

1 SB140
2 204446-3
3 By Senator Melson
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 02-FEB-21

1 SB140

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4 ENROLLED, An Act,

5 Relating to self-service storage facilities; to add
6 Article 2A, commencing with Section 8-15-40, to Chapter 15,
7 Title 8, Code of Alabama 1975, creating the Self-Service
8 Storage Facilities Act; to provide definitions; to authorize
9 operator's liens; to provide for the responsibilities and
10 duties of operators, occupants, and creditors in the event of
11 default of a rental agreement; and to repeal Article 2,
12 commencing with Section 8-15-30, Chapter 15, Title 8, Code of
13 Alabama 1975, the Self-Service Storage Act.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Article 2A is added to Chapter 15, Title
16 8, Code of Alabama 1975, to read as follows:

17 §8-15-40.

18 This article shall be known and may be cited as the
19 Self-Service Storage Facilities Act.

20 §8-15-41.

21 For the purposes of this article, the following
22 terms shall have the following meanings:

23 (1) COMMERCIALY REASONABLE SALE. A sale, conducted
24 pursuant to this article, at the self-service storage
25 facility, another suitable location selected by the operator,

1 or on a publicly accessible website that conducts lien sales
2 or personal property sales.

3 (2) DEFAULT. The failure by the occupant to perform
4 on time any obligation or duty set forth in a rental agreement
5 or in this article.

6 (3) ELECTRONIC MAIL. An electronic message or an
7 executable program or computer file that contains an image of
8 a message that is transmitted between two or more computers or
9 electronic terminals and includes electronic messages that are
10 transmitted within or between computer networks.

11 (4) EMERGENCY. Any occurrence or circumstance at or
12 near a self-service storage facility that requires immediate
13 action to avoid injury to persons or damage to property at or
14 near the self-service storage facility including, but not
15 limited to, a fire.

16 (5) LAST KNOWN ADDRESS. The postal address or
17 electronic mail address provided by an occupant in a rental
18 agreement or the postal address or electronic mail address
19 provided by the occupant in a subsequent written notice of a
20 change of address.

21 (6) LATE FEE. Any fee or charge assessed for the
22 failure of an occupant to pay rent when due. The term does not
23 include interest on a debt; expenses incurred in the
24 collection of unpaid rent; expenses incurred for the
25 preservation, sale, or disposition of personal property

1 pursuant to this article; or costs associated with the
2 enforcement of any other remedy provided by law or contract.

3 (7) LEASED SPACE. The individual storage space at a
4 self-service storage facility which is rented to an occupant
5 pursuant to a rental agreement.

6 (8) OCCUPANT. A person entitled to the use of leased
7 space at a self-service storage facility under a rental
8 agreement, or his or her successors or assigns.

9 (9) OPERATOR. The owner, operator, lessor, or
10 sublessor of a self-service storage facility, or an agent of
11 any of the foregoing, or any other person authorized to manage
12 the facility or to receive rent from an occupant under a
13 rental agreement. The term does not include a warehouseman if
14 the warehouseman issues a warehouse receipt, bill of lading,
15 or other document of title for the personal property stored.

16 (10) PERSONAL PROPERTY. Movable property not affixed
17 to land. The term includes, but is not limited to, goods,
18 wares, merchandise, motor vehicles, watercraft, household
19 items, and furnishings.

20 (11) PROPERTY WHICH HAS NO COMMERCIAL VALUE.
21 Property offered for sale in a commercially reasonable sale
22 that receives no bid or offer.

23 (12) RENTAL AGREEMENT. Any written agreement or
24 lease that establishes or modifies the terms, conditions, or

1 rules concerning the use and occupancy of leased space at a
2 self-service storage facility.

3 (13) SELF-SERVICE STORAGE FACILITY. Any real
4 property used for renting or leasing individual storage spaces
5 in which the occupants customarily store and remove their own
6 personal property on a self-service basis.

7 (14) VERIFIED MAIL. Any method of mailing offered by
8 the United States Postal Service or private delivery service
9 that provides evidence of the mailing.

10 §8-15-42.

11 (a) An operator shall not knowingly permit a leased
12 space at a self-service storage facility to be used for
13 residential purposes.

14 (b) An occupant shall not use a leased space for
15 residential purposes.

16 §8-15-43.

