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A Bill

HOUSE BILL 1027

By: Representatives Cavanaugh, Pilkington, Evans, Bentley, F. Allen, K. Ferguson

By: Senator Hill

For An Act To Be Entitled

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

Subtitle

TO AMEND THE LAW CONCERNING THE SALE AND
REMOVAL PROCEDURE OF PERSONAL PROPERTY
FROM A SELF-SERVICE STORAGE FACILITY.

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

SECTION 1. Arkansas Code § 18-16-407 is amended to read as follows:

(a) As used in this section:

(1) "Independent bidder" means a person, partnership, corporation, or any other entity that participates in the sale of personal property by:

(A) Making a monetary offer to purchase the personal property in person at the sale or online;

(B) Being physically present at the sale of the personal property for the purpose of purchasing the personal property; or

(C) Viewing the sale of personal property online for the purpose of purchasing the personal property; and

(2) "Commercially reasonable manner" means a manner in conformity with advertising practices among dealers in the type of personal property being sold or removed.

(b) 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 (a)(1)(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~~ email address and gives permission to the storage facility to use the ~~electronic mail~~ email address as a legal notification for the occupant's last known address, then the operator may use the ~~electronic mail~~ email 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)(A) At least seven (7) days before the sale or removal of personal property:

(i) Publish one (1) advertisement announcing the sale or removal of personal property 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; or~~

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

(B) The advertisement of a sale of personal property is conducted in a commercially reasonable manner if at least three (3) independent bidders participate in the sale of the 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)(c)~~ 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.

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

~~(d)(e)~~ 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)(f)~~ 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)(g)~~ The operator shall retain a copy of all notices and return receipts required by subsection ~~(a)(b)~~ 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.

/s/Cavanaugh

APPROVED: 3/15/21