

HOUSE BILL No. 2454

By Committee on Commerce, Labor and Economic Development

1 AN ACT concerning self-storage rental units; relating to sales or towing
2 by operators of property due to abandonment or nonpayment of rent;
3 contractual value of property; amending K.S.A. 58-816 and K.S.A.
4 2019 Supp. 58-817 and repealing the existing sections.

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

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

11 (b) The rental agreement shall contain a statement, in bold type,
12 advising the occupant:

13 (1) Of the existence of the lien;

14 (2) that property stored in the leased space may be sold to satisfy the
15 lien if the occupant is in default;

16 ~~(3) that a vehicle, watercraft or trailer stored in the leased space may
17 be towed if the occupant is in default; and~~

18 ~~(4) that any proceeds from the sale of the property which that
19 remain after satisfaction of the lien will be paid to the state treasurer if
20 unclaimed by the occupant within one year after sale of the property.~~

21 (c) For purposes of any claim or action against an operator
22 involving a claim of damage to, or the loss of, personal property stored in
23 a leased space pursuant to a rental agreement with the operator, the value
24 of such personal property shall be limited by the maximum value of
25 personal property permitted to be stored in the leased space under the
26 terms of the rental agreement.

27 Sec. 2. K.S.A. 2019 Supp. 58-817 is hereby amended to read as
28 follows: 58-817. (a) (1) If the occupant is in default for a period of more
29 than 45 days, the operator may enforce the lien by selling the property
30 stored in the leased space for cash. Sale of the property stored on the
31 premises may be conducted online or in person, by public or private
32 proceedings and may also be as a unit or in parcels, or by way of one or
33 more contracts and at any time or place, and on any terms as long as the
34 sale is commercially reasonable. The operator may otherwise dispose of
35 any property which that has no commercial value.
36

(3)

Proposed Amendments for HB 2454 #1
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1 (2) The proceeds of such sale shall then be applied to satisfy the lien,
2 with any surplus disbursed as provided in subsection (d).

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

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

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

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

14 (B) a statement of the operator's claim, indicating the charges due on
15 the date of the notice, the amount of any additional charges ~~which that~~
16 shall become due before the date of release for sale and the date those
17 additional charges shall become due;

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

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

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

25 (3) At least seven days before the sale, advertise the time, place and
26 terms of the sale in a newspaper of general circulation in the jurisdiction
27 where the sale is to be held *or in any other commercially reasonable*
28 *manner. Such advertisement shall be in the classified section of the*
29 *newspaper, if notice is placed in the newspaper. If at least three*
30 *independent bidders do not attend the sale in person or view the sale*
31 *online at the time and place advertised, the sale shall be canceled,*
32 *rescheduled and readvertised. Further notice to the occupant shall not be*
33 *required.*

34 (c) At any time before a sale under this section, the occupant may pay
35 the amount necessary to satisfy the lien and redeem the occupant's
36 personal property.

37 (d) If a sale is held under this section, the operator shall:

38 (1) Satisfy the lien from the proceeds of the sale; and

39 (2) hold the balance, if any, for delivery on demand to the occupant or
40 any other recorded lienholders for a period of one year after receipt of
41 proceeds of the sale and satisfaction of the lien. Thereafter, the proceeds
42 remaining after satisfaction of the lien shall be considered abandoned
43 property to be reported and paid to the state treasurer in accordance with

1 the disposition of unclaimed property act.

2 (e) A purchaser in good faith of any personal property sold under the
3 self-service storage act takes the property free and clear of any rights of:

- 4 (1) Persons against whom the lien was valid; and
- 5 (2) other lienholders.

6 (f) If the operator complies with the provisions of the self-service
7 storage act, the operator's liability:

8 (1) To the occupant shall be limited to the net proceeds received from
9 the sale of the personal property; and

10 (2) to other lienholders shall be limited to the net proceeds received
11 from the sale of any personal property covered by the other lien.

12 (g) If an occupant is in default, the operator may deny the occupant
13 access to the leased space.

14 (h) Notices to the occupant shall be sent to the occupant at the
15 occupant's last-known address. Notices shall be deemed delivered when
16 deposited with the United States postal service, properly addressed as
17 provided in subsection (b), with postage prepaid.

18 ~~[(f) If the personal property subject to the operator's lien is a vehicle,
19 watercraft or trailer and rent or other charges remain unpaid for 60 days,
20 the operator may have the vehicle, watercraft or trailer towed from the
21 self-service storage facility. The notices required pursuant to subsection
22 (b) shall be provided prior to the towing and the notice required pursuant
23 to subsection (b)(2) shall additionally include a statement that unless the
24 claim is paid within the time stated not less than 10 days after the date of
25 the notice, the operator may have the vehicle, watercraft or trailer towed
26 from the self-service storage facility. The operator shall not be liable for
27 any damages to the vehicle, watercraft or trailer once the towor takes
28 possession of such property. Removal of any vehicle, watercraft or trailer
29 from the self-service storage facility shall not release the operator's lien.]~~
30 Sec. 3. K.S.A. 58-816 and K.S.A. 2019 Supp. 58-817 are hereby
31 repealed.
32 Sec. 4. This act shall take effect and be in force from and after its
33 publication in the statute book.