-service storage space remains vested in  
9 the occupant. No bailment or higher level of liability is  
10 created if the owner over-locks the occupant's lock,  
11 thereby denying the occupant access to the storage space.  
12 Rent and other charges related to the lien continue to  
13 accrue during the period of time when access is denied  
14 because of non-payment;

15 (4) A demand for payment within a specified time not  
16 less than 14 days after delivery of the notice;

17 (5) A conspicuous statement that unless the claim is  
18 paid within the time stated in the notice, the personal  
19 property will be advertised for sale or other disposition,  
20 and will be sold or otherwise disposed of at a specified  
21 time and place.

22 (D) Any notice made pursuant to this Section shall be  
23 presumed delivered when it is deposited with the United States  
24 Postal Service, and properly addressed with postage prepaid or  
25 sent by electronic mail and the owner receives a receipt of  
26 delivery to the occupant's last known address, except if the

1 owner does not receive a receipt of delivery for the notice  
2 sent by electronic mail, the notice is presumed delivered when  
3 it is sent to the occupant by verified mail to the occupant's  
4 last known mailing address;

5 (E) After the expiration of the time given in the notice,  
6 an advertisement of the sale or other disposition shall be  
7 published once ~~a week for two consecutive weeks~~ in a newspaper  
8 of general circulation where the self-service storage facility  
9 is located or in any other commercially reasonable manner. The  
10 manner of advertisement shall be deemed commercially  
11 reasonable if at least 3 bidders who are unrelated to the owner  
12 attend or view the sale at the time and place advertised. The  
13 advertisement shall include:

14 (1) The name of the facility, address, telephone  
15 number, date, time, location, and manner of lien sale and  
16 the occupant's name and unit number.

17 (2) (Blank).

18 (3) The sale or other disposition shall take place not  
19 sooner than 15 days after the first publication. If there  
20 is no newspaper of general circulation where the  
21 self-service storage facility is located, the  
22 advertisement shall be posted at least 10 days before the  
23 date of the sale or other disposition in not less than 6  
24 conspicuous places in the neighborhood where the  
25 self-service storage facility is located.

26 (F) Any sale or other disposition of the personal property

1 shall conform to the terms of the notification as provided for  
2 in this Section;

3 (G) Any sale or other disposition of the personal property  
4 shall be held at the self-service storage facility, or at the  
5 nearest suitable place to where the personal property is held  
6 or stored. A sale under this Section shall be deemed to be held  
7 at the self-service storage facility where the personal  
8 property is stored if the sale is held on a publicly accessible  
9 online website;

10 (G-5) If the property upon which the lien is claimed is a  
11 motor vehicle or watercraft and rent or other charges related  
12 to the property remain unpaid or unsatisfied for 60 days, the  
13 owner may have the property towed from the self-service  
14 storage facility. If a motor vehicle or watercraft is towed,  
15 the owner shall not be liable for any damage to the motor  
16 vehicle or watercraft, once the tower takes possession of the  
17 property. After the motor vehicle or watercraft is towed, the  
18 owner may pursue other collection options against the  
19 delinquent occupant for any outstanding debt. If the owner  
20 chooses to sell a motor vehicle, aircraft, mobile home, moped,  
21 motorcycle, snowmobile, trailer, or watercraft, the owner  
22 shall contact the Secretary of State and any other  
23 governmental agency as reasonably necessary to determine the  
24 name and address of the title holder or lienholder of the item,  
25 and the owner shall notify every identified title holder or  
26 lienholder of the time and place of the proposed sale. The

1 owner is required to notify the holder of a security interest  
2 only if the security interest is filed under the name of the  
3 person signing the rental agreement or an occupant. An owner  
4 who fails to make the lien searches required by this Section is  
5 liable only to valid lienholders injured by that failure as  
6 provided in Section 3;

7 (H) Before any sale or other disposition of personal  
8 property pursuant to this Section, the occupant may pay the  
9 amount necessary to satisfy the lien, and the reasonable  
10 expenses incurred under this Section, and thereby redeem the  
11 personal property. Upon receipt of such payment, the owner  
12 shall return the personal property, and thereafter the owner  
13 shall have no liability to any person with respect to such  
14 personal property;

15 (I) A purchaser in good faith of the personal property  
16 sold to satisfy a lien, as provided for in Section 3 of this  
17 Act, takes the property free of any rights of persons against  
18 whom the lien was valid, despite noncompliance by the owner  
19 with the requirements of this Section;

20 (J) In the event of a sale under this Section, the owner  
21 may satisfy his lien from the proceeds of the sale, but shall  
22 hold the balance, if any, for delivery on demand to the  
23 occupant. If the occupant does not claim the balance of the  
24 proceeds within one year of the date of sale, it shall become  
25 the property of the owner without further recourse by the  
26 occupant.

1           (K) The lien on any personal property created by this Act  
2 shall be terminated as to any such personal property which is  
3 sold or otherwise disposed of pursuant to this Act and any such  
4 personal property which is removed from the self-service  
5 storage facility.

6           (L) If 3 or more bidders who are unrelated to the owner are  
7 in attendance at a sale held under this Section, the sale and  
8 its proceeds are deemed to be commercially reasonable.

9           (Source: P.A. 97-599, eff. 8-26-11; 98-1106, eff. 1-1-15.)