

JAN 20 2017

A BILL FOR AN ACT

RELATING TO SELF-SERVICE STORAGE FACILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Hawaii adopted its
2 self-service storage facilities laws in 1984 and that the laws
3 have remained virtually unchanged during the intervening thirty-
4 three years. Consequently, the State's self-service storage
5 facilities laws do not adequately reflect or support current
6 self-service storage facilities businesses, including the
7 facility owners and storage unit occupants.

8 The legislature also finds that since the enactment of the
9 self-service storage facility laws, technological advances such
10 as electronic mail and internet websites have changed the ways
11 that self-service storage facilities owners and occupants can,
12 and in many instances prefer, to communicate with one another
13 and exchange necessary information. The inability, under the
14 law, of owners and occupants to communicate through these modern
15 forms of communication reduces efficiency and is burdensome on
16 all parties. Therefore, it is necessary to update these laws to



1 allow owners and occupants to effectively make use of modern
2 communications.

3 The legislature also finds that self-service storage
4 facilities owners are ill-equipped under the law to deal
5 efficiently with delinquent occupants who leave motor vehicles
6 or boats stored at the facilities. Motor vehicle and boat
7 liens, which involve titled property, are more complicated than
8 the usual self-storage lien circumstances that facilities owners
9 typically encounter, which can lead to unnecessary delays and
10 confusion. Therefore, the legislature further finds that
11 allowing self-service storage facilities owners, after providing
12 appropriate notice, to tow motor vehicles and boats belonging to
13 delinquent occupants would provide a workable solution for
14 facilities owners.

15 The legislature further finds that current laws do not
16 adequately address the liabilities of self-service storage
17 facility owners, leaving owners open to unknown potential
18 losses, which can create impediments to business. Moreover,
19 owners may shift costs for these potential losses on to
20 occupants.



1 Accordingly, the purpose of this Act is to modernize the
2 self-service storage facilities laws to:

3 (1) Reflect the modern needs of the industry by allowing
4 self-service storage facility owners to publish
5 notices of sales and send other notices to occupants
6 by electronic mail and other commercially reasonable
7 methods;

8 (2) Allow self-service storage facility owners to contract
9 for specified liability limits; and

10 (3) Allow self-service storage facility owners to tow
11 motor vehicles and boats after sixty or more days of
12 delinquency; provided that owners provide delinquent
13 occupants with appropriate notice.

14 SECTION 2. Chapter 507, Hawaii Revised Statutes, is
15 amended by adding a new section to part III to be appropriately
16 designated and to read as follows:

17 "§507- Occupant in default; motor vehicle or boat
18 removal. (a) If an occupant is in default for sixty or more
19 days and the personal property stored in the leased space is a
20 motor vehicle or boat, the owner may have the personal property
21 towed or removed from the self-service storage facility in lieu



1 of a sale; provided that prior to having the vehicle towed, the
2 owner shall provide notice to the occupant, stating the name,
3 address, and contact information of the towing company, at two
4 of the following: last known phone number, last known postal
5 address, or last known electronic mail address.

6 (b) The owner shall not be liable for any damage to the
7 personal property towed or removed from the self-service storage
8 facility pursuant to subsection (a) once the property is in the
9 possession of a third party."

10 SECTION 3. Section 507-61, Hawaii Revised Statutes, is
11 amended by adding two new definitions to be appropriately
12 inserted and to read as follows:

13 "Electronic mail" means the transmission of information or
14 a communication by the use of a computer or other electronic
15 means sent to a person identified by a unique address and that
16 is received by that person.

17 "Verified mail" means any method of mailing that is offered
18 by the United States Postal Service or a private delivery
19 service that provides evidence of the mailing."



1 SECTION 4. Section 507-61, Hawaii Revised Statutes, is
2 amended by amending the definition of "last known address" to
3 read as follows:

4 "Last known address", "last known postal address", or
5 "last known electronic mail address" means the postal or
6 electronic mail address provided by the occupant in the latest
7 rental agreement, or the postal or electronic mail address
8 provided by the occupant in a subsequent written notice of a
9 change of address."

