

SENATE BILL NO. 128

BY SENATOR MARTINY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

AN ACT

To amend and reenact R.S. 9:4757(5) and 4759(3), (4), (5), (8), (9), (10), and (11) and to enact R.S. 9:4757(6), (7), and (8), and 4759(12), (13), and (14), relative to self-service storage facilities; to provide for definitions; to provide for liens and privileges; to provide for notices; to provide for advertisements; to provide relative to late fees and reasonable charges; to provide for certain terms, conditions, and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:4757(5) and 4759(3), (4), (5), (8), (9), (10), and (11) are hereby amended and reenacted and R.S. 9:4757(6), (7), and (8) and 4759(12), (13), and (14) are hereby enacted to read as follows:

§4757. Definitions

As used in this Part, unless the context clearly requires otherwise:

* * *

(5) "Last known address" means ~~that~~ **the mailing address or the electronic mail address** provided by the lessee in the ~~most recent~~ **latest** rental agreement or the **mailing address or the electronic mail address** provided by the lessee in a subsequent written notice of a change of address.

(6) "Electronic mail" means an electronic message that is transmitted between two or more telecommunications devices, computers, or electronic devices capable of receiving electronic messages, whether or not the message is converted to printed format after receipt or is viewed upon transmission or stored for later retrieval. "Electronic mail" includes electronic messages that are transmitted through a local, regional, or global computer network.

(7) "Electronic mail address" means a destination, commonly expressed as a string of characters, to which electronic mail can be sent or delivered. An

1 "electronic mail address" may include a user name or mailbox and a reference
 2 to an Internet domain.

3 (8) "Verified mail" means any method of mailing that is offered by the
 4 United States Postal Service or a private delivery service that provides evidence
 5 of mailing.

6 * * *

7 §4759. Options of owner upon lessee's default

8 In the event of default by the lessee, the owner of a self-service storage
 9 facility has the option to enforce judicially all of his rights under the rental
 10 agreement, including, if the agreement so provides, his right to accelerate all rentals
 11 that will become due in the future for the full term of the lease or to cancel the lease
 12 and enforce his privilege for the debt due him, as follows:

13 * * *

14 (3) The notice shall be delivered in person to the lessee or sent by ~~certified~~
 15 ~~mail to the last known address of the lessee~~ verified mail to the last known address
 16 of the lessee, and electronic mail if the email address is provided by the lessee
 17 in the rental agreement.

18 (4) The notice shall include:

19 (a) ~~A copy of any written rental agreement between the owner and defaulting~~
 20 ~~lessee, or, if the rental agreement is verbal, a summary of its terms and conditions.~~

21 (b) An itemized statement of the owner's claim, showing the sum due at the
 22 time of the notice and the date when the sum became due.

23 (c) ~~A brief and general description of the movable property upon which a~~
 24 ~~privilege is claimed. The description shall be reasonably adequate to permit the~~
 25 ~~person notified to identify it, except that any container, including, but not limited to,~~
 26 ~~a trunk, valise, or box that is locked, fastened, sealed, or tied in a manner which~~
 27 ~~deters immediate access to its contents may be described as such without describing~~
 28 ~~its contents.~~

29 ~~(d)~~(b) Notification that the lessee has been or shall be denied access to the
 30 movable property, if such denial is permitted under the terms of the rental agreement,

1 with the name, street address, and telephone number of the owner or his designated
 2 agent whom the lessee may contact to respond to the notice.

3 ~~(c)~~ A demand for payment within a specified time not less than ten days
 4 after the date of mailing or delivery of the notice.

5 ~~(d)~~ A statement that the contents of the lessee's rented space are subject to
 6 the owner's privilege and that, unless the claim is paid within the time stated in the
 7 notice, the movable property is to be advertised for sale or other disposition and to
 8 be sold or otherwise disposed of to satisfy the owner's privilege for rent due and
 9 other charges at a specified time and place.

