

By Senator Hays

20-01127B-11

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1 A bill to be entitled
2 An act relating to self-service storage facilities;
3 amending s. 83.803, F.S.; redefining the term "last
4 known address," to conform to changes made by the act;
5 amending s. 83.806, F.S.; revising notice requirements
6 related to enforcing an owner's lien; allowing postal
7 notice by first-class mail, along with a certificate
8 of mailing; allowing electronic mail notice; deleting
9 provisions relating to advertisement requirements;
10 amending s. 83.808, F.S.; clarifying provisions
11 relating to the right to create contractual liens or
12 limitations on liability; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Subsection (6) of section 83.803, Florida
17 Statutes, is amended to read:

18 83.803 Definitions.—As used in ss. 83.801-83.809:

19 (6) "Last known address" means the street ~~that~~ address,
20 post office box, or electronic mail address provided by the
21 tenant in the latest rental agreement or in a subsequent written
22 change-of-address notice provided ~~the address provided by the~~
23 ~~tenant~~ by hand delivery, first-class mail, or electronic
24 ~~certified mail in a subsequent written notice of a change of~~
25 ~~address.~~

26 Section 2. Section 83.806, Florida Statutes, is amended to
27 read:

28 83.806 Enforcement of lien.—An owner's lien as provided in
29 s. 83.805 may be satisfied as follows:

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30 (1) The tenant shall be notified by written notice
31 delivered in person or by first-class certified mail, along with
32 a certificate of mailing, to the tenant's last known address and
33 conspicuously posted at the self-service storage facility or on
34 the self-contained storage unit.

35 (2) The notice shall include:

36 (a) An itemized statement of the owner's claim, showing the
37 sum due at the time of the notice and the date when the sum
38 became due.

39 (b) The same description, or a reasonably similar
40 description, of the personal property as provided in the rental
41 agreement.

42 (c) A demand for payment within a specified time not less
43 than 14 days after delivery of the notice.

44 (d) A conspicuous statement that, unless the claim is paid
45 within the time stated in the notice, the personal property will
46 be advertised for sale or other disposition and will be sold or
47 otherwise disposed of at a specified time and place.

48 (e) The name, street address, and telephone number of the
49 owner whom the tenant may contact to respond to the notice.

50 (3) Any notice given pursuant to this section shall be
51 presumed delivered when it is deposited with the United States
52 Postal Service, ~~registered~~, and properly addressed with postage
53 prepaid.

54 ~~(4) After the expiration of the time given in the notice,~~
55 ~~an advertisement of the sale or other disposition shall be~~
56 ~~published once a week for 2 consecutive weeks in a newspaper of~~
57 ~~general circulation in the area where the self-service storage~~
58 ~~facility or self-contained storage unit is located. Inasmuch as~~

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59 ~~any sale may involve property of more than one tenant, a single~~
60 ~~advertisement may be used to dispose of property at any one~~
61 ~~sale.~~

62 ~~(a) The advertisement shall include:~~

63 ~~1. A brief and general description of what is believed to~~
64 ~~constitute the personal property contained in the storage unit,~~
65 ~~as provided in paragraph (2) (b).~~

66 ~~2. The address of the self-service storage facility or the~~
67 ~~address where the self-contained storage unit is located and the~~
68 ~~name of the tenant.~~

69 ~~3. The time, place, and manner of the sale or other~~
70 ~~disposition. The sale or other disposition shall take place not~~
71 ~~sooner than 15 days after the first publication.~~

72 ~~(b) If there is no newspaper of general circulation in the~~
73 ~~area where the self-service storage facility or self-contained~~
74 ~~storage unit is located, the advertisement shall be posted at~~
75 ~~least 10 days before the date of the sale or other disposition~~
76 ~~in not fewer than three conspicuous places in the neighborhood~~
77 ~~where the self-service storage facility or self-contained~~
78 ~~storage unit is located.~~

79 ~~(4)~~(5) Any sale or other disposition of the personal
80 property shall conform to the terms of the notification as
81 provided for in this section and shall be conducted in a
82 commercially reasonable manner, as that term is used in s.
83 679.610.

84 ~~(5)~~(6) Before any sale or other disposition of personal
85 property pursuant to this section, the tenant may pay the amount
86 necessary to satisfy the lien and the reasonable expenses
87 incurred under this section and thereby redeem the personal

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88 property. Upon receipt of such payment, the owner shall return
89 the property to the tenant and thereafter shall have no
90 liability to any person with respect to such personal property.
91 If the tenant fails to redeem the personal property or satisfy
92 the lien, including reasonable expenses, he or she will be
93 deemed to have unjustifiably abandoned the self-service storage
94 facility or self-contained storage unit, and the owner may
95 resume possession of the premises for himself or herself.

96 (6)~~(7)~~ A purchaser in good faith of the personal property
97 sold to satisfy a lien provided for in s. 83.805 takes the
98 property free of any claims, except those interests provided for
99 in s. 83.808, despite noncompliance by the owner with the
100 requirements of this section.

101 (7)~~(8)~~ In the event of a sale under this section, the owner
102 may satisfy his or her lien from the proceeds of the sale,
103 provided the owner's lien has priority over all other liens in
104 the personal property. The lien rights of secured lienholders
105 are automatically transferred to the remaining proceeds of the
106 sale. The balance, if any, shall be held by the owner for
107 delivery on demand to the tenant. A notice of any balance shall
108 be delivered by the owner to the tenant in person or by first-
109 class certified mail, along with a certificate of mailing, to
110 the last known address of the tenant. If the tenant does not
111 claim the balance of the proceeds within 2 years after ~~of~~ the
112 date of sale, the proceeds shall be deemed abandoned, and the
113 owner shall have no further obligation with regard to the
114 payment of the balance. In the event that the owner's lien does
115 not have priority over all other liens, the sale proceeds shall
116 be held for the benefit of the holders of those liens having

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117 priority. A notice of the amount of the sale proceeds shall be
118 delivered by the owner to the tenant or secured lienholders in
119 person or by first-class ~~certified~~ mail, along with a
120 certificate of mailing, to their last known addresses. If the
121 tenant or the secured lienholders do not claim the sale proceeds
122 within 2 years after ~~of~~ the date of sale, the proceeds shall be
123 deemed abandoned, and the owner shall have no further obligation
124 with regard to the payment of the proceeds.

125 Section 3. Section 83.808, Florida Statutes, is amended to
126 read:

127 83.808 Contractual liens.—This part does not impair or
128 affect ~~Nothing in ss. 83.801-83.809 shall be construed as in any~~
129 ~~manner impairing or affecting~~ the right of parties to create
130 liens or limitations on liability by special contract or
131 agreement or ~~nor shall it in any manner~~ impair or affect any
132 other lien arising at common law, in equity, or by any statute
133 of this state or any other lien not provided for in s. 83.805.

134 Section 4. This act shall take effect July 1, 2011.