

Kansas Press Association, Inc.

Dedicated to serving and advancing the interests of Kansas newspapers

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March 13, 2020

To: Sen. Julia Lynn, chair, and members of the Senate Committee on Commerce

From: Doug Anstaett, consultant and lobbyist, Kansas Press Association

Re: Testimony in opposition to House Bill 2454

Sen. Lynn and members of the Committee:

I am Doug Anstaett, consultant and lobbyist for the Kansas Press Association, which represents approximately 200 daily and non-daily newspapers across the state.

We are appearing in opposition today to House Bill 2454, a self-serving bill designed by the self-storage unit industry. What the industry is asking you to do is to eliminate transparency, cut out most of the public from the process and give storage unit owners even more power than they already wield in the rental process.

When we sign a storage facility rental contract, we are accepting terms that have been shaped by the self-storage industry by years of legislation and litigation.

Hardly in a position to negotiate terms better than the standard agreement, the consumer is agreeing to give the company the right to seize his possessions and sell them for a fraction of their value if something goes wrong and the bill is not paid.

It might surprise you to learn that public notice in newspapers came about as a result of the courts giving up jurisdiction years ago. The reason: the cost of litigation often was higher than what the units held in storage.

So, the states turned to public notice in newspapers of general circulation as the way to alert the public of an upcoming sale of property. Why? Well, because the renter is at such a disadvantage under most contracts, legislatures have deemed public notice crucial to ensure transparency and balance in the process.

This bill wants to give storage owners a choice between placing public notices in newspapers of general circulation OR in any other "commercially reasonable manner." What does that mean? It's not defined.

We know what it means: notice will be switched to the web. Consider how many websites you actually visit in a day, and then how many you never visit. There are literally hundreds of millions of websites. What do you think the chance is that a notification on the storage unit's website, or Facebook page, will truly inform the public? Slim, if at all.

Under current law, the storage unit owner still has the upper hand. We realize that public notices cost money — we do charge for advertising, after all — but the owner is allowed to include the expense of the notice in what is withheld from the proceeds of the lien sale.

A typical storage unit notice in a local community newspaper costs \$50 to \$100, depending on its length. Remember, the unit owners are permitted to recoup the cost from the final sales proceeds.

There are other reasons putting public notices in a newspaper works:

- It acts in place of a judge to keep seizures and auctions from happening in private.
- It provides one more notification to the owner of the contents, especially when notice by mail or email have failed.
- Relatives, friends, and loved ones may read a newspaper public notice concerning an overseas or otherwise indisposed occupant and step into his or her shoes to bring the bill current and prevent the sale.
- If a sale does take place, it allows for a bigger buyers' market, which means more compensation for the consumer and a guarantee that the storage unit owner will be made whole.
- It serves to protect the self-storage unit owner, who needs to have citizens in his or her community know he can be trusted to do the right thing.
- There is no incentive for the storage unit owner to get more than he is owed for rent — because the proceeds above his costs go back to the owner.
- The bill says at least three independent bidders must attend the sale, or it must be cancelled. Who is going to police this? Certainly not the owner or the buyers who do show up.

It makes far more sense to leave the statute as it is and require publication in a newspaper. If a storage unit owner wants to also choose another "commercially reasonable manner" to get the word out to even more people, nothing keeps him from doing that under existing language.

I want to reiterate a point made earlier: the owner of the self-storage unit can recoup the cost of the newspaper public notice when he settles up with the owner of the stored property. In other words, he's out nothing.

KPA and its 200 member newspapers ask that you oppose this bill. If you decide to work the bill, we ask that you vote to kill it.