

2018 Regular Session

SENATE BILL NO. 338

BY SENATOR BARROW

COMMERCIAL REGULATIONS. Provides for privileges and default options for owners of self-service storage facilities. (8/1/18)

1 AN ACT

2 To amend and reenact R.S. 9:4758 and 4759, relative to self-service storage facilities; to
3 provide for liens and privileges; to provide for priority of certain privileges of the
4 owner of a self-service storage facility in the event of a default by a lessee; to allow
5 for enforcement by ordinary proceedings; to provide terms, conditions, and
6 requirements; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 9:4758 and 4759 are hereby amended and reenacted to read as
9 follows:

10 §4758. Privilege

11 The owner of a self-service storage facility, his heirs, executors,
12 administrators, successors, and assigns has a privilege upon all movable property
13 stored at a self-service storage facility for the debt due him for rent, and for all
14 reasonable charges and expenses necessary for the preservation of movable property
15 stored at a self-service storage facility, and for expenses reasonably incurred in the
16 enforcement of this privilege, ~~including, but not limited to, the cost of removing and~~
17 ~~replacing any locks, preparing a brief and general description of the movable~~

1 ~~property upon which the privilege is claimed, sending notices, and advertising, by~~
2 ~~sale of movable property or other disposition pursuant to this Part.~~ The privilege
3 granted herein attaches as of the date the movable property is brought to the
4 self-service storage facility. This privilege is superior to and shall take priority over
5 any other privileges or security interests, except the privilege shall be inferior to a
6 vendor's privilege, ~~or a chattel mortgage previously issued and recorded in the~~
7 ~~manner provided by law,~~ or a previously perfected security interest under Chapter
8 9 of the Louisiana Commercial Laws (R.S. 10:9-101, et seq.). The exemption from
9 seizure granted by R.S. 13:3881 shall not be applicable to property subject to this
10 privilege.

11 §4759. Options of owner upon lessee's default

12 In the event of default by the lessee, the owner of a self-service storage
13 facility has the option to enforce judicially all of his rights under the rental
14 agreement, including, if the agreement so provides, his right to accelerate all rentals
15 that will become due in the future for the full term of the lease or to cancel the lease
16 and enforce his privilege for the debt due him, ~~as follows:~~ **by an ordinary**
17 **proceeding.**

18 (1) ~~Upon default by the lessee, the owner shall be authorized to remove any~~
19 ~~lock on the rented self-service storage space in order to compile a brief and general~~
20 ~~description of the movable property upon which a privilege is claimed and shall be~~
21 ~~entitled to place his own lock upon such space until his privilege is satisfied.~~

22 (2) ~~The lessee shall be notified of the owner's intention to enforce his~~
23 ~~privilege.~~

24 (3) ~~The notice shall be delivered in person to the lessee or sent by verified~~
25 ~~mail to the last known address of the lessee, and electronic mail if the email address~~
26 ~~is provided by the lessee in the rental agreement.~~

27 (4) The notice shall include:

28 (a) ~~An itemized statement of the owner's claim, showing the sum due at the~~
29 ~~time of the notice and the date when the sum became due.~~

1 ~~(b) Notification that the lessee has been or shall be denied access to the~~
2 ~~movable property, if such denial is permitted under the terms of the rental agreement,~~
3 ~~with the name, street address, and telephone number of the owner or his designated~~
4 ~~agent whom the lessee may contact to respond to the notice.~~

5 ~~(c) A demand for payment within a specified time not less than ten days after~~
6 ~~the date of mailing or delivery of the notice.~~

7 ~~(d) A statement that the contents of the lessee's rented space are subject to the~~
8 ~~owner's privilege and that, unless the claim is paid within the time stated in the~~
9 ~~notice, the movable property is to be advertised for sale or other disposition and to~~
10 ~~be sold or otherwise disposed of to satisfy the owner's privilege for rent due and~~
11 ~~other charges at a specified time and place.~~

12 ~~(5)(a) Actual receipt of the notice made pursuant to this Section shall not be~~
13 ~~required. At least ten days after its mailing, or at least ten days after the date by~~
14 ~~which payment is demanded, whichever is later, an advertisement of the sale or other~~
15 ~~disposition of movable property subject to the privilege shall be published on at least~~
16 ~~one occasion in a newspaper of general circulation where the self-service storage~~
17 ~~facility is located and the owner of a self-service storage facility may publish an~~
18 ~~advertisement of the sale on a publicly accessible website that conducts personal~~
19 ~~property auctions.~~

20 ~~(b) The advertisement shall include:~~

21 ~~(i) A brief and general description of the movable property reasonably~~
22 ~~adequate to permit its identification by the lessee, except that any container,~~
23 ~~including but not limited to a trunk, valise, or box that is locked, fastened, sealed, or~~
24 ~~tied in a manner which deters immediate access to its contents, may be described as~~
25 ~~such without describing its contents.~~

26 ~~(ii) The address of the self-service storage facility and the number, if any, of~~
27 ~~the space where the movable property is located and the name of the lessee.~~

