

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2289
101ST GENERAL ASSEMBLY

3727H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 415.415, 493.050, and 493.070, RSMo, and to enact in lieu thereof three new sections relating to requirements for public notices.

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

Section A. Sections 415.415, 493.050, and 493.070, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 415.415, 493.050, and 493.070,
3 to read as follows:

415.415. 1. The operator of a self-service storage facility has a lien on all personal
2 property stored within each leased space for rent, labor, or other charges, and for expenses
3 reasonably incurred in sale of such personal property, as provided in sections 415.400 to
4 415.425. The lien established by this subsection shall have priority over all other liens except
5 those liens that have been perfected and recorded on personal property. The rental agreement
6 shall contain a statement, in bold type, advising the occupant of the existence of such lien and
7 that property stored in the leased space may be sold to satisfy such lien if the occupant is in
8 default, and that any proceeds from the sale of the property which remain after satisfaction of
9 the lien will be paid to the state treasurer if unclaimed by the occupant within one year after
10 the sale of the property.

11 2. If the occupant is in default for a period of more than forty-five days, the operator
12 may enforce the lien granted in subsection 1 of this section and sell the property stored in the
13 leased space for cash. Sale of the property stored on the premises may be done at a public or
14 private sale, may be done as a unit or in parcels, or may be by way of one or more contracts,
15 and may be at any time or place and on any terms as long as the sale is done in a
16 commercially reasonable manner in accordance with the provisions of section 400.9-627.
17 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.

493.050. All public advertisements and orders of publication required by law to be
 2 made and all legal publications affecting the title to real estate shall be published in some
 3 daily, triweekly, semiweekly or weekly newspaper of general circulation in the county where
 4 located, and ~~[which]~~ **such a newspaper** shall have:

5 (1) Been admitted to the post office as periodicals class matter in the city of
 6 publication; ~~[shall have]~~

7 (2) Been **either:**

8 (a) Published regularly and consecutively for a period of ~~[three years]~~ **one year**,
 9 except that a newspaper of general circulation may be deemed to be the successor to a defunct
 10 newspaper of general circulation, and subject to all of the rights and privileges of said prior
 11 newspaper under this statute, if the successor newspaper shall begin publication no later than
 12 ~~[thirty]~~ **ninety** consecutive days after the termination of publication of the prior newspaper;
 13 ~~[shall have]~~ **or**

14 (b) **Purchased or newly established by a newspaper that satisfies the**
 15 **requirements of paragraph (a) of this subdivision; and**

16 (3) A list of bona fide subscribers voluntarily engaged as such, who have paid or
 17 agreed to pay a stated price for a subscription for a definite period of time~~[- provided, that~~
 18 ~~when].~~

19

20 **If** a public notice, required by law to be published once a week for a given number of weeks,
 21 ~~[shall]~~ **is to** be published in a daily, triweekly, semiweekly or weekly newspaper, the notice
 22 shall appear once a week, on the same day of each week~~[- and further provided, that].~~ Every
 23 affidavit to proof of publication shall state that the newspaper in which such notice was
 24 published has complied with the provisions of this section~~[- provided further, that].~~ The
 25 duration of consecutive publication provided for in this section shall not affect newspapers
 26 which have become legal publications prior to September 6, 1937~~[- provided, however, that~~
 27 ~~when].~~ **If** any newspaper shall be forced to suspend publication in any time of war, due to the

28 owner or publisher being inducted into the Armed Forces of the United States, the newspaper
29 may be reinstated within one year after actual hostilities have ceased, with all the benefits
30 provided pursuant to the provisions of this section, upon the filing with the secretary of state
31 of notice of intention of such owner or publisher, the owner's surviving spouse or legal heirs,
32 to republish such newspaper, setting forth the name of the publication, its volume and
33 number, its frequency of publication, and its readmission to the post office where it was
34 previously entered as periodicals class mail matter, and ~~when~~ if it ~~shall have~~ **has** a list of
35 bona fide subscribers voluntarily engaged as such who have paid or agreed to pay a stated
36 price for subscription for a definite period of time. All laws or parts of laws in conflict with
37 this section except sections 493.070 to 493.120, are hereby repealed.

493.070. In all cities of this state which now have, or shall hereafter have, a
2 population of one hundred thousand inhabitants or more, all public notices and
3 advertisements, directed by any court~~;~~ or required by law to be published in a newspaper,
4 shall be published in some daily newspaper of such city, of general circulation therein, which
5 shall have been established and continuously published as such for a period of at least ~~three~~
6 ~~consecutive years~~ **one year** next prior to the publication of any such notice.

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