



TESTIMONY

**HB 2454
An Act concerning self-storage rental units**

**Whitney Damron
On behalf of the
Self Storage Association
www.selfstorage.org**

Senate Committee on Commerce

March 13, 2020

Good morning Madam Chair and Members of the Committee:

I am Whitney Damron and I appear before you today in support of HB 2454 on behalf of the Self Storage Association. The Self Storage Association is a national trade organization headquartered in Alexandria, Virginia representing thousands of owners and operators of self-storage facilities in all fifty states.

Before you today is HB 2454, which passed the House on a vote of 114-9, making three changes to state statutes applying to the self-storage industry:

1. Make damage loss limitations in contract enforceable in law.

Section 1. (b) will allow contractual limitations on the value of stored items to be enforceable in court under contract law. Typically, a self-storage rental agreement will place a contractual limit on stored items to a value not greater than the maximum value permitted to be stored in the leased space under terms of the rental agreement. Some jurisdictions (e.g., courts) have not adhered to these limitations absent statutory authority. A self-storage operator may have good reason to limit the value of items stored in their facility, including limitations on their own insurance coverage and an interest in not having certain high-value items stored onsite that make theft difficult to discourage.

2. Amendments to the process for disposing of stored items.

Section 2. (a)(1) will allow for a sale of property to be conducted in person and/or online. By allowing online participation in an auction, it is possible, if not likely that more people will participate in such auctions, which ultimately benefits the person with the stored items who is in default in their agreement with the self-storage operator.

919 South Kansas Avenue ■ Topeka, Kansas 66612-1210

(785) 354-1354 (O) ■ (785) 354-8092 (F) ■ (785) 224-6666 (M)

www.wbdpa.com ■ wbdamron@gmail.com

3. Publication and notice requirements for sale of stored items.

Section 2. (b)(3) will allow a self-storage operator to provide public notice of intent to sell property where the renter has defaulted on their agreement through a public notice in the official newspaper of jurisdiction (e.g., city or county) or (new language) in “any other commercially reasonable manner.” The standard of review for the phrase “any other commercially reasonable manner” is met if three or more independent bidders participate in the auction in person or online.

Notice to Tenant Process; Sale of Contents.

Current law, K.S.A. 58-817 allows for a self-storage operator to sell stored items if the occupant is in default for a period of 45 days or longer. State law requires notice by First Class Mail at the occupant’s last known address and by electronic mail if it has been provided. A second notice mailed not less than seven days after the initial notice with additional information must also be sent to the renter (e.g., contents subject to lien, operator’s claim for charges due, potential additional charges, demand for payment/timeframe, etc.). The Legislature amended notice provisions to the renter years ago to allow by First Class Mail and electronic notification. There are no changes to that process in this legislation.

The purpose for the public notice of a sale is to generate interest in the sale and not a notification to the unit renter. The renter in default receives notice independent of the auction notice as noted above. The public auction is of benefit to the renter, as proceeds are first applied to the outstanding bill owed to the self-storage operator. However, any proceeds received over and above that owed to the self-storage operator are returned to the renter. Should the self-storage operator be unable to locate the renter following an auction where proceeds exceeded the amount owed, the remainder funds are remitted to the State Treasurer as unclaimed property.

In addition to public notices currently placed in newspapers, self-storage operators typically retain lists of parties interested in these kinds of auctions and circulate notices for auctions when held. The change in publication and notice requirements for a sale will allow, for example, notice of an auction to be placed on online auction websites where the public can check to see what units are scheduled for auction and on what date or through other means. This change will be helpful to both bidders and the content owners. In states that permit online advertising, these websites typically generate much more traffic than in-person auctions.

