

SENATE

STATE OF MINNESOTA

EIGHTY-EIGHTH SESSION

S.F. No. 2398

(SENATE AUTHORS: JENSEN, Limmer, Hoffman, Hall and Dziedzic)

DATE	D-PG	OFFICIAL STATUS
03/06/2014	5998	Introduction and first reading
		Referred to Judiciary
04/01/2014	7333a	Comm report: To pass as amended
	7343	Second reading
04/25/2014		Special Order: Amended
		Third reading Passed

1.1

A bill for an act

1.2

relating to commerce; updating the laws regulating liens on personal property in

1.3

self-storage; amending Minnesota Statutes 2012, sections 514.971, subdivisions

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2, 7, 8, by adding a subdivision; 514.972, subdivisions 4, 5; 514.973; 514.974;

1.5

514.975.

1.6

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

1.7

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

1.8

Subd. 2. **Self-service storage facility.** ~~"Self-service storage facility" means real~~

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~~property that is designed and used only for renting or leasing individual storage space in~~

1.10

~~the facility under the following conditions:~~

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~~(1) the occupants have access to their individual storage space only for the purpose~~

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~~of storing and removing their personal property;~~

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~~(2) the owner does not issue a warehouse receipt, bill of lading, or other document of~~

1.14

~~title for the personal property stored in the storage space; and~~

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

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~~The term does not include a garage used principally for parking motor vehicles or~~

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~~any property of a financial institution that contains vaults, safe deposit boxes, or other~~

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~~receptacles for the uses, purposes, and benefits of the financial institution's customers.~~

1.19

(a) "Self-service storage facility" or "storage facility" means real property designed

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and used for the purpose of renting or leasing individual storage space to occupants who

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are to have access for the purpose of storing and removing personal property. The term

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does not include:

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(1) property of a financial institution that contains vaults, safe deposit boxes, or other

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receptacles for the uses, purposes, and benefits of the financial institution's customers;

2.1 (2) a warehouse that issues a warehouse receipt, bill of lading, or other document of  
2.2 title for the property; or

2.3 (3) a commercial parking garage or parking lot that provides short-term motor  
2.4 vehicle parking.

2.5 (b) An occupant must not use a self-service storage facility for residential purposes.

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

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

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

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

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

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

2.20 Sec. 5. Minnesota Statutes 2012, section 514.972, subdivision 4, is amended to read:

2.21 Subd. 4. **Denial of access.** Upon default, the owner shall mail notice of default ~~to the~~  
2.22 ~~occupant at the last known address of the occupant~~ as provided under section 514.974. The  
2.23 owner may deny the occupant access to the personal property contained in the self-service  
2.24 storage facility after default, service of the notice of default, ~~expiration of the date stated~~  
2.25 ~~for denial of access,~~ and application of any security deposit to unpaid rent. The notice  
2.26 of default must state the date that the occupant will be denied access to the occupant's  
2.27 personal property in the self-service storage facility and that access will be denied until  
2.28 the owner's claim has been satisfied. The notice of default must state that any dispute  
2.29 regarding denial of access can be raised by the occupant beginning legal action in court.  
2.30 Notice of default must further state the rights of the occupant contained in subdivision 5.

2.31 Sec. 6. Minnesota Statutes 2012, section 514.972, subdivision 5, is amended to read:

Subd. 5. **Access to certain items.** (a) Upon demand to any of the persons listed in section 514.976, subdivision 1, the occupant may remove from the self-service storage facility:

(1) personal papers, ~~health aids,~~ and personal clothing of the occupant and the occupant's dependents, and personal property that is necessary for the livelihood of the occupant, that has a market value of less than \$50 \$75 per item, if demand is made to any of the persons listed in section 514.976, subdivision 1;

(2) personal property that is necessary for the livelihood of the occupant, including tools, machines, and instruments of trade not exceeding the value listed in section 550.37, subdivision 6; and

(3) health aids and durable medical equipment, regardless of value.

(b) The occupant shall present a list of the items, and may remove them during the facility's ordinary business hours prior to the sale authorized by section 514.973. The total market value of property removed under subdivisions 1 and 2 must not exceed \$250. If the owner unjustifiably denies the occupant access for the purpose of removing the items specified in this subdivision, the occupant is entitled to an order allowing access to the storage unit for removal of the specified items. The self-service storage facility is liable to the occupant for the costs, disbursements and attorney fees expended by the occupant to obtain this order.

