

As Amended by House Committee

Session of 2012

HOUSE BILL No. 2647

By Committee on Judiciary

2-7

1 AN ACT concerning personal and real property; relating to the self-service
2 storage act; amending K.S.A. 58-817 and repealing the existing section.

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

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

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

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

16 (1) Notify the occupant of the default by first-class mail at the
17 occupant's last-known address, ~~or~~ **and by electronic mail if the occupant**
18 *has provided an electronic mail address to the operator;*

19 (2) send a second notice of default, not less than seven days after the
20 notice required by subsection (b)(1), by ~~restricted first-class~~ **first-class** mail to the
21 occupant at the occupant's last-known address ~~which includes,~~ **or and by**
22 *electronic mail if the occupant has provided an electronic mail address to*
23 *the operator. A second notice of default shall include:*

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

26 (B) a statement of the operator's claim, indicating the charges due on
27 the date of the notice, the amount of any additional charges which shall
28 become due before the date of release for sale and the date those additional
29 charges shall become due;

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

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

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

1 (3) At least seven days before the sale, advertise the time, place and
2 terms of the sale *and items that will be released for sale* in:

3 (A) A newspaper of general circulation in the jurisdiction where the
4 sale is to be held; *or*

5 (B) **if there is no newspaper of general circulation in the**
6 **jurisdiction where the sale is to be held, any other commercially**
7 *reasonable manner that results in the attendance of at least three*
8 *independent bidders at the sale at the designated time and place*
9 *advertised. Such advertisement shall be in the classified section of the*
10 *newspaper. The ad shall state the items that will be released for sale.*

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

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

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

16 (2) hold the balance, if any, for delivery on demand to the occupant or
17 any other recorded lienholders for a period of one year after receipt of
18 proceeds of the sale and satisfaction of the lien. Thereafter, the proceeds
19 remaining after satisfaction of the lien shall be considered abandoned
20 property to be reported and paid to the state treasurer in accordance with
21 the disposition of unclaimed property act.

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

24 (1) Persons against whom the lien was valid; and

25 (2) other lienholders.

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

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

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

32 ~~(g) The operator shall not be liable for the disclosure, discovery or~~
33 ~~dissemination of any of the following personal or private information of~~
34 ~~the occupant or any other party, resulting from the sale of any personal~~
35 ~~property sold under the self-service storage act: Health or other medical~~
36 ~~record information; criminal record information; consumer credit record~~
37 ~~information; employment record information; educational record~~
38 ~~information or any other personally identifiable record information.~~

39 ~~(g) (h)~~ (g) If an occupant is in default, the operator may deny the
40 occupant access to the leased space.

41 ~~(h) Unless otherwise specifically provided, all notices required by the~~
42 ~~self-service storage act shall be sent by restricted mail. Notices sent to the~~
43 ~~operator shall be sent to the self-service storage facility where the~~

1 occupant's property is stored.

2 ~~(h)~~ **(h)** Notices to the occupant shall be sent to the occupant at the
3 occupant's last-known address. ~~Notices shall be deemed delivered when~~
4 ~~deposited with the United States postal service, properly addressed as~~
5 ~~provided in subsection (b), with postage prepaid.~~ **Notices shall be deemed**
6 **delivered when deposited with the United States postal service,**
7 **properly addressed as provided in subsection (b), with postage**
8 **prepaid.**

9 ~~(i)~~ **(i)** *As used in this section, "independent bidder" means a bidder*
10 *who is not related to and who has no ~~controlling interest in or~~ common*
11 *pecuniary interest with the operator ~~or occupant.~~*

12 Sec. 2. K.S.A. 58-817 is hereby repealed.

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

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