10 SECTION 5. Section 507-63, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~507-63~~§~~] **Rent due; notice of default and lien.** When
13 any part of the rent or other charges due from an occupant
14 remain unpaid for fifteen consecutive days, an owner may deny
15 the right of access to the occupant to the storage space at a
16 self-service storage facility; provided that [~~notice is sent~~]
17 the owner shall provide notice at two of the following: last
18 known telephone number, last known postal address, or last known
19 electronic mail address. The notice to the occupant's last
20 known telephone number or last known address, by electronic mail



1 or first-class mail, postage prepaid, [~~e~~ontaining] shall contain
2 all of the following:

3 (1) A statement of the owner's claim showing the sums due
4 at the time of the notice and the date when the sums
5 became due [~~-~~];

6 (2) A statement that the occupant is in default of the
7 rental agreement [~~-~~];

8 (3) A statement that the occupant's right to use the
9 storage space will be denied unless and until all sums
10 due are paid by the occupant [~~-~~];

11 (4) A notice that the occupant has been denied access to
12 the storage space and that an owner's lien, as
13 provided for in section 507-62, may be imposed if all
14 sums due are not paid within fifteen days of the
15 notice [~~-~~]; and

16 (5) The name, street address, [~~and~~] telephone number, and
17 electronic mail address of the owner, or a designated
18 agent, whom the occupant may contact to respond to the
19 notice."

20 SECTION 6. Section 507-64, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "[+]§507-64[+] Notice of lien. If a notice has been sent,
2 as required by section 507-63, and the total sum due has not
3 been paid as specified in the notice, the owner may deny an
4 occupant access to the space, enter the space, and remove any
5 property found in the space to a place of safekeeping; provided
6 that the owner shall provide a notice of lien at two of the
7 following: last known telephone number, last known postal
8 address, or last known electronic mail address. The owner shall
9 send a notice of lien to the [~~occupant, addressed to the~~]
10 occupant's last known telephone number or last known address, by
11 electronic mail or first-class mail, postage prepaid, [a notice
12 of lien] which shall state all of the following:

- 13 (1) That the occupant's right to use the storage space has
14 terminated and that the occupant no longer has access
15 to the stored property[-];
- 16 (2) That the stored property is subject to a lien, and the
17 amount of the lien[-]; and
- 18 (3) That the owner will seize and take possession of the
19 property to satisfy the lien after a specified date
20 which is not less than fifteen days from the date of



1 mailing the notice unless the amount of the lien is
2 paid."

3 SECTION 7. Section 507-65, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§507-65 Final demand and notice of sale.** If both notices
6 have been sent, as required by sections 507-63 and 507-64, and
7 the total sum due has not been paid as specified in the two
8 prior notices, the owner may prepare for the sale of the
9 occupant's property. The owner shall provide notice of final
10 demand and notice of sale at two of the following: ' last known
11 telephone number, last known postal address, or last known
12 electronic mail address. The owner shall [~~then~~] send, to the
13 [~~occupant, addressed to the~~] occupant's last known telephone
14 number or last known address, by verified mail, postage prepaid:

15 (1) A notice of final demand and sale which shall state
16 all of the following:

17 (A) That the sums due for rent and charges demanded
18 have not been paid[-] ;

19 (B) That the occupant's right to use the designated
20 storage space has been terminated[-] ;



- 1 (C) That the occupant no longer has access to the
2 stored property[-] i
- 3 (D) That the stored property is subject to a lien and
4 the amount of the lien[-] i
- 5 (E) That the property will be sold to satisfy the
6 lien after a specified date which is not less
7 than thirty days from the date of mailing the
8 notice unless prior to the specified date, the
9 lien is paid in full[-] i
- 10 (F) That any excess proceeds of the sale over the
11 lien amount of costs of sale will be retained by
12 the owner and may be reclaimed by the occupant,
13 or claimed by another person, at any time for a
14 period of one year from the sale and that
15 thereafter the proceeds will go to the State
16 under chapter 523A[-] i; and
- 17 (G) That if the proceeds of sale do not fully cover
18 the amount of lien and costs, the occupant will
19 be held liable for any deficiency[-] i; and



1 (2) An itemized statement of the owner's claim showing all
2 sums due at the time of the notice and the date when
3 sums became due."