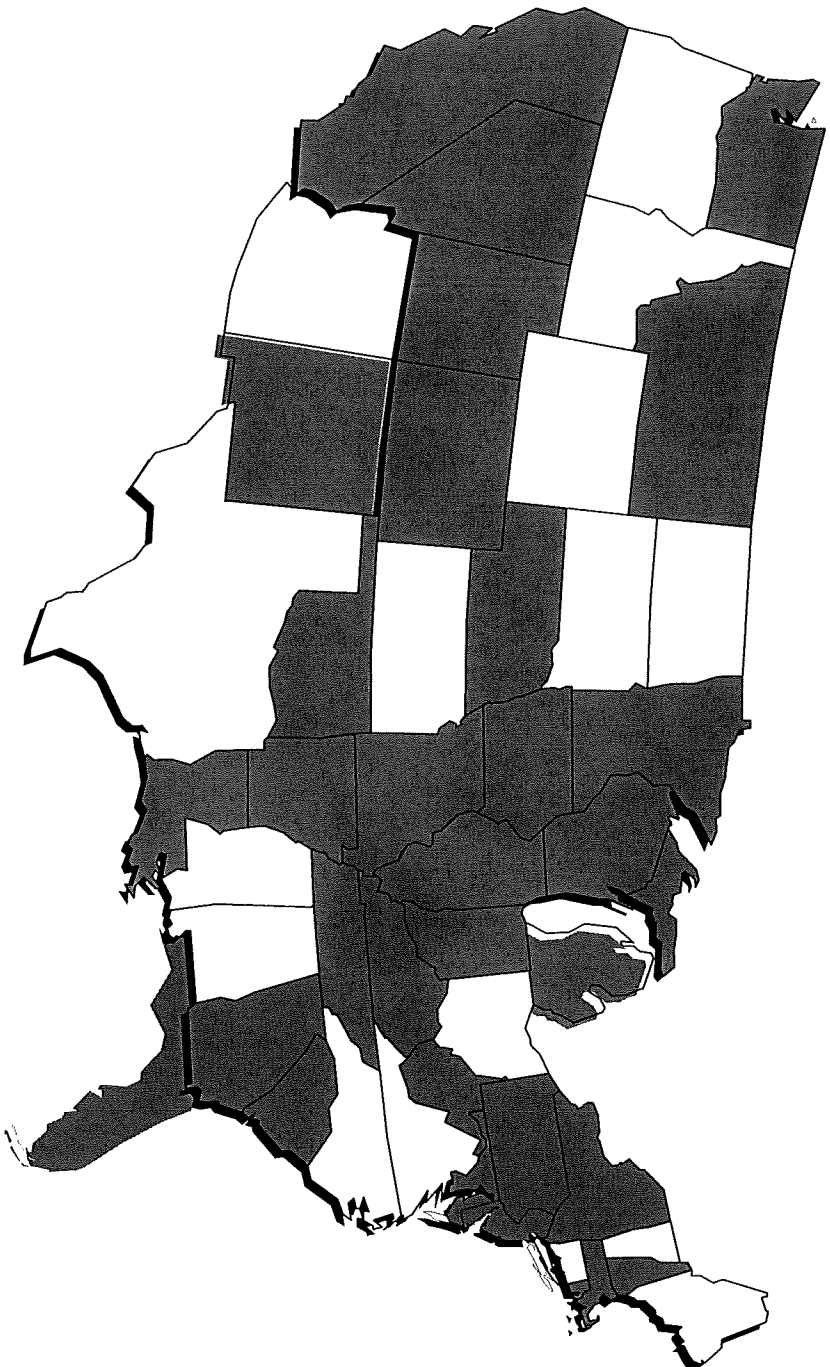
Included with my testimony are maps from all states that note where similar provisions have been enacted. These amendments are consistent with industry trends and sensible business practices for the self-storage industry and consumer.

Self-storage operators do not want to sell stored items to satisfy past due charges; they are in business to rent storage units and keep them rented. Unfortunately, there are times when a renter fails to adhere to their contractual obligations and an operator is forced to auction stored items to satisfy their bill. Kansas Law has prescribed a notice process and auction procedure that is beneficial to both the renter and the operator. These amendments to current law are a fair balance between the two parties consistent with previous changes to these statutes and we respectfully ask for your favorable consideration of HB 2454.

