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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **2598**

03/03/2014 Authored by Halverson, Yarusso, Atkins, Sanders and Davids

The bill was read for the first time and referred to the Committee on Civil Law

03/06/2014 Adoption of Report: Amended and re-referred to the Committee on Commerce and Consumer Protection Finance and Policy

1.1 A bill for an act
1.2 relating to commerce; updating the Minnesota Liens on Personal Property in
1.3 Self-Service Storage Act; amending Minnesota Statutes 2012, sections 514.971,
1.4 subdivisions 2, 7, 8, by adding a subdivision; 514.973; 514.975; 514.976, by
1.5 adding a subdivision; repealing Minnesota Statutes 2012, section 514.976,
1.6 subdivisions 1, 2, 3, 4.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2012, section 514.971, subdivision 2, is amended to read:

1.9 Subd. 2. **Self-service storage facility.** ~~"Self-service storage facility" means real~~
1.10 ~~property that is designed and used only for renting or leasing individual storage space in~~
1.11 ~~the facility under the following conditions:~~

1.12 ~~(1) the occupants have access to their individual storage space only for the purpose~~
1.13 ~~of storing and removing their personal property;~~

1.14 ~~(2) the owner does not issue a warehouse receipt, bill of lading, or other document of~~
1.15 ~~title for the personal property stored in the storage space; and~~

1.16 ~~(3) the property has two or more individual storage spaces.~~

1.17 ~~The term does not include a garage used principally for parking motor vehicles or~~
1.18 ~~any property of a financial institution that contains vaults, safe deposit boxes, or other~~
1.19 ~~receptacles for the uses, purposes, and benefits of the financial institution's customers.~~

1.20 (a) "Self-service storage facility" means any real property designed and used for the
1.21 purpose of renting or leasing individual storage space to occupants who are to have access
1.22 for the purpose of storing and removing personal property. The term does not include:

1.23 (1) any property of a financial institution that contains vaults, safe deposit boxes,
1.24 or other receptacles for the uses, purposes, and benefits of the financial institution's
1.25 customers; or

2.1 (2) a warehouse that issues a warehouse receipt, bill of lading, or other document of
2.2 title.

2.3 (b) No occupant shall use a self-service storage facility for residential purposes.

2.4 Sec. 2. Minnesota Statutes 2012, section 514.971, subdivision 7, is amended to read:

2.5 Subd. 7. **Default.** "Default" means failure of the occupant to pay the rent and other
2.6 charges becoming due under the rental agreement within ~~15~~ seven days after the rents and
2.7 other charges become due under the terms of the rental agreement.

2.8 Sec. 3. Minnesota Statutes 2012, section 514.971, subdivision 8, is amended to read:

2.9 Subd. 8. **Storage space.** "Storage space" means ~~an enclosure, cubicle, or room that~~
2.10 ~~is fully enclosed and equipped with a door designed to be locked for security by the~~
2.11 ~~occupant~~ the storage space or spaces at the self-service storage facility that are rented to an
2.12 occupant pursuant to a rental agreement.

2.13 Sec. 4. Minnesota Statutes 2012, section 514.971, is amended by adding a subdivision
2.14 to read:

2.15 Subd. 10. **Verified mail.** "Verified mail" means any method of mailing that is
2.16 offered by the United States Postal Service or private delivery service that provides
2.17 evidence of mailing.

2.18 Sec. 5. Minnesota Statutes 2012, section 514.973, is amended to read:

2.19 **514.973 ENFORCEMENT OF LIEN.**

2.20 An owner's lien established under sections 514.970 to 514.979 for a claim that has
2.21 become due must be enforced ~~in the same manner as warehouse's liens under section~~
2.22 ~~336.7-210.~~ as follows:

2.23 (1) the occupant shall be notified when rent and other charges are in default;

2.24 (2) the notice shall be delivered in person or sent by verified mail or electronic mail
2.25 to the last known address of the occupant;

2.26 (3) the notice shall include:

2.27 (i) a statement of the amount owed for rent and other charges and demand for
2.28 payment within a specified time not less than 14 days after delivery of the notice;

2.29 (ii) a notice of denial of access to the storage space, if this denial is permitted under
2.30 the terms of the rental agreement;