10 (5)(a) Actual receipt of the notice made pursuant to this Section shall not be
 11 required. ~~Within ten days after receipt of the notice, or within ten days after its~~
 12 ~~mailing whichever is earlier~~ **At least ten days after its mailing, or at least ten days**
 13 **after the date by which payment is demanded, whichever is later,** an
 14 advertisement of the sale or other disposition of movable property subject to the
 15 privilege shall be published on at least one occasion in a newspaper of general
 16 circulation where the self-service storage facility is located **and the owner of a**
 17 **self-service storage facility may publish an advertisement of the sale on a**
 18 **publicly accessible website that conducts personal property auctions.**

19 (b) The advertisement shall include:

20 ~~(i)~~ A brief and general description of the movable property reasonably
 21 adequate to permit its identification ~~as provided for in Paragraph (4)(c) of this~~
 22 ~~Section~~ **by the lessee, except that any container, including but not limited to a**
 23 **trunk, valise, or box that is locked, fastened, sealed, or tied in a manner which**
 24 **deters immediate access to its contents, may be described as such without**
 25 **describing its contents.**

26 ~~(ii)~~ The address of the self-service storage facility and the number, if any,
 27 of the space where the movable property is located and the name of the lessee.

28 ~~(iii)~~ The time, place, and manner of the sale or other disposition.

29 * * *

30 (8) Any sale or other disposition of the movable property shall be held at the

1 self-service storage facility, ~~or~~ at the nearest suitable place to where the movable
2 property is held or store **stored**, as indicated in the notice required herein, **or on a**
3 **publicly accessible website that conducts personal property auctions**. The owner
4 shall sell the movable property to the highest bidder, if any. If there are no bidders,
5 the owner may purchase the movable property for a price at least sufficient to satisfy
6 his claim for rent due and all other charges, or he may donate the movable property
7 to charity.

8 (9) **If the property upon which the lien is claimed is a motor vehicle,**
9 **watercraft, or trailer, and rent and other charges remain unpaid for sixty days,**
10 **the owner may have the property towed in lieu of foreclosing on the lien. If a**
11 **motor vehicle, watercraft, or trailer is towed pursuant to the provisions of this**
12 **Paragraph, the owner shall not be liable for the motor vehicle, watercraft, or**
13 **trailer or for any damages to the motor vehicle, watercraft, or trailer once the**
14 **tower takes possession of the property. Any tower shall be licensed pursuant to**
15 **the Louisiana Towing and Storage Act, R.S. 32:1711 et seq.**

16 (10) Prior to any sale or other disposition of movable property to enforce the
17 privilege granted by this Section, the lessee may pay the amount necessary to satisfy
18 the privilege, including all reasonable expenses incurred under this Section, and
19 thereby redeem the movable property. Upon receipt of such payment, the owner shall
20 have no liability to any person with respect to such movable property.

21 ~~(10)~~(11) A purchaser in good faith of movable property sold by an owner to
22 enforce the privilege granted herein takes the property free of any claims or rights
23 of persons against whom the privilege was valid, despite noncompliance by the
24 owner with the requirements of this Section.

25 ~~(11)~~(12) In the event of a sale held pursuant to this Section, the owner may
26 satisfy his privilege from the proceeds of the sale, but shall hold the balance, if any,
27 as a credit in the name of the lessee whose property was sold. The lessee may claim
28 the balance of the proceeds within two years of the date of sale, without any interest
29 thereon, and if unclaimed within the ~~two-year~~ **two-year** period, the credit shall
30 become the property of the owner, without further recourse by the lessee. If the sale

1 or other disposition of movable property made pursuant to this Part does not satisfy
2 the owner's claim for rent due and other charges, the owner may proceed by ordinary
3 proceedings to collect the balance owed.

4 (13) A reasonable late fee may be imposed and collected by an owner for
5 each period that a lessee does not pay rent when due under the rental
6 agreement, provided the amount of the late fee and the conditions for imposing
7 such fee are stated in the rental agreement or in an addendum to that
8 agreement. For purposes of this Paragraph, a late fee of twenty dollars or
9 twenty percent of the monthly rent, whichever is greater, shall be deemed
10 reasonable and shall not constitute a penalty. Any reasonable expense incurred
11 as a result of rent collection or lien enforcement by an owner may be charged
12 to the lessee in addition to late fees.

13 (14) If the rental agreement contains a limit on the value of property
14 stored in the lessee's storage space, such limit shall be deemed to be the
15 maximum value of the property stored in that space and the lessor shall not be
16 liable for any claims in excess of any such stated value.

17 Section 2. This Act shall become effective upon signature by the governor or, if not
18 signed by the governor, upon expiration of the time for bills to become law without signature
19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
20 vetoed by the governor and subsequently approved by the legislature, this Act shall become
21 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____