

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 606 entitled “An act relating to regulating storage
4 units” respectfully reports that it has considered the same and recommends that
5 the bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

7 Sec. 1. 9 V.S.A. chapter 98 is amended to read:

8 CHAPTER 98. STORAGE UNITS

9 § 3901. DEFINITIONS

10 As used in this chapter, the following terms shall have the following
11 meanings:

12 (1) “Default” means the violation or failure to perform a duty or
13 obligation created in this chapter or in a rental agreement.

14 (2) “Electronic mail” means the transmission of information through
15 computer or other electronic means, or a communication sent to a person
16 identified by a unique electronic address.

17 (3) “Last known address” means that the mailing address, and the e-mail
18 address if applicable, provided by the occupant in ~~the~~ a rental agreement or ~~the~~
19 ~~address provided by the occupant~~ in a subsequent written notice of a change of
20 address.

1 (4)(A) “Late fee” means a fee or charge assessed for an occupant’s
2 failure to pay rent or other fees, charges, or expenses when due.

3 (B) “Late fee” does not include:

4 (i) interest on a debt;

5 (ii) reasonable expenses, fees, or charges incurred in the collection
6 of unpaid rent or expenses; or

7 (iii) fees or charges associated with the enforcement of any other
8 remedy provided by law or a rental agreement.

9 ~~(2)~~(5) “Occupant” means a person, successor, assignee, agent, or
10 representative entitled to the use of the storage space in a self-storage facility
11 under a rental agreement to the exclusion of others.

12 ~~(3)~~(6) “Owner” means the owner, operator, lessor, or sublessor of a self-
13 storage facility, an agent, or any other person authorized by the owner to
14 manage the facility or to receive rent from an occupant under a rental
15 agreement.

16 (7) “Personal information” means written information about a person
17 that is not publicly available and that readily identifies that person or is closely
18 associated with that person, including a Social Security number, credit or debit
19 card information, a bank account number, medical information, or passport
20 information.

1 ~~(4)~~(8) “Personal property” means movable property not affixed to land,
2 and includes goods, merchandise, and household items.

3 ~~(5)~~(9) “Rental agreement” means ~~any~~ a written agreement that
4 establishes or modifies the terms, conditions, rules, or any other provision
5 concerning the use and occupancy of ~~a self-storage facility~~ storage space.

6 ~~(6)~~(10)(A) “Self-storage facility” means ~~any~~ real property designed and
7 used for the purpose of renting or leasing individual storage space to ~~occupants~~
8 an occupant ~~who are to have access to such space for the purpose of storing~~
9 ~~and removing personal property~~.

10 (B) A self-storage facility is not a “warehouse” as ~~used in Article 7 of~~
11 ~~the Uniform Commercial Code (U.C.C.) as codified in Title~~ defined in 9A § 7-
12 102. ~~If an owner issues any warehouse receipt, bill of lading, or other~~
13 ~~document of title for the personal property stored, the owner and the occupant~~
14 ~~are subject to the U.C.C., and this act does not apply.~~

15 (11) “Storage space” means the individual space at a self-storage facility
16 that is rented to an occupant under a rental agreement.

17 § 3902. RESIDENTIAL PURPOSES

18 (a) ~~No occupant shall~~ An occupant shall not use storage space at a self-
19 storage facility for residential purposes.

20 (b) ~~No owner shall~~ An owner shall not knowingly permit the use of a
21 ~~storage space at a self-storage facility to be used~~ for residential purposes.

1 § 3903. DISCLOSURES

2 (a) A rental agreement shall contain the following:

3 (1) ~~The~~ the name and address of the owner and occupant;

4 (2) ~~The~~ the actual monthly occupancy charge, rent, or lease amount for
5 the storage space provided, expressed in dollars;

6 (3) ~~An itemization of other charges imposed or which may be imposed~~
7 ~~in connection with~~

8 (A) disclosure of the charges the owner may impose for the
9 occupancy;

10 (B) a description of the charges;

11 (C) whether the charges are mandatory or optional; and

12 (D) the amount of each charge, expressed in dollars;

13 (4) ~~A statement of a provision that states:~~

14 (A) whether property stored in the leased storage space is or is not
15 insured by the owner against loss or damage; and

16 (B) ~~of~~ the requirement that the occupant must provide his or her own
17 insurance for any property stored; and

18 (5) ~~A statement advising notice to an occupant that:~~

19 (A) ~~the occupant of the existence of the lien created by this chapter,~~

20 this chapter creates a lien on property stored in the storage space;

1 (B) that the owner may sell the property stored in the leased storage
2 space may be sold to satisfy the lien, and;

3 (C) that the owner shall not be is not liable for damage, loss, or
4 alienation of items of sentimental nature or value; and

5 (D) if the owner offers notice by electronic mail, the occupant may
6 elect to receive notice by electronic mail only by indicating the election in the
7 rental agreement.