(c) The provisions of this subdivision may not be waived or modified.

(d) Only natural persons are entitled to access items under this subdivision.

Sec. 7. Minnesota Statutes 2012, section 514.973, is amended to read:

**514.973 ENFORCEMENT OF LIEN.**

Subdivision 1. **Generally.** An owner's lien established under sections 514.970 to 514.979 for a claim that has become due must be enforced in the same manner as warehouse's liens under section 336.7-210. as provided in this section.

Subd. 2. **Notice; to whom and how sent.** (a) The owner must notify the occupant and any person who has delivered to the owner a written notice of a claim of an interest in the contents in the storage space when rent and other charges are in default. The notice to the owner of a claim of an interest must comply with any requirements included in the rental agreement.

(b) Except as provided in paragraph (c), the notice must be delivered in person or sent by verified mail as provided under section 514.974. Notice sent by verified mail is presumed delivered when it is deposited with the United States Postal Service or private delivery service and properly addressed with postage prepaid.

4.1 (c) The owner may send notices exclusively via electronic mail with the informed,  
4.2 written consent of the occupant. An occupant may withdraw consent at any time. The  
4.3 owner may not notify the occupant of the default by electronic mail unless the rental  
4.4 agreement, or a written change to the rental agreement, contains a written notice in at least  
4.5 12-point bold type, if printed, which states: "By choosing the option to receive e-mail  
4.6 communication in this agreement, the owner will provide you notices and other information  
4.7 regarding your account through the e-mail reflected in our records, or in a subsequent  
4.8 written change of e-mail address that has been given according to the facility's procedures."

4.9 (d) The owner must verify that a notice sent by electronic mail has been delivered  
4.10 by obtaining an electronic receipt that establishes delivery of the notice to the occupant's  
4.11 e-mail address. If delivery of the electronic mail notice cannot be verified, the storage  
4.12 facility must deliver the notice in person or send the notice by verified mail. If the notice  
4.13 must be delivered in person or sent by verified mail after delivery by electronic mail  
4.14 has failed, the period specified in subdivision 3 does not begin until the date the notice  
4.15 is delivered in person or by verified mail.

4.16 Subd. 3. **Contents of notice.** The notice must include:

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

4.19 (2) pursuant to section 514.972, subdivision 4, a notice of denial of access to the  
4.20 storage space, if this denial is permitted under the terms of the rental agreement;

4.21 (3) the name, street address, and telephone number of the owner, or of the owner's  
4.22 designated agent, whom the occupant may contact to respond to the notice;

4.23 (4) a conspicuous statement that unless the claim is paid within the time stated in  
4.24 the notice, the personal property will be advertised for sale. The notice must specify the  
4.25 time and place of the sale; and

4.26 (5) a conspicuous statement of the items that the occupant may remove without  
4.27 charge pursuant to section 514.972, subdivision 5, if the occupant is denied general access  
4.28 to the storage space.

4.29 Subd. 4. **Sale of property.** (a) A sale of personal property, other than the sale of a  
4.30 motor vehicle or a watercraft, may take place no sooner than 45 days after default. Motor  
4.31 vehicles or watercrafts may only be removed or sold pursuant to subdivision 7.

4.32 (b) After the expiration of the time given in the notice, the sale must be published  
4.33 once a week for two weeks consecutively in a newspaper of general circulation where  
4.34 the sale is to be held. The sale may take place no sooner than 15 days after the first  
4.35 publication. If the lien is satisfied before the second publication occurs, the second  
4.36 publication is waived. If there is no qualified newspaper under chapter 331A where the

sale is to be held, the advertisement may be posted on an independent, publicly accessible Web site that advertises self storage lien sales or public notices. The advertisement must include a description of the goods, the name of the person on whose account the goods are being held, and the time and place of the sale.

(c) A sale of the personal property must conform to the terms of the notification.

(d) A sale of the personal property must be public and must be held at the storage facility, or at the nearest suitable place at which the personal property is held or stored. Online sales are permitted. Owners shall require all bidders, including online bidders, to register and agree to the rules of the sale.

(e) The sale must be conducted in a commercially reasonable manner. A sale is commercially reasonable if the property is sold in conformity with the practices among dealers in the property sold or sellers of similar distressed property sales.

