

ACT 180

S.B. NO. 288

A Bill for an Act Relating to Self-Service Storage Facilities.

Be It Enacted by the Legislature of the State of Hawaii:

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

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

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

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

- (1) Allow self-service storage facility owners to tow motor vehicles and boats after sixty or more days of delinquency; provided that owners provide delinquent occupants with appropriate notice;
- (2) Reflect the modern needs of the industry by allowing self-service storage facility owners to publish notices of sales and send other notices to occupants by electronic mail and other commercially reasonable methods;
- (3) Require any limitations on value provisions to be provided for in the contract; and
- (4) Require self-service storage facility owners to notify occupants of the changes enacted by this Act.

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

“§507- Occupant in default; motor vehicle or boat removal. If an occupant is in default for sixty or more days and the personal property stored in the leased space is a motor vehicle or boat, the motor vehicle or boat shall be deemed to be left unattended on private property without authorization of the owner of the property and may be towed away, at the expense of the owner of the motor vehicle or boat; provided that for purposes of this section, a vehicle may be towed pursuant to section 290-11; provided further that a towing company engaged pursuant to this section shall be a towing company registered in Hawaii. At least fifteen days prior to having the motor vehicle or boat towed, the owner shall provide notice to the occupant, stating the name, address, and contact information of the towing company, by certified mail at the occupant’s last known postal address and by electronic mail at the occupant’s last known electronic mail address.

For purposes of applying section 290-11 to this section, the term “vehicle” shall be deemed to correspond to the terms “motor vehicle” and “boat.”

SECTION 3. Section 507-61, Hawaii Revised Statutes, is amended by adding one new definition to be appropriately inserted and to read as follows:

““Electronic mail” means the transmission of information or a communication by the use of a computer or other electronic means sent to a person identified by a unique address and that is received by that person.”

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

““Last known address”, “last known postal address”, or “last known electronic mail address” means the postal or electronic mail address provided by the occupant in the latest rental agreement, or the postal or electronic mail address provided by the occupant in a subsequent written notice of a change of address.”

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

“[§507-63] Rent due; notice of default and lien. When any part of the rent or other charges due from an occupant remain unpaid for fifteen consecutive days, an owner may deny the right of access to the occupant to the storage space at a self-service storage facility; provided that ~~[notice is sent to the occupant’s or last known address, postage prepaid, containing all of the following:]~~ the owner shall provide notice at the occupant’s last known electronic mail address and last known postal address, postage prepaid. The notice shall contain:

- (1) A statement of the owner’s claim showing the sums due at the time of the notice and the date when the sums became due[-];
- (2) A statement that the occupant is in default of the rental agreement[-];
- (3) A statement that the occupant’s right to use the storage space will be denied unless and until all sums due are paid by the occupant[-];
- (4) A notice that the occupant has been denied access to the storage space and that an owner’s lien, as provided for in section 507-62, may be imposed if all sums due are not paid within fifteen days of the notice[-]; and
- (5) The name, street address, ~~[and]~~ telephone number, and electronic mail address of the owner, or a designated agent, whom the occupant may contact to respond to the notice[-] via electronic mail.”

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

~~“[§507-64]~~ **Notice of lien.** If a notice has been sent, as required by section 507-63, and the total sum due has not been paid as specified in the notice, the owner may deny an occupant access to the space, enter the space, and remove any property found in the space to a place of safekeeping; provided that the owner shall send a notice of lien to the ~~[occupant, addressed to the]~~ occupant’s ~~[last known address, postage prepaid, a notice of lien]~~ last known electronic mail address and last known postal address, postage prepaid, which shall state ~~[all of the following]~~:

- (1) That the occupant’s right to use the storage space has terminated and that the occupant no longer has access to the stored property[-];
- (2) That the stored property is subject to a lien, and the amount of the lien[-]; and
- (3) That the owner will seize and take possession of the property to satisfy the lien after a specified date which is not less than fifteen days from the date of mailing the notice unless the amount of the lien is paid.”

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

§507-65 Final demand and notice of sale. If both notices have been sent, as required by sections 507-63 and 507-64, and the total sum due has not been paid as specified in the two prior notices, the owner may prepare for the sale of the occupant’s property. The owner shall ~~[then]~~ send to the ~~[occupant, addressed to the]~~ occupant’s last known electronic mail address and last known address, by certified mail, postage prepaid:

- (1) A notice of final demand and sale which shall state ~~[all of the following]~~:
 - (A) That the sums due for rent and charges demanded have not been paid[-];
 - (B) That the occupant’s right to use the designated storage space has been terminated[-];
 - (C) That the occupant no longer has access to the stored property[-];
 - (D) That the stored property is subject to a lien and the amount of the lien[-];
 - (E) That the property will be sold to satisfy the lien after a specified date which is not less than thirty days from the date of mailing the notice unless prior to the specified date, the lien is paid in full[-];
 - (F) That any excess proceeds of the sale over the lien amount of costs of sale will be retained by the owner and may be reclaimed by the occupant, or claimed by another person, at any time for a period of one year from the sale and that thereafter the proceeds will go to the State under chapter 523A[-]; and
 - (G) That if the proceeds of sale do not fully cover the amount of lien and costs, the occupant will be held liable for any deficiency[-]; and
- (2) An itemized statement of the owner’s claim showing all sums due at the time of the notice and the date when sums became due.”

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

“§507-66 Method of sale. (a) ~~[Fifteen]~~ No sooner than fifteen days after sending the final demand and notice of sale, pursuant to section 507-65(1), the owner shall cause an advertisement of the sale [shall] to be [published]:

- (1) Published once a week for two weeks consecutively in a newspaper of general circulation published in the judicial district where the sale is to be held[-]; or
- (2) Disseminated in any other commercially reasonable manner; provided that at least three independent bidders participate in the sale.

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

(b) ~~The sale shall be conducted in a commercially reasonable manner[; and, after], which shall include a sale conducted on an online website that customarily conducts self-storage lien sales. After~~ deducting the amount of the lien and costs, the owner shall retain any excess proceeds of the sale on the occupant's behalf. The occupant, or any other person having a court order or other judicial process against the property, may claim the excess proceeds, or a portion thereof sufficient to satisfy the particular claim, at any time within one year of the date of sale. Thereafter, the owner shall pay any remaining excess proceeds to the State as provided in chapter 523A.”

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

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

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

(c) If the contract entered into between the owner and the occupant contains a provision placing a limit on the value of property that may be stored in the occupant's space, this limit shall be the maximum value of the stored property; provided that the provision is printed in bold type or underlined in the contract. The limit on the value of property shall not be less than \$1,000. The contract may provide that the occupant may increase the limit on the value of property with the written permission of the owner.”

ACT 180

SECTION 10. An owner of a self-service storage facility shall notify each occupant of the self-service storage facility regarding the changes to the self-service storage facility law pursuant to sections 2 through 9 of this Act. Each owner shall update the rental agreements modified pursuant to this Act and obtain the initials of the occupants under each rental agreement.

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

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 13. This Act shall take effect upon its approval.
(Approved July 11, 2017.)

Note

1. Edited pursuant to HRS §23G-16.5.