

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1404

By: Representatives McNair, Bell, Baltz, Bentley, Branscum, Davis, Jett, Johnson, Ratliff, Vines
By: Senator Rice

For An Act To Be Entitled

AN ACT TO REGULATE SELF-SERVICE STORAGE FACILITIES;
TO ALLOW AN OPERATOR TO REMOVE MOTORIZED PERSONAL
PROPERTY IF AN OCCUPANT IS IN DEFAULT; AND FOR OTHER
PURPOSES.

Subtitle

TO REGULATE SELF-SERVICE STORAGE
FACILITIES; TO ALLOW AN OPERATOR TO
REMOVE MOTORIZED PERSONAL PROPERTY IF AN
OCCUPANT IS IN DEFAULT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 18-16-402(a), concerning a lien on stored property, is amended to read as follows:

(a)(1) The An operator of a self-service storage facility has a lien on all personal property stored within each leased space for rent, labor, or other charges and for expenses reasonably incurred in its sale or removal from a self-service storage facility, as provided in under this subchapter.

(2) If the personal property is a motor vehicle, trailer, or watercraft, the lien shall include fees and expenses reasonably incurred by an operator to remove the personal property from a self-service storage facility under this subchapter.

SECTION 2. Arkansas Code § 18-16-404 is amended to read as follows:
18-16-404. Notice of lien.



The A rental agreement shall contain a statement in bold type advising the occupant:

- (1) Of the existence of the lien; and
- (2) That property stored in the leased space may be sold or removed to satisfy the lien if the occupant is in default.

SECTION 3. Arkansas Code § 18-16-405 is amended to read as follows:
18-16-405. Access to leased space – Care of property.

(a) If an occupant is in default, the operator may deny the occupant access to the leased space.

(b)(1) ~~Unless the rental agreement specifically provides otherwise and until a lien sale under this subchapter, the~~ The exclusive care, custody, and control of all personal property stored in the leased self-service storage space remains vested in the occupant unless:

- (A) The rental agreement specifically provides otherwise;
- (B) A lien sale is conducted by the operator under this subchapter; or
- (C) The personal property is a motor vehicle, trailer, or watercraft that is removed from the self-service storage facility by an operator of a tow vehicle.

(2) Entry of the leased space by the operator for the purpose of complying with this subchapter shall not constitute conversion nor impose any responsibility for the care, custody, and control of any of the personal property stored.

SECTION 4. Arkansas Code § 18-16-406 is amended to read as follows:
18-16-406. Default – Right to sell or remove property.

(a) If the occupant is in default for ~~a period of~~ more than forty-five (45) days, the operator may enforce the lien by selling the personal property stored in the leased space at a public sale for cash.

(b)(1) If the personal property subject to the lien is a motor vehicle, trailer, or watercraft, and the occupant is in default for at least sixty (60) days, the operator may remove the personal property instead of selling the property under subsection (a) of this section.

(2) If a motor vehicle, trailer, or watercraft is removed by a towing operator, the operator is not liable for the personal property or any

damages to the personal property once the towing operator takes possession of the personal property.

SECTION 5. Arkansas Code § 18-16-407 is amended to read as follows:

18-16-407. Sale and removal procedure.

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

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

(B) Except as provided in subdivision (2)(D) of this section, notice shall be sent by first class mail with certificate of mailing to the occupant at the occupant's last known address.

(C) The notice shall include:

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

(ii) A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges that shall become due before the date of sale, and the date the additional charges shall become due;

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

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

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

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

(D) If an occupant provides an electronic mail address and gives permission to the storage facility to use the electronic mail address as a legal notification for the occupant's last known address, then the operator may use the electronic mail address to send the notice required by

subdivision (a)(1)(C) of this section instead of sending the notice by first class mail with certificate of mailing;

(2) Publish one (1) advertisement in a newspaper of general circulation in the county in which the storage facility is located at least seven (7) days before the sale or removal of personal property; and

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

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

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

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

(c) The sale under this subchapter shall be held at the self-service storage facility where the personal property is stored.

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

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

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

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

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

(f) The operator shall retain a copy of all notices and return receipts required by subsection (a) of this section for six (6) months following the date of the lien sale or removal of the personal property from the self-service storage facility. **APPROVED: 03/06/2015**