2.31 (iii) the name, street address, and telephone number of the owner, or of the owner's
2.32 designated agent, whom the occupant may contact to respond to this notice; and

3.1 (iv) a conspicuous statement that unless the claim is paid within the time stated in
3.2 the notice, the personal property will be advertised for sale. The notice shall specify the
3.3 time and place of the sale;

3.4 (4) any notice made pursuant to this section shall be presumed delivered when it is
3.5 deposited with the United States Postal Service or private delivery service, and properly
3.6 addressed with postage prepaid, or sent by electronic mail to the occupant's last known
3.7 e-mail address;

3.8 (i) if the owner sends notice to the occupant's last known e-mail address and does
3.9 not receive an electronic receipt that establishes delivery of the notice to the occupant's
3.10 e-mail address, the notice shall be sent to the occupant by verified mail to the occupant's
3.11 last known address;

3.12 (ii) when e-mail is offered as the sole means of communication with an occupant,
3.13 there must be included in the rental agreement a provision containing a written notice in at
3.14 least ten-point bold type, if printed, which states: by choosing the option to receive e-mail
3.15 communication in this agreement, the owner will provide you notices and other information
3.16 regarding your account through the e-mail reflected in our records, or a subsequent written
3.17 change of e-mail address has been given in accordance with the facility's procedures;

3.18 (5) after the expiration of the time given in the notice, the sale shall be either:

3.19 (i) published once a week for two weeks consecutively in a newspaper of general
3.20 circulation where the sale is to be held; or

3.21 (ii) advertised in a public, commercially reasonable manner not less than ten days
3.22 prior to the sale. A sale is considered reasonable if no fewer than three independent bidders
3.23 register for the sale and are qualified to bid on the property offered. An independent
3.24 bidder is a person who is not related to and who has no controlling interest in, or common
3.25 pecuniary interest with, the owner or any other bidder. Storage operators holding public
3.26 sales shall require the bidder to register and agree to the auction rules. When online sales
3.27 are conducted, registration is required and the bidder viewing each sale is automatically
3.28 recorded;

3.29 (6) a sale of personal property may take place no sooner than 45 days after default;

3.30 (7) a sale of the personal property shall conform to the terms of the notification;

3.31 (8) a sale of the personal property shall be public and shall be held at the self-service
3.32 storage facility, or at the nearest suitable place at which the personal property is held
3.33 or stored. A sale conducted online through a Web site that conducts public auctions is
3.34 a suitable location for the sale;

3.35 (9) notwithstanding any law, rule, or regulation to the contrary, if the property upon
3.36 which the lien is claimed is a motor vehicle or watercraft, and rent and other charges

4.1 related to the property are in default for 60 consecutive days, the owner may have the
 4.2 property towed by a towing company. The self-storage facility's lien is terminated and
 4.3 may not be enforced effective upon the possession of the property by the towing company.

4.4 If a motor vehicle or watercraft is towed as authorized in this clause, the owner shall:

4.5 (i) send, by verified or electronic mail, to the occupant's last known address, the
 4.6 name, address, and telephone number of the towing company that will perform the towing
 4.7 and the street address of the storage facility where the towed property can be redeemed; and

4.8 (ii) not be liable for the motor vehicle or watercraft or any damages to the motor
 4.9 vehicle or watercraft once the towing company takes possession of the property;

4.10 (10) before a sale of personal property, the occupant may pay the amount necessary to
 4.11 satisfy the lien and the reasonable expenses incurred by the owner to redeem the personal
 4.12 property. Upon receipt of this payment, the owner shall return the personal property, and
 4.13 the owner shall have no liability to any person with respect to the personal property;

4.14 (11) a self-service storage facility's lien may be enforced by public sale of the goods,
 4.15 in bulk or in lots at any time or place and on any terms that are commercially reasonable.

4.16 The self-service storage facility sells in a commercially reasonable manner if the facility
 4.17 sells the goods at a public sale conducted in person or at an online publicly accessible Web
 4.18 site, sells at the price current in that market at the time of the sale, or otherwise sells in
 4.19 conformity with commercially reasonable practices among dealers in the type of goods
 4.20 sold;

4.21 (12) the owner may satisfy the lien from the proceeds of the sale but shall hold the
 4.22 balance, if any, and give notice to the occupant of the occupant's right to the funds. If
 4.23 the balance, if any, remains unclaimed by the occupant for more than one year after the
 4.24 sale of the goods, the balance shall be deposited into the state unclaimed property funds
 4.25 account under sections 345.31 to 345.60; and

4.26 (13) the owner's liability arising from the sale of personal property under this section
 4.27 is limited to the proceeds received from the sale of that property.