17 An occupant, upon reasonable request from the
18 operator, shall allow the operator to enter a leased space for
19 the purpose of inspection or repair. If an emergency occurs,
20 an operator may enter a leased space for inspection or repair
21 without notice to or consent from the occupant.

22 §8-15-44.

23 (a) The operator of a self-service storage facility
24 and the heirs, executors, administrators, successors, and
25 assigns of the operator shall have a lien upon all of the

1 personal property of an occupant located at the self-service
2 storage facility for delinquent rent, late fees, labor, or
3 other charges incurred pursuant to a rental agreement and for
4 expenses incurred for preservation, sale, or disposition of
5 the personal property. The lien provided for in this section
6 is superior to any other lien or security interest, except for
7 a tax lien as otherwise provided by law.

8 (b) The lien described in subsection (a) attaches on
9 the date on which personal property is placed in a leased
10 space.

11 (c) The rental agreement shall contain a statement,
12 in bold type, advising the occupant of all of the following:

13 (1) The existence of the lien.

14 (2) That personal property stored in the leased
15 space may be sold to satisfy the lien if the occupant is in
16 default.

17 (3) That the occupant must disclose any lienholders
18 with an interest in property that is stored or will be stored
19 in the leased space.

20 (d) If the rental agreement specifies a limit on the
21 value of personal property that the occupant may store in the
22 leased space, the limit shall be deemed to be the maximum
23 value of the personal property in the leased space of the
24 occupant.

1 (e) The rental agreement may provide for a
2 reasonable late fee when the occupant is in default. A monthly
3 late fee of twenty dollars (\$20) or 20 percent of the monthly
4 rental amount, whichever is greater, shall be considered
5 reasonable and is not a penalty.

6 §8-15-45.

7 If the occupant is in default, the operator may deny
8 the occupant access to the leased space at the self-service
9 storage facility. The operator may enter and remove the
10 personal property from the leased space to other suitable
11 storage space pending its sale or other disposition.

12 §8-15-46.

13 (a) If an occupant is in default for a period of
14 more than 30 days, the operator may enforce the lien granted
15 in Section 8-15-44 by selling the stored personal property of
16 the occupant. Sale of the personal property of an occupant may
17 be by public or private proceedings. The personal property may
18 be sold as a unit or in parcels, by way of one or more
19 contracts, at any time or place, with bids or offers sealed or
20 open, and on any terms as long as the sale is a commercially
21 reasonable sale. The operator may otherwise dispose of any
22 property which has no commercial value.

23 (b) Before conducting a sale under this section, the
24 operator shall do all of the following:

1 (1) At least 20 days before the sale, send notice of
2 default to the occupant and any lienholder identified by the
3 occupant in the rental agreement by verified mail or
4 electronic mail pursuant to subsection (h). The notice of
5 default shall include:

6 a. A statement that the contents of the leased space
7 are subject to the operator's lien.

8 b. A statement of the operator's claim, indicating
9 the charges due on the date of the notice, the amount of any
10 additional charges which shall become due before the date of
11 sale, and the date the additional charges shall become due.

12 c. A demand for payment of the charges due within a
13 specified time, which shall not be less than 10 days after the
14 date of the notice.

15 d. A statement that unless the claim is paid within
16 the time stated, the contents of the leased space will be sold
17 or otherwise disposed of after a specified time.

18 e. The name, street address, and telephone number of
19 the operator or a designated agent whom the occupant may
20 contact to respond to the notice.

21 (2) At least seven days before the sale, an
22 advertisement containing the time, place, and terms of the
23 sale shall be published once in a newspaper of general
24 circulation in the county where the self-service storage
25 facility is located. A single advertisement listing multiple

1 sales in a newspaper of general circulation in the county
2 shall suffice. If no newspaper of general circulation is
3 located in the county, or if the operator determines, based on
4 the previous experience of the operator, that the contents of
5 the leased space have a value of five hundred dollars (\$500)
6 or less, then an advertisement in any commercially reasonable
7 manner shall suffice. The manner of advertisement is deemed
8 commercially reasonable if it is likely to attract at least
9 three independent bidders to attend or view the sale in person
10 or online at the time and place advertised.

11 (c) The operator may buy the personal property of
12 the occupant at any public sale held pursuant to this section.

