

(Corrected)

Session of 2021

HOUSE BILL No. 2112

By Committee on Commerce, Labor and Economic Development

1-21

Proposed Amendments for HB 2112 #2
Committee on Commerce, Labor
and Economic Development
February 2, 2021
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Office of Revisor of Statutes

1 AN ACT concerning self-storage rental units; relating to sales by operators
2 of property due to abandonment or nonpayment of rent; occupant's
3 designation of alternate contact; contractual value of property;
4 amending K.S.A. 58-816 and K.S.A. 2020 Supp. 58-817 and repealing
5 the existing sections.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 58-816 is hereby amended to read as follows: 58-
9 816. (a) The operator of a self-service storage facility has a lien on all
10 personal property stored within each leased space for rent, labor or other
11 charges, and for expenses reasonably incurred in its sale, as provided in the
12 self-service storage act.

13 (b) *For purposes of any claim or action against an operator*
14 *involving a claim of damage to, or the loss of, personal property stored in*
15 *a leased space pursuant to a rental agreement with the operator, the value*
16 *of such personal property shall be limited by the maximum value of*
17 *personal property permitted to be stored in the leased space under the*
18 *terms of the rental agreement.*

19 (c) The rental agreement shall contain a statement, in bold type,
20 advising the occupant:

21 (1) Of the existence of the lien;

22 (2) that property stored in the leased space may be sold to satisfy the
23 lien if the occupant is in default; ~~and~~

24 (3) that any proceeds from the sale of the property ~~which~~ *that* remain
25 after satisfaction of the lien will be paid to the state treasurer if unclaimed
26 by the occupant within one year after sale of the property; *and*

27 (4) *of the claim limitation pursuant to subsection (b).*

28 (d) *The rental agreement shall include a query of the occupant as to*
29 *whether the occupant wishes to designate an alternative contact to receive*
30 *notices required by the self-storage act and space to designate such*
31 *alternative contact. Failure or refusal of an occupant to designate an*
32 *alternative contact shall not affect an occupant's or operator's rights or*
33 *remedies under the self-storage act or under any other provision of law.*
34 *The alternative contact, if any, shall not have any rights to access the*
35 *leased space or to the personal property stored in the leased space unless*
36 *expressly stated otherwise in the rental agreement.*

1 Sec. 2. K.S.A. 2020 Supp. 58-817 is hereby amended to read as
2 follows: 58-817. (a) (1) If the occupant is in default for a period of more
3 than 45 days, the operator may enforce the lien by selling the property
4 stored in the leased space for cash. Sale of the property stored on the
5 premises may be *conducted online or in person*, by public or private
6 proceedings and may also be as a unit or in parcels, or by way of one or
7 more contracts and at any time or place, and on any terms as long as the
8 sale is commercially reasonable. The operator may otherwise dispose of
9 any property ~~which~~ *that* has no commercial value.

10 (2) The proceeds of such sale shall then be applied to satisfy the lien,
11 with any surplus disbursed as provided in subsection (d).

12 (b) Before conducting a sale under subsection (a), the operator shall:

13 (1) Notify the occupant of the default by first-class mail at the
14 occupant's last-known address, and by electronic mail if the occupant has
15 provided an electronic mail address to the operator;

16 (2) send a second notice of default, not less than seven days after the
17 notice required by subsection (b)(1), by first-class mail to the occupant at
18 the occupant's last-known address, and by electronic mail if the occupant
19 has provided an electronic mail address to the operator. A second notice of
20 default shall include:

21 (A) A statement that the contents of the occupant's leased space are
22 subject to the operator's lien;

23 (B) a statement of the operator's claim, indicating the charges due on
24 the date of the notice, the amount of any additional charges which shall
25 become due before the date of release for sale and the date those additional
26 charges shall become due;

27 (C) a demand for payment of the charges due within a specified time,
28 not less than 10 days after the date of the notice;

29 (D) a statement that unless the claim is paid within the time stated,
30 the contents of the occupant's space will be sold after a specified time; and

31 (E) the name, street address and telephone number of the operator, or
32 a designated agent whom the occupant may contact to respond to the
33 notice.

34 (3) At least seven days before the sale, advertise the time, place and
35 terms of the sale in a newspaper of general circulation in the jurisdiction
36 where the sale is to be held *or in any other commercially reasonable*
37 *manner*. Such advertisement shall be in the classified section of the
38 newspaper, *if notice is placed in the newspaper. If less than three*
39 *independent bidders attend the sale in person or view the sale online at*
40 *the time and place advertised, the manner of advertising the sale shall not*
41 *be considered to have been commercially reasonable and the sale shall be*
42 *canceled, rescheduled and readvertised. Further notice to the occupant*
43 *shall not be required.*

For purposes of this paragraph, "commercially reasonable manner" means a manner of advertising that is, in the jurisdiction where the sale is to be held: Widely circulated; published or available online on a consistent and regular basis; and is a known source of widely shared community information.

- 1 (c) At any time before a sale under this section, the occupant may pay
2 the amount necessary to satisfy the lien and redeem the occupant's
3 personal property.
- 4 (d) If a sale is held under this section, the operator shall:
- 5 (1) Satisfy the lien from the proceeds of the sale; and
6 (2) hold the balance, if any, for delivery on demand to the occupant or
7 any other recorded lienholders for a period of one year after receipt of
8 proceeds of the sale and satisfaction of the lien. Thereafter, the proceeds
9 remaining after satisfaction of the lien shall be considered abandoned
10 property to be reported and paid to the state treasurer in accordance with
11 the disposition of unclaimed property act.
- 12 (e) A purchaser in good faith of any personal property sold under the
13 self-service storage act takes the property free and clear of any rights of:
- 14 (1) Persons against whom the lien was valid; and
15 (2) other lienholders.
- 16 (f) If the operator complies with the provisions of the self-service
17 storage act, the operator's liability:
- 18 (1) To the occupant shall be limited to the net proceeds received from
19 the sale of the personal property; and
20 (2) to other lienholders shall be limited to the net proceeds received
21 from the sale of any personal property covered by the other lien.
- 22 (g) If an occupant is in default, the operator may deny the occupant
23 access to the leased space.
- 24 (h) Notices to the occupant shall be sent to the occupant at the
25 occupant's last-known address. Notices shall be deemed delivered when
26 deposited with the United States postal service, properly addressed as
27 provided in subsection (b), with postage prepaid.
- 28 Sec. 3. K.S.A. 58-816 and K.S.A. 2020 Supp. 58-817 are hereby
29 repealed.
- 30 Sec. 4. This act shall take effect and be in force from and after its
31 publication in the statute book.