

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 691 Self-Service Storage Facilities  
**SPONSOR(S):** Civil Justice & Claims Subcommittee; Moraitis, Jr.  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 898

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Claims Subcommittee	8 Y, 7 N, As CS	Tuszynski	Bond
2) Careers & Competition Subcommittee			
3) Judiciary Committee			

### SUMMARY ANALYSIS

The "Self Storage Facility Act" regulates self-service storage facilities, which are designed and used for the purpose of renting individual storage space to tenants for the purpose of storing personal property. The owner of a self-service storage facility has a lien on all personal property located at a self-service storage facility for rent, labor, and other charges, including expenses reasonably incurred in the sale or other disposition of such property. To conduct a lien sale the owner is required to take certain steps. One of these steps is that the owner must publish an advertisement of the sale once a week for 2 consecutive weeks in a newspaper of general circulation in the area where the self-service storage facility is located. If there is no such newspaper of general circulation, the advertisement must be posted at least 10 days before the sale in at least three conspicuous places in the neighborhood where the self-service storage facility is located.

CS/HB 691 allows an advertisement for sale to be published continuously for 14 consecutive days on a public website that customarily conducts personal property auctions as an alternative to publishing once a week for consecutive weeks in a newspaper of general circulation in the area where the self-service storage facility is located. The bill also removes the requirement for the owner, when there is no newspaper of general circulation, to post the advertisement at least 10 days before the sale in at least three conspicuous places in the neighborhood where the self-service storage facility is located.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2018.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Self-Service Storage

Part III of ch. 83, F.S. is known as the "Self Storage Facility Act." The Act regulates self-service storage facilities.<sup>1</sup> These facