

HOUSE BILL No. 2042

By Committee on Commerce, Labor and Economic Development

1-17

1 AN ACT concerning self-storage rental units; authorizing the towing by
2 operators of such units of motor vehicles, watercraft or trailers if the
3 occupant is in default for more than 45 days; granting operators
4 protection from liability for damages; extinguishing an operator's lien
5 on such property upon towing; providing for notice to the occupant and
6 opportunity for redemption prior to towing; amending K.S.A. 2022
7 Supp. 58-817 and repealing the existing section.
8

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

10 Section 1. K.S.A. 2022 Supp. 58-817 is hereby amended to read as
11 follows: 58-817. (a) (1) If the occupant is in default for a period of more
12 than 45 days, the operator may enforce the lien by selling the property
13 stored in the leased space for cash. Sale of the property stored on the
14 premises may be conducted online or in person, by public or private
15 proceedings and may also be as a unit or in parcels, or by way of one or
16 more contracts and at any time or place, and on any terms as long as the
17 sale is commercially reasonable. The operator may otherwise dispose of
18 any property that has no commercial value.

19 (2) The proceeds of such sale shall then be applied to satisfy the lien,
20 with any surplus disbursed as provided in subsection (d).

21 (3) *If the property subject to the operator's lien is a motor vehicle,*
22 *watercraft or trailer and the occupant is in default for a period of more*
23 *than 45 days, the operator may have such property towed from the self-*
24 *service storage facility. The operator shall not be liable for any damages*
25 *to the motor vehicle, watercraft or trailer after a towing service takes*
26 *possession of such property if such towing service has a certificate of*
27 *public service from the state corporation commission, as provided by*
28 *K.S.A. 66-1330, and amendments thereto. In accordance with K.S.A. 8-*
29 *1103, and amendments thereto, towing of a motor vehicle at the direction*
30 *of the operator shall only be permitted as provided by a city ordinance or*
31 *county resolution of the city or county where the self-service storage*
32 *facility is located. The operator's lien on the motor vehicle, watercraft or*
33 *trailer shall be extinguished if such property is towed from the self-service*
34 *storage facility under this subsection.*

35 (b) Before conducting a sale or authorizing a tow under subsection
36 (a), the operator shall:

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

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

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

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

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

17 (D) a statement that unless the claim is paid within the time stated,
18 the contents of the occupant's space will be sold *or, if the contents is a*
19 *motor vehicle, watercraft or trailer, may be towed* after a specified time;
20 and

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

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

34 (c) At any time before a sale *or a tow* under this section, the occupant
35 may pay the amount necessary to satisfy the lien and redeem the
36 occupant's 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 Sec. 2. K.S.A. 2022 Supp. 58-817 is hereby repealed.

19 Sec. 3. This act shall take effect and be in force from and after its
20 publication in the statute book.