4.28 Sec. 6. Minnesota Statutes 2012, section 514.975, is amended to read:

4.29 **514.975 RENTAL AGREEMENTS.**

4.30 Subdivision 1. **Disclosure.** The rental agreement between the owner and the
 4.31 occupant must include a disclosure of the lien rights of the owner upon failure of the
 4.32 occupant to pay rent including the right to deny access to certain personal property
 4.33 contained in the self-service storage facility, and the extent and the limits of insurance
 4.34 carried by the owner covering the occupant's personal property stored in the leased
 4.35 premises. A rental agreement may not exempt an owner from liability for damages to an

5.1 ~~occupant's personal property caused by the owner's negligence. The rental agreement must~~
5.2 ~~request the occupant to insert an alternate mailing address.~~

5.3 Subd. 2. **Value of stored property.** If the rental agreement entered into between the
5.4 owner and the occupant contains a provision placing a limit on the value of property that
5.5 may be stored in the occupant's space, this limit shall be deemed to be the maximum value
5.6 of the stored property, provided that the provision is printed in bold type or underlined
5.7 in the rental agreement.

5.8 Subd. 3. **Late fees.** Any late fee charged by the owner shall be provided for in the
5.9 rental agreement. No late fee shall be collected unless it is written in the rental agreement
5.10 or as an addendum to such agreement. An owner may impose a reasonable late fee for
5.11 each month an occupant does not pay rent when due. A late fee of \$20 or 20 percent of the
5.12 monthly rental amount, whichever is greater, for each late rental payment shall be deemed
5.13 reasonable, and shall not constitute a penalty.

5.14 Sec. 7. Minnesota Statutes 2012, section 514.976, is amended by adding a subdivision
5.15 to read:

5.16 Subd. 4a. **Service of process; claim by a tenant.** The owner may be served at the
5.17 self-service storage facility for any claim by a tenant against the owner.

5.18 Sec. 8. **REPEALER.**

5.19 Minnesota Statutes 2012, section 514.976, subdivisions 1, 2, 3, and 4, are repealed.

5.20 Sec. 9. **EFFECTIVE DATE.**

5.21 Sections 1 to 8 are effective August 1, 2014, and apply to personal property put in
5.22 self-service storage on or after that date.

514.976 DISCLOSURE AND ACTIONS.

Subdivision 1. **Disclosure.** There shall be disclosed to the occupant either in the rental agreement or otherwise in writing prior to commencement of the occupancy the name and address of:

- (1) the person authorized to manage the premises; and
- (2) an owner of the premises or an agent authorized by the owner to accept service of process and receive and give receipt for notices and demands.

Either in the rental agreement or otherwise in writing the occupant shall also be notified that the owner prohibits the storage of hazardous materials.

Subd. 2. **Posting of notice.** A printed or typewritten notice containing the information that must be disclosed under subdivision 1 must be placed in a conspicuous place on the premises.

Subd. 3. **Alternate service.** If subdivisions 1 and 2 have not been complied with and an occupant desiring to make service of process upon or give a notice or demand to the owner does not know the name and address of the owner or the owner's agent, as that term is used in subdivision 1, then a caretaker or manager of the premises or an individual to whom rental payments for the premises are made is deemed to be an agent authorized to accept service of process and receive and give receipt for notices and demands on behalf of the owner.

Subd. 4. **Action.** Except as otherwise provided in this subdivision, an owner may not maintain an action to recover rent or possession of the premises unless the information required by this section has been disclosed to the occupant, or unless the information is known by or has been disclosed to the occupant at least 30 days prior to the initiation of the action. Failure by the owner to post a notice required by subdivision 2 does not prevent any action to recover rent or possession of the premises. Any action begun by the owner or occupant shall be venued in the county where the facility is located. If an action to recover possession of personal property in the facility is begun by the occupant, the burden of proof shall be borne by the owner that default has occurred and the provisions of sections 514.970 to 514.979 have been followed.