**Subd. 5. Averting the sale.** Before any sale pursuant to this section is conducted, the occupant or any other person entitled to notice under subdivision 2, paragraph (a), may redeem the property by paying the amount sufficient to satisfy the lien and the reasonable expenses incurred complying with this section. If sufficient payment is made, the personal property may not be sold.

**Subd. 6. Surplus.** A storage facility may satisfy its lien from the proceeds of any sale pursuant to this section, provided that the storage facility must hold any sum obtained from the sale that exceeds the amount sufficient to satisfy the lien and the reasonable expenses incurred complying with this section for delivery on demand to the occupant and give notice to the occupant of the occupant's right to the funds as provided in section 514.974. Any balance remaining unclaimed by the occupant for more than one year after the sale of the goods must be deposited into the state unclaimed property funds account under sections 345.31 to 345.60.

**Subd. 7. Special procedures for motor vehicles.** (a) Notwithstanding any law to the contrary, if the personal property upon which the lien is claimed is a motor vehicle or watercraft and rent and other charges related to the property are in default for 60 consecutive days, the owner may sell the motor vehicle or watercraft as provided in this section or have the motor vehicle or watercraft towed by a towing company.

(b) The owner's lien is terminated upon the towing company taking possession of the property.

(c) If a motor vehicle or watercraft is towed as authorized in this subdivision, the owner:

(1) shall send, by the method provided under subdivision 2, the name, address, and telephone number of the towing company that will perform the towing and the street address of the storage facility where the towed property may be redeemed; and

(2) is not liable for the motor vehicle or watercraft or any damages to the motor vehicle or watercraft once the towing company takes possession of the property. Nothing in this section relieves the towing company from liability for damage for which the company would otherwise be liable.

Subd. 8. **Liability for damage.** An occupant injured by a violation of this section may bring a civil action to recover damages.

Subd. 9. **No effect on other rights.** The rights provided under this section are in addition to all other rights allowed by law to a creditor and a debtor.

Sec. 8. Minnesota Statutes 2012, section 514.974, is amended to read:

**514.974 ADDITIONAL NOTIFICATION REQUIREMENT.**

~~In addition to the requirements of section 336.7-210,~~ the Notification of the proposed sale of personal property must include a notice of denial of access to the personal property until the owner's claim has been satisfied. Any notice the owner is required to mail to the occupant under sections 514.970 to 514.979 shall be sent to:

(1) the e-mail address, if consented to by the occupant, as provided in section 514.973, subdivision 2;

(2) the mailing address and the any alternate mailing address provided by the occupant in the rental agreement; or

(3) the last known mailing address of the occupant, if the last known mailing address differs from the mailing address listed by the occupant in the rental agreement and the owner has reason to believe that the last known mailing address is more current.

Sec. 9. Minnesota Statutes 2012, section 514.975, is amended to read:

**514.975 RENTAL AGREEMENTS.**

Subdivision 1. **Disclosure.** The rental agreement between the owner and the occupant must include a disclosure of the lien rights of the owner upon failure of the occupant to pay rent including the right to deny access to certain personal property contained in the self-service storage facility, and the extent and the limits of insurance carried by the owner covering the occupant's personal property stored in the leased premises. A rental agreement may not exempt an owner from liability for damages to an occupant's personal property caused by the owner's negligence. ~~The rental agreement must request the occupant to insert an alternate mailing address.~~ A rental agreement must contain a provision that allows the

7.1 occupant to provide an optional alternate contact person. The alternate contact person is  
7.2 used solely for purposes of providing notice of default under section 514.973. Adding an  
7.3 alternate contact does not give that contact an interest in the contents of the storage space.

7.4 Subd. 2. **Value of stored property.** If the rental agreement entered into between  
7.5 the owner and the occupant contains a provision placing a limit on the value of property  
7.6 that may be stored in the occupant's space, this limit is the maximum value of the stored  
7.7 property, provided that the provision is printed in bold type or underlined in the rental  
7.8 agreement. The limit on the value of property may not be less than \$1,000.

7.9 Subd. 3. **Military protections.** A rental agreement or an application for a rental  
7.10 agreement must contain a provision disclosing whether the applicant is a member of the  
7.11 uniformed services as the term is defined in United States Code, title 10, section 101(a)(5).

7.12 Sec. 10. **EFFECTIVE DATE.**

7.13 Sections 1 to 9 are effective August 1, 2014, and apply to personal property put in  
7.14 self-service storage on or after that date.