13 (d) If the personal property subject to the
14 operator's lien is a vehicle, watercraft, or trailer and rent
15 and other charges remain unpaid for 60 days, the operator may
16 have the vehicle, watercraft, or trailer towed from the
17 self-service storage facility. The operator shall not be
18 liable for any damages to the vehicle, watercraft, or trailer
19 once a licensed and bonded tower takes possession of the
20 property. Removal of any vehicle, watercraft, or trailer from
21 the self-service storage facility shall not release the
22 operator's lien. The sale of a watercraft shall comply with
23 Section 33-5A-4. Any provision of this article to the contrary
24 notwithstanding, unclaimed motor vehicles shall be reported in

1 accordance with Section 32-8-84 and abandoned motor vehicles
2 shall be sold in accordance with Chapter 13 of Title 32.

3 (e) At any time before a sale is held under this
4 section or before a vehicle, watercraft, or trailer is towed
5 under this section, the occupant may pay the amount necessary
6 to satisfy the lien and redeem the personal property. The
7 operator shall have no liability to any person with respect to
8 personal property redeemed pursuant to this subsection.

9 (f) In the event of a sale, the operator may satisfy
10 the lien from the proceeds of the sale. The lien rights of
11 secured lienholders are automatically transferred to the
12 remaining proceeds of the sale, if any. If the sale is a
13 commercially reasonable sale, the operator shall not be
14 subject to any liability for a deficiency if the amount
15 realized at the sale does not satisfy any secured lien, but
16 shall hold the balance, if any, for delivery to the occupant
17 or any secured lienholder, upon demand. If the occupant or
18 secured lienholder, if any, does not claim the balance of the
19 proceeds within one year after the date of sale, the balance
20 shall become the property of the operator without further
21 recourse by the occupant or secured lienholder.

22 (g) A purchaser in good faith of any personal
23 property sold pursuant to this section to satisfy the lien
24 granted in Section 8-15-44 takes the property free and clear
25 of any rights of persons against whom the lien was valid,

1 despite noncompliance by the operator with the requirements of
2 this section. If the requirements of this article are not
3 satisfied, if the sale of the personal property is not in
4 conformity with the notice of sale, or if there is a willful
5 violation of this article, nothing in this section affects the
6 rights and liabilities of the owner, occupant, or any other
7 person.

8 (h) Notices to the occupant under subdivision (1) of
9 subsection (b) shall be sent to the last known address of the
10 occupant by verified mail or electronic mail. Notices sent by
11 verified mail shall be deemed delivered when deposited with
12 the United States Postal Service or private delivery service
13 if they are properly addressed with postage prepaid. Notices
14 sent by electronic mail shall be deemed delivered when an
15 electronic message is sent to the last known address provided
16 by the occupant. If the operator sends notice by electronic
17 mail and receives an automated message stating that the
18 electronic mail cannot be delivered, the operator shall send
19 notice by verified mail to the last known address of the
20 occupant with postage prepaid.

21 (i) If the operator complies with the requirements
22 of this section, the liability of the operator:

23 (1) To the occupant, shall be limited to the net
24 proceeds received from the sale of the personal property of
25 the occupant less any proceeds paid to the holders of any lien

1 or security interest of record on the personal property being
2 sold.

3 (2) To the holders of any lien or security interest
4 of record on the personal property being sold, shall be
5 limited to the net proceeds received from the sale of any
6 personal property covered by the lien or security interest of
7 the holder.

8 §8-15-47.

9 Unless the rental agreement specifically provides
10 otherwise and until a lien sale is conducted under Section
11 8-15-46, the exclusive care, custody, and control of all
12 personal property stored in a leased space remains vested in
13 the occupant, and the occupant shall bear all risks of loss or
14 damage to that personal property.

15 §8-15-48.

16 This article does not impair the power of the
17 parties to a rental agreement to create rights, duties, or
18 obligations in the rental agreement. The rights provided to an
19 operator by this article are in addition to all other rights
20 provided by law to a creditor against a debtor or to a
21 landlord against a tenant.

22 §8-15-49.

23 This article shall apply to all rental agreements
24 entered into, extended, or renewed after October 1, 2021.

1 Section 2. Article 2, commencing with Section
2 8-15-30, of Chapter 15, Title 8, Code of Alabama 1975, the
3 Self-Service Storage Act, is repealed.

4 Section 3. This act shall become effective on
5 October 1, 2021, following its passage and approval by the
6 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB140

Senate 25-FEB-21

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Passed: 01-APR-21

By: Senator Melson