8 (b) If a rental agreement contains a limit on the value of property that may
9 be stored in a storage space, the limit is deemed to be the maximum value of
10 the property in the storage space and the maximum liability of the owner for
11 any claim.

12 (c)(1) An owner may impose a late fee of not more than \$20.00 or
13 20 percent of a rental payment, whichever is greater, for each service period
14 that an occupant does not pay the rent, charges, fees, or expenses when due.

15 (2) An owner shall not impose a late fee if the occupant pays the rent,
16 charges, fees, and expenses in full not later than five days after the due date.

17 (3) An owner shall not impose a late fee unless the amount of the fee
18 and the conditions for imposing that fee are stated in the rental agreement.

19 (d) Except as otherwise provided in a rental agreement, an occupant has the
20 exclusive care, custody, and control of property in a storage space until the
21 property is sold or otherwise disposed pursuant to this chapter.

1 (e) The disclosures required under subdivisions (a)(4) and (a)(5) and
2 subsections (b)–(d) of this section shall be written in bold type and of a font
3 size equal to or greater than the general text of the agreement.

4 § 3904. LIEN

5 ~~The owner of a self-storage facility~~

6 (a) An owner has a possessory lien upon all personal property located in a
7 storage space ~~at a self-storage facility~~ for:

8 (1) rent;:

9 (2) labor;: or

10 (3) late fees or other charges, ~~present or future, in relation to~~ relating to
11 the personal property;: and

12 (4) ~~for expenses relevant to its preservation or expenses reasonably~~
13 ~~incurred in its~~ arising from the preservation or sale of the property pursuant to
14 this chapter.

15 (b) The lien created in this section attaches as of the date ~~the personal~~
16 ~~property is brought to or placed in a regular storage space at a self-storage~~
17 ~~facility in accordance with the provisions of a valid~~ an occupant stores
18 personal property in a storage space pursuant to a rental agreement.

19 § 3905. ENFORCEMENT OF LIEN

20 ~~In the event of a default under the terms of a rental agreement, the lien~~
21 ~~created under this chapter may be enforced in accordance with the provisions~~

1 ~~of this section~~ If an occupant defaults under a rental agreement, the owner may
2 enforce the lien created in section 3904 of this title pursuant to this section.

3 (1) First notice of default. ~~No~~ Not sooner than seven days after a
4 default, the owner shall notify the occupant ~~shall be notified~~ of the default by
5 regular mail or electronic mail sent to ~~his or her~~ the occupant's last known
6 address.

7 (2) Second notice of default.

8 (A) ~~No~~ Not sooner than 14 days after mailing ~~of~~ the first notice, the
9 owner shall notify the occupant ~~shall be notified~~ of the default by certified
10 mail, first-class mail with a certificate of mailing, or electronic mail sent to ~~his~~
11 ~~or her~~ the occupant's last known address.

12 (B) If the owner send the second notice of default to the occupant by
13 electronic mail and does not receive a response, return receipt, or delivery
14 confirmation from the same electronic mail address within two days, then
15 before proceeding with a sale the owner shall send the notice to the occupant
16 either by certified mail or by first-class mail with a certificate of mailing.

17 (C) The second notice shall contain the following:

18 ~~(A)~~(i) An itemized statement of the owner's claim showing the
19 sum due at the time of the notice and the date when the sum became due.

20 ~~(B)~~(ii) A brief and general description of the personal property
21 subject to the lien. ~~There shall be no requirement~~ An owner is not required to

1 describe the specific contents of a storage space in a self-storage facility
2 beyond stating that it is the contents of a specific storage space in a specific
3 self-storage facility rented by a specific occupant.

4 ~~(C)~~(iii) A notice of denial of access to the personal property, if
5 such denial is permitted under the terms of the rental agreement.

6 ~~(D)~~(iv) A demand for payment within a specified time not less
7 than ~~fifteen~~ 15 days after the mailing of the second notice of default.

8 ~~(E)~~(v) A conspicuous statement that unless the claim is paid in full
9 within the time stated in the notice, the personal property will be advertised for
10 sale and sold according to law.

11 (3) Advertisement. Except as otherwise provided in subdivision (C) or
12 (D) of this subdivision (3):

13 (A) After the expiration of the time given in the second notice under
14 subdivision (2) of this section, the owner shall publish an advertisement of the
15 sale ~~shall be published~~ once a week for two consecutive weeks in the print or
16 electronic version of a newspaper of general circulation where the self-storage
17 facility is located.