28 ~~(iii) The time, place, and manner of the sale or other disposition.~~

29 ~~(6) The sale or other disposition of movable property shall take place not~~

1 ~~sooner than ten days following publication as required herein.~~

2 ~~(7) Any sale or other disposition of the movable property shall conform to the~~
3 ~~terms of the notification as provided for in this Section.~~

4 ~~(8) Any sale or other disposition of the movable property shall be held at the~~
5 ~~self-service storage facility, at the nearest suitable place to where the movable~~
6 ~~property is held or stored, as indicated in the notice required herein, or on a publicly~~
7 ~~accessible website that conducts personal property auctions. The owner shall sell the~~
8 ~~movable property to the highest bidder, if any. If there are no bidders, the owner may~~
9 ~~purchase the movable property for a price at least sufficient to satisfy his claim for~~
10 ~~rent due and all other charges, or he may donate the movable property to charity.~~

11 ~~(9) If the property upon which the lien is claimed is a motor vehicle,~~
12 ~~watercraft, or trailer, and rent and other charges remain unpaid for sixty days, the~~
13 ~~owner may have the property towed in lieu of foreclosing on the lien. If a motor~~
14 ~~vehicle, watercraft, or trailer is towed pursuant to the provisions of this Paragraph,~~
15 ~~the owner shall not be liable for the motor vehicle, watercraft, or trailer or for any~~
16 ~~damages to the motor vehicle, watercraft, or trailer once the tower takes possession~~
17 ~~of the property. Any tower shall be licensed pursuant to the Louisiana Towing and~~
18 ~~Storage Act, R.S. 32:1711 et seq.~~

19 ~~(10) Prior to any sale or other disposition of movable property to enforce the~~
20 ~~privilege granted by this Section, the lessee may pay the amount necessary to satisfy~~
21 ~~the privilege, including all reasonable expenses incurred under this Section, and~~
22 ~~thereby redeem the movable property. Upon receipt of such payment, the owner shall~~
23 ~~have no liability to any person with respect to such movable property.~~

24 ~~(11) A purchaser in good faith of movable property sold by an owner to~~
25 ~~enforce the privilege granted herein takes the property free of any claims or rights~~
26 ~~of persons against whom the privilege was valid, despite noncompliance by the~~
27 ~~owner with the requirements of this Section.~~

28 ~~(12) In the event of a sale held pursuant to this Section, the owner may satisfy~~
29 ~~his privilege from the proceeds of the sale, but shall hold the balance, if any, as a~~

1 ~~credit in the name of the lessee whose property was sold. The lessee may claim the~~
2 ~~balance of the proceeds within two years of the date of sale, without any interest~~
3 ~~thereon, and if unclaimed within the two-year period, the credit shall become the~~
4 ~~property of the owner, without further recourse by the lessee. If the sale or other~~
5 ~~disposition of movable property made pursuant to this Part does not satisfy the~~
6 ~~owner's claim for rent due and other charges, the owner may proceed by ordinary~~
7 ~~proceedings to collect the balance owed.~~

8 ~~(13) A reasonable late fee may be imposed and collected by an owner for~~
9 ~~each period that a lessee does not pay rent when due under the rental agreement,~~
10 ~~provided the amount of the late fee and the conditions for imposing such fee are~~
11 ~~stated in the rental agreement or in an addendum to that agreement. For purposes of~~
12 ~~this Paragraph, a late fee of twenty dollars or twenty percent of the monthly rent,~~
13 ~~whichever is greater, shall be deemed reasonable and shall not constitute a penalty.~~
14 ~~Any reasonable expense incurred as a result of rent collection or lien enforcement~~
15 ~~by an owner may be charged to the lessee in addition to late fees.~~

16 ~~(14) If the rental agreement contains a limit on the value of property stored~~
17 ~~in the lessee's storage space, such limit shall be deemed to be the maximum value of~~
18 ~~the property stored in that space and the lessor shall not be liable for any claims in~~
19 ~~excess of any such stated value.~~

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by McHenry Lee.

	DIGEST	
SB 338 Original	2018 Regular Session	Barrow

Present law provides that the owner of a self-service storage facility has a privilege upon all movable property stored at a self-service storage facility for the debt due him for rent and other expenses.

Present law provides a list of what is included in reasonable expenses incurred in enforcement of the owner's privilege.

Proposed law removes the present law list.

Present law provides that the owner's privilege will be inferior to a previously recorded chattel mortgage.

Proposed law removes the present law privilege.

Present law provides that in the event of a default by a lessee, the owner of a self-service storage facility has the option to enforce all his rights under the rental agreement. Further provides for a sale or disposition of movable property by the owner to satisfy his claim for rent due and all other charges.

Proposed law retains present law but provides that any enforcement by an owner of a self-service storage facility of his rights under the rental agreement must be done by an ordinary proceeding.

Present law provides for notification requirements and sale and disposition procedures when an owner of a self-service storage facility enforces his rights upon the default by a lessee.

Proposed law repeals present law.

Effective August 1, 2018.

(Amends R.S. 9:4758 and 4759)