

SECOND REGULAR SESSION

# HOUSE BILL NO. 1948

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE DIEHL.

4517H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal section 415.415, RSMo, and to enact in lieu thereof one new section relating to commercial activity.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 415.415, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 415.415, to read as follows:

415.415. 1. The operator of a self-service storage facility has a lien on all personal property stored within each leased space for rent, labor, or other charges, and for expenses reasonably incurred in sale of such personal property, as provided in sections 415.400 to 415.425. The lien established by this subsection shall have priority over all other liens except those liens that have been perfected and recorded on personal property. The rental agreement shall contain a statement, in bold type, advising the occupant of the existence of such lien and that property stored in the leased space may be sold to satisfy such lien if the occupant is in default, and that any proceeds from the sale of the property which remain after satisfaction of the lien will be paid to the state treasurer if unclaimed by the occupant within one year after the sale of the property.

2. If the occupant is in default for a period of more than forty-five days, the operator may enforce the lien granted in subsection 1 of this section and sell the property stored in the leased space for cash. Sale of the property stored on the premises may be done at a public or private sale, may be done as a unit or in parcels, or may be by way of one or more contracts, and may be at any time or place and on any terms as long as the sale is done in a commercially reasonable manner in accordance with the provisions of section 400.9-627. The operator may otherwise dispose of any property which has no commercial value.

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18           3. The proceeds of any sale made under this subsection shall be applied to satisfy the  
19 lien, with any surplus being held for delivery on demand to the occupant or any other  
20 lienholders which the operator knows of or which are contained in the statement filed by the  
21 occupant pursuant to subsection 3 of section 415.410 for a period of one year after receipt of  
22 proceeds of the sale and satisfaction of the lien. No proceeds shall be paid to an occupant  
23 until such occupant files a sworn affidavit with the operator stating that there are no other  
24 valid liens outstanding against the property sold and that he or she, the occupant, shall  
25 indemnify the operator for any damages incurred or moneys paid by the operator due to  
26 claims arising from other lienholders of the property sold. After the one-year period set in  
27 this subsection, any proceeds remaining after satisfaction of the lien shall be considered  
28 abandoned property to be reported and paid to the state treasurer in accordance with laws  
29 pertaining to the disposition of unclaimed property.

30           4. Before conducting a sale under subsection 2 of this section, the operator shall:

31           (1) At least forty-five days before any disposition of property under this section,  
32 which shall run concurrently with subsection 2 of this section, notify the occupant and each  
33 lienholder which is contained in any statement filed by the occupant pursuant to subsection 3  
34 of section 415.410 of the default by first-class mail or electronic mail at the occupant's or  
35 lienholder's last known address, and shall notify any third-party owner identified by the  
36 occupant pursuant to subsection 3 of section 415.410;

37           (2) No sooner than ten days after mailing the notice required in subdivision (1) of this  
38 subsection, mail a second notice of default, by verified mail or electronic mail, to the  
39 occupant at the occupant's or lienholder's last known address, which notice shall include:

40           (a) A statement that the contents of the occupant's leased space are subject to the  
41 operator's lien;

42           (b) A statement of the operator's claim, indicating the charges due on the date of the  
43 notice, the amount of any additional charges which shall become due before the date of  
44 release for sale and the date those additional charges shall become due;

45           (c) A demand for payment of the charges due within a specified time, not less than ten  
46 days after the date on which the second notice was mailed;

47           (d) A statement that unless the claim is paid within the time stated, the contents of the  
48 occupant's space will be sold after a specified time; and

49           (e) The name, street address and telephone number of the operator, or a designated  
50 agent whom the occupant may contact, to respond to the notice;

51           (3) At least seven days before the sale, advertise the time, place, and terms of the sale  
52 **in the classified section of a newspaper of general circulation in the jurisdiction where the**  
53 **sale is to be held or in any other commercially reasonable manner. [Such] The manner of**  
54 **advertisement shall be [in the classified section of the newspaper and shall state that the items**

55 ~~will be released for sale]~~ **deemed commercially reasonable if at least three independent**  
56 **bidders attend or view the sale at the time and place advertised.**

57         5. If the property is a vehicle, watercraft, or trailer and rent and other charges remain  
58 unpaid for sixty days, the owner may treat the vehicle, watercraft, or trailer as an abandoned  
59 vehicle and have the vehicle, watercraft, or trailer towed from the self-service storage facility.  
60 When the vehicle, watercraft, or trailer is towed from the self-service storage facility, the  
61 owner shall not be liable for the vehicle, watercraft, or trailer for any damages to the motor  
62 vehicle, watercraft, or trailer once the tower takes possession of the property.

63         6. At any time before a sale under this section, the occupant may pay the amount  
64 necessary to satisfy the lien and redeem the occupant's personal property.

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