I would be pleased to stand for questions.

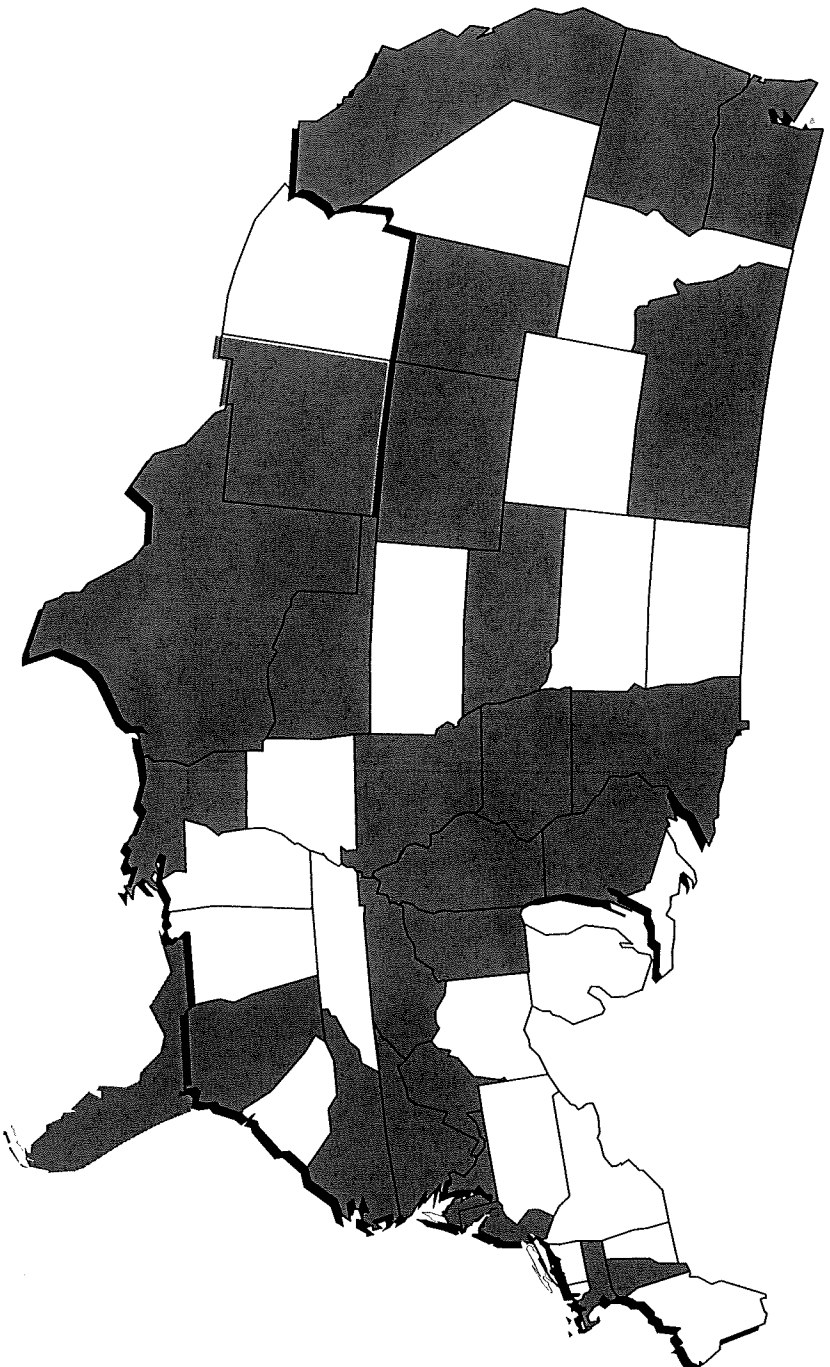
WBD
Attachments

Recognizes contractual value limitation



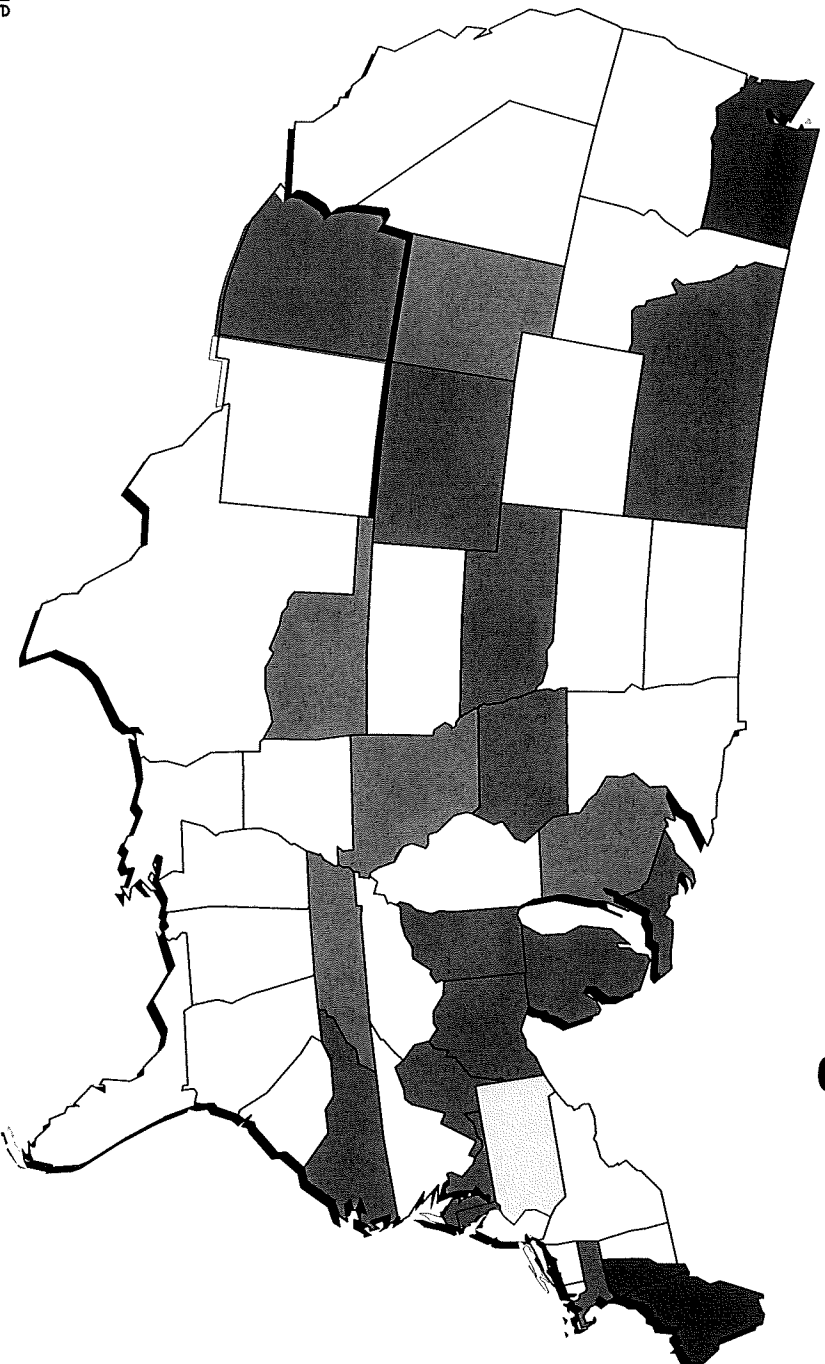
Also Hawaii

Expressly allows online auctions



Also Hawaii

Provides for alternative advertising methods



* Hawaii is also blue.

* Blue indicates state lien law provides for alternative advertising methods. Green indicates state has reduced required number of newspaper advertisements. Red indicates state lien law does not require newspaper advertising.