18 (B) The advertisement shall contain the following:

19 ~~(A)~~(i) A a brief and general description of the personal property as
20 provided in subdivision (2)(B) of this section;

21 ~~(B)~~(ii) The the address of the self-storage facility; and

1 (iii) the number, if any, of the space where the personal property is
2 located;

3 (iv) the name of the occupant; and

4 (v) the time, place, and manner of the sale.

5 ~~(C) The time, place, and manner of the sale.~~ If there is no newspaper
6 of general circulation where the self-storage facility is located, the owner shall
7 post the advertisement ~~shall be posted~~ at least 15 days before the date of the
8 sale at the town hall where the self-storage facility is located in ~~such fashion~~
9 the same manner as the auction sales of real property are posted.

10 ~~(D) A sale or other disposition of goods as provided for in this~~
11 ~~chapter shall not be defeated or deemed not in compliance with this provisions~~
12 ~~of this chapter if the owner attempted, but was not able to obtain personal~~
13 ~~service on those persons entitled to notice or if the certified mail return receipt~~
14 ~~is not signed by the person to whom notice must be sent, unless the owner fails~~
15 ~~to publish in accordance with this section.~~ As an alternative to the
16 advertisement required in subdivisions (A)–(C) of this subdivision (3), an
17 owner may advertise the sale of personal property in a commercially
18 reasonable manner. For purposes of this subdivision (D), a manner of
19 advertisement is commercially reasonable if three or more independent bidders
20 attend or view the sale.

1 (4) Notice to other lienholders. Before the expiration of the time given
2 in the second notice under subdivision (2) of this section, the owner shall
3 determine whether the occupant owns any personal property subject to an
4 active lien registered with the Vermont Secretary of State. If any such lien
5 exists, the owner shall notify the lienholder ~~shall be notified~~ by certified mail
6 not less than 21 days prior to the sale of the property. ~~Such~~ The notice shall
7 include the following:

8 (A) A statement describing the property to be sold. There shall be no
9 requirement to describe the specific contents of a storage space in a self-
10 storage facility beyond stating that it is the contents of a specific storage space
11 in a specific self-storage facility rented by a specific occupant.

12 (B) A statement of the lienholder's rights under this chapter.

13 (C) A statement of the time, place, and manner of the sale of the
14 property.

15 (5) Delivery. For purposes of this chapter:

16 (A) notice by regular mail or first-class mail with a certificate of
17 mailing is delivered when deposited with the U.S. Postal Service if the mail is
18 properly addressed to the occupant's last known address and postage is
19 prepaid; and

20 (B) notice by electronic mail is delivered when properly addressed
21 and sent to an occupant's last known electronic mail address.

1 ~~(6) Sale. Upon fulfillment of the notification and advertisement~~
2 ~~requirements of this section, sale of the personal property shall be permitted,~~
3 ~~provided the following conditions are met~~

4 (A) An owner that fulfills the notice and advertisement requirements
5 of this section may sell personal property stored in a storage space, subject to
6 the following conditions:

7 ~~(A) The sale of the personal property shall take place~~

8 (i) the sale occurs not sooner than 15 days after the first
9 publication under subdivision (3) of this section;

10 ~~(B) Any sale of the personal property under this chapter shall conform~~

11 (ii) the sale conforms to the terms of ~~all~~ the notifications required
12 under this section. ~~If, or, if~~ the sale will not or does not take place as provided
13 for in the notifications, then the owner makes subsequent notifications ~~shall be~~
14 ~~made~~ in the same manner as the original notifications ~~had been made.~~
15 consistent with this section;

16 (iii) subject to subdivision (6)(C) of this section, the owner does
17 not knowingly sell personal information contained in the storage space;

18 ~~(C) Any sale of the personal property shall be~~

19 (iv) the sale is held at the self-storage facility, ~~or~~ at the nearest
20 suitable place, or on a publicly accessible website;

21 ~~(D) Any sale of the personal property shall be~~

1 (v) the owner does not purchase personal property at the sale; and

2 (vi) the sale is performed in a commercially reasonable manner;
3 ~~meaning the owner sells the goods in the usual manner in any recognized~~
4 ~~market therefor, at the price current in such market at the time of the sale; or~~
5 ~~otherwise sold in conformity with.~~

6 (B) For purposes of subdivision (6)(A)(v) of this section:

7 (i) A sale is commercially reasonable if it conforms to
8 commercially reasonable practices within a recognized market for the goods or
9 among dealers in the type of goods sold; however,

10 (ii) the The sale of more goods than apparently necessary to
11 ~~ensure satisfaction of the~~ satisfy an occupant's obligation is not commercially
12 reasonable unless necessary due to the nature of the goods being sold or the
13 manner in which they are customarily sold.