4 SECTION 8. Section 507-66, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§507-66 Method of sale.** (a) [~~Fifteen~~] Not sooner than
7 fifteen days after sending the final demand and notice of sale,
8 pursuant to section 507-65(1), an advertisement of the sale
9 shall be [~~published~~];

10 (1) Published once a week for two weeks consecutively in a
11 newspaper of general circulation published in the
12 judicial district where the sale is to be held[~~-~~]; or

13 (2) Disseminated in any other commercially reasonable
14 manner; provided that at least three independent
15 bidders participate in the sale.

16 The advertisement shall include a general description of the
17 goods, the name of the person on whose account they are being
18 stored, the total sums due, and the name and location of the
19 storage facility.

20 (b) The sale shall be conducted in a commercially
21 reasonable manner [~~;- and, after~~], which shall include a sale



1 conducted on an online website that customarily conducts self-
2 storage lien sales. After deducting the amount of the lien and
3 costs, the owner shall retain any excess proceeds of the sale on
4 the occupant's behalf. The occupant, or any other person having
5 a court order or other judicial process against the property,
6 may claim the excess proceeds, or a portion thereof sufficient
7 to satisfy the particular claim, at any time within one year of
8 the date of sale. Thereafter, the owner shall pay any remaining
9 excess proceeds to the State as provided in chapter 523A."

10 SECTION 9. Section 507-70, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[~~§~~507-70~~§~~] **Self-storage contracts.** (a) Each contract
13 for the rental or lease of individual storage space in a self-
14 service storage facility shall be in writing and shall contain,
15 in addition to the provisions otherwise required or permitted by
16 law to be included, a statement that the occupant's property
17 will be subject to a claim of lien and may be sold to satisfy
18 the lien if the rent or other charges due remain unpaid for
19 fifteen consecutive days and that such actions are authorized by
20 this part.



1 (b) This part shall not apply, and the lien authorized by
2 this part shall not attach, unless the rental agreement or
3 supporting documentation requests, and provides space for, the
4 occupant to give the name [~~and~~], address, and telephone number
5 of another person to whom notices required to be given under
6 this part may be sent. If [~~both~~] an address [~~and~~], an
7 alternative address, and an alternative phone number are
8 provided by the occupant, notices pursuant to sections 507-63 or
9 507-64 shall be sent to both addresses[~~-~~] and by contact at the
10 alternative phone number. If both addresses and an alternative
11 phone number are provided by the occupant, the owner shall send
12 the final demand and notice of sale, pursuant to section 507-65,
13 to both addresses by [~~certified~~] verified mail, postage
14 prepaid[~~-~~], and contact the occupant at the alternative
15 telephone number. Failure of an occupant to provide an
16 alternative address shall not affect an owner's remedies under
17 this part or under any other provision of law.

18 (c) For the purpose of determining any liability of the
19 owner of the self-service storage facility, if a rental
20 agreement specifies a limit on the monetary value of personal
21 property that may be stored in an occupant's space, that limit



1 shall be deemed the maximum value of the personal property
2 stored in the occupant's space.

3 (d) Any late fee charged by the owner shall be provided
4 for in the rental agreement. No late fee shall be collected
5 unless the late fee is written in the rental agreement or as an
6 addendum to the agreement. An owner may impose a reasonable
7 late fee for each month that an occupant does not pay rent when
8 due. A late fee of \$20 or twenty per cent of the monthly rental
9 amount, whichever is greater, for each late rental payment shall
10 be deemed reasonable and shall not constitute a penalty."

11 SECTION 10. This Act does not affect rights and duties
12 that matured, penalties that were incurred, and proceedings that
13 were begun before its effective date.

14 SECTION 11. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 12. This Act shall take effect upon its approval.
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INTRODUCED BY:

Ronald H Baker

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S.B. NO. 288

Report Title:

Self-service Storage Facilities; Owners; Occupants; Notice;
Towing

Description:

Authorizes motor vehicle and boat towing options for self-service storage facilities after sixty days or more delinquency; provided that an occupant is provided notice. Requires owners to notify occupants via two of the following three methods: telephone number, electronic mail, or postal address. Allows owners to send notices by electronic mail, publish notices of sales in any commercially reasonable manner, conduct sales online, and charge late fees. Authorizes limits on the liability of the owner of self-service storage facilities to be based on the maximum monetary value of property that may be stored pursuant to the rental agreement.

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