**A** **BILL**

TO AMEND SECTION 39-20-45 OF THE 1976 CODE, RELATING TO SELF-SERVICE STORAGE FACILITIES, TO PROVIDE THAT, AFTER A FIFTY DAY DEFAULT PERIOD, THE OWNER OF A STORAGE FACILITY MAY ENFORCE ITS LIEN BY ARRANGING FOR A COMMERCIALLY REASONABLE PUBLIC SALE TO THE HIGHEST BIDDER SO LONG AS, AT LEAST SEVEN DAYS BEFORE THE SALE, THE OWNER ADVERTISES THE PUBLIC SALE IN A COMMERCIALLY REASONABLE MANNER AND IN ACCORDANCE WITH THE REQUIREMENTS IN ITEM (F) OF THIS SECTION; TO PROVIDE THAT, FOR PURPOSES OF THIS CHAPTER, “COMMERCIALLY REASONABLE SALE” INCLUDES, BUT IS NOT LIMITED TO, THE OFFERING OF PROPERTY TO AN AUDIENCE OF BIDDERS THROUGH AN ONLINE, PUBLICLY ACCESSIBLE AUCTION WEBSITE AND THAT THE ADVERTISEMENT WILL BE DEEMED TO HAVE BEEN MADE IN A “COMMERCIALLY REASONABLE MANNER” IF AT LEAST THREE INDEPENDENT BIDDERS ATTEND THE SALE AT THE TIME AND PLACE AS ADVERTISED; TO PROVIDE THAT, IN THE EVENT THAT THE PUBLIC SALE IS PLANNED TO BE HELD THROUGH A PUBLICLY AVAILABLE INTERNET WEBSITE, THE ADVERTISEMENT SHALL INCLUDE THE WEBSITE ADDRESS, WHICH SHALL CONSTITUTE THE “PLACE” FOR PURPOSES OF FULFILLING THIS REQUIREMENT; AND TO PROVIDE THAT ANY SALE OR DISPOSITION OF PERSONAL PROPERTY FROM A COMMERCIALLY REASONABLE SALE MUST BE HELD IN A COMMERCIALLY REASONABLE MANNER EITHER THROUGH A PUBLICLY ACCESSIBLE INTERNET WEBSITE, AT THE SELF SERVICE STORAGE FACILITY, OR AT THE NEAREST SUITABLE PLACE TO WHERE THE PERSONAL PROPERTY IS HELD OR STORED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 39-20-45 of the 1976 Code is amended to read:

“Section 39-20-45. (A) If the occupant has been in default continuously for fifty days, owner may enforce its lien, provided owner shall comply with, during the fifty‑day default period, the following procedure.

(B) When rent is fourteen or more days past due the occupant must be notified by written notice delivered to the occupant's last known address (1) in person, (2) by personal delivery service as provided by court rule, (3) by first‑class mail with a certificate of mailing, (4) by certified mail, or (5) by electronic mail.

(C) Owner's notice to occupant shall include:

(1) a brief and general description of what is believed to constitute the personal property contained in the storage unit;

(2) a statement of the owner's claim, showing the sum due at the time of the notice and the date the sum became due;

(3) a demand for payment within a specified time not less than fourteen days after delivery of notice;

(4) a conspicuous statement that, unless the claim is paid within the time stated in the notice, the personal property will be advertised for sale or disposed of as provided by law and will be sold or otherwise disposed of after a specified date;

(5) a conspicuous statement that partial payment of the owner's claim does not stop or delay the owner's right to proceed with the sale or disposition of the property; and

(6) a conspicuous statement notifying the occupant of denial of access to the personal property and provide the name, street address, and telephone number of the owner or its designated agent, whom the occupant may contact to respond to this notice.

(D) Any notice given pursuant to this section is presumed delivered when it is (1) properly addressed to the last known address, and (2) either deposited with the United States Postal Service with postage prepaid for first class mail with a certificate of mailing or certified mail or sent by electronic mail from which a confirmation of receipt is received.

(E) After the expiration of the fifty‑day default period, the owner ~~shall publish an advertisement of the public sale to the highest bidder once a week for two consecutive weeks in a newspaper of general circulation where the self‑service storage facility is located~~ may enforce its lien by arranging for the commercially reasonable public sale to the highest bidder so long as, at least seven days before the sale, the owner advertises the public sale in a commercially reasonable manner and in accordance with requirements in item (F) of this section. For purposes of this chapter, ‘commercially reasonable sale’ includes, but is not limited to, the offering of property to an audience of bidders through an online, publicly accessible auction website, and the advertisement will be deemed to have been made in a ‘commercially reasonable manner’ if at least three independent bidders attend the sale at the time and place as advertised.

(F) The advertisement shall include:

(1) a brief and general description of what is believed to constitute the personal property, contained in the storage unit;

(2) the address of the self‑storage facility or the address where the self‑contained storage unit is located and the name of the occupant; and

(3) the time, place, and manner of the public sale or other disposition. In the event that the public sale is planned to be held through a publicly available internet website, the advertisement shall include the website address, which shall constitute the ‘place’ for purposes of fulfilling this requirement.

(G) If the owner determines that the property in the storage space has a sale value of less than three hundred dollars, the owner, at the owner's sole discretion, may hold the property for sixty days from the date notice was provided pursuant to this section. If the occupant fails to claim the goods and pay the rent owed during that period, the owner may destroy or dispose of the property without further notice to occupant and occupant's debt shall be extinguished and the owner shall have no liability to the occupant or any other person for the personal property.

(H) If the property upon which the lien is claimed is a motor vehicle or a watercraft and rent and other charges related to the property remain unpaid or unsatisfied for sixty days following the maturity of the obligation to pay rent, the lienor may have the property towed by a towing company licensed pursuant to law. If a motor vehicle is towed as authorized in this subsection, the lienor shall not be liable for the motor vehicle or any damages to the motor vehicle once the tower takes possession of the property.

(I) If no one purchases the property at the public sale and if the owner has complied with the foregoing procedures, the owner may otherwise dispose of the property and shall notify the occupant of the action taken. Any sale or disposition of the personal property must be held in a commercially reasonable manner either through a publicly accessible internet website, at the self‑service storage facility, or at the nearest suitable place to where the personal property is held or stored.

(J) Before any sale or other disposition of personal property pursuant to this agreement, the occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred, and by that action redeem the personal property and after that the owner shall have no liability to any person with respect to the personal property. A partial payment of rent shall not satisfy the lien, stop or delay the owner's right to proceed with a sale or disposition of the occupant's property as provided in this section unless the owner agrees to the stop or delay in a writing signed by the owner.

(K) A purchaser in good faith of the personal property sold to satisfy owner's lien takes the property subject to any other liens or security interests which are perfected and recorded or liens by any lienholder with an interest in the property of whom the owner has knowledge either through the disclosure provision of the rental agreement or through other written notice.

(L) In the event of a sale, the owner may satisfy his lien from the proceeds of the sale. The owner shall hold the balance of the proceeds, if any, for the occupant or any notified, secured interest holder. If not claimed within two years of the date of sale, the balance of the proceeds must be disposed of in accordance with Chapter 18, Title 27. In no event may the owner's liability exceed the proceeds of the sale.”

SECTION 2. This act takes effect upon approval by the Governor.

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