14 (iii) The fact that an owner could obtain a better price could have
15 ~~been obtained~~ by sale at a different time or by a different method from that
16 ~~selected by the owner~~ is not of itself sufficient to establish that the sale was not
17 ~~made in a commercially reasonable manner.~~

18 (C)(i) If an owner has a reasonable belief that storage space contains
19 the personal information of an occupant or clients, customers, or others with
20 whom the occupant does business, the owner shall not hold a lien sale of the

1 personal information and may destroy the personal information without
2 liability to any person.

3 (ii) Before taking possession of any personal property sold, a
4 purchaser shall acknowledge that if any of the contents contain personal
5 information, the purchaser will return the personal information to the owner,
6 which the owner may destroy without liability to any person.

7 ~~(E)(D)~~ Any Except as provided in subdivision (7) of this section, an
8 owner shall conduct a sale or disposition of a motor vehicle shall be performed
9 pursuant to 23 V.S.A. chapter 21 and any a sale or disposition of a vessel,
10 snowmobile, or all-terrain vehicle shall be performed pursuant to 23 V.S.A.
11 chapter 36.

12 (7) Towing.

13 (A) If rent, charges, fees, or expenses remain unpaid after 51 days, an
14 owner may have a vehicle, vessel, snowmobile, trailer, or all-terrain vehicle
15 towed away by a towing company.

16 (B) Not later than five days after having personal property towed
17 pursuant to this subdivision (7), an owner shall notify the occupant by regular
18 mail or electronic mail at the occupant's last known address and shall include
19 the name, address, and telephone number of the towing company.

1 (C) An owner has no liability to any person for having property
2 towed or for damage to the property after the towing company takes possession
3 of the property.

4 ~~(6)~~(8) Right of satisfaction.

5 (A) Before any a sale of personal property pursuant to this chapter,
6 the occupant may pay redeem the property by paying the amount necessary to
7 satisfy the lien in full and the reasonable expenses incurred under this section,
8 and thereby redeem the personal property.

9 (B) Upon receipt of such payment, the owner shall return the
10 personal property, and thereafter the owner shall have no liability is not liable
11 to any person with respect to such the personal property.

12 ~~(7)~~(9) Proceeds in excess of lien amount.

13 (A) In the event of sale under this section, the An owner that sells
14 property pursuant to this section:

15 (i) may satisfy the owner's lien from the proceeds of the sale, but;
16 and

17 (ii) shall hold the balance, if any, for delivery on demand to the
18 occupant.

19 (B) If the occupant does not claim the balance of the proceeds such
20 funds shall be paid over, the owner shall deliver the balance without interest to
21 the Treasurer of the State of Vermont in accordance with 27 V.S.A. chapter 14.

1 ~~(8)~~(10) Rights of other lienholders. The holder of any perfected lien or
2 security interest on personal property stored in the storage unit and registered
3 with the Vermont Secretary of State may take possession of its lien property
4 at any time prior to sale or other disposition.

5 ~~(9)~~(11) Rights of purchasers. A purchaser in good faith of the personal
6 property sold to satisfy a lien, ~~as provided elsewhere in this chapter~~, takes the
7 property free of any rights of persons against whom the lien was valid, despite
8 noncompliance by the owner with the requirements of this chapter.

9 (12) Disposal of personal property. If an owner complies with the
10 requirements of this section and a qualified buyer does not purchase the
11 property offered for sale, the owner may dispose of the property without
12 liability.

13 (13) Liability. An owner that has complied with the applicable
14 provisions of this chapter is not liable to an occupant, lienholder, or any other
15 person.

16 § 3906. SCOPE; SUPPLEMENTAL NATURE OF ACT

17 (a) If an owner issues a warehouse receipt, bill of lading, or other document
18 of title for the personal property stored in a self-storage facility, the owner and
19 the occupant are subject to Title 9A and this chapter does not apply.

20 (b) Nothing in this chapter shall be construed in any manner to impair or
21 affect the right of parties to create liens by special contract or agreement, nor

1 shall it in any manner affect or impair other liens arising at common law or in
2 equity, or by any statute in this State.

3 * * *

4 Sec. 2. EFFECTIVE DATE

5 This act shall take effect on July 1, 2020.

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12 (Committee vote: _____)

13

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Representative _____

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FOR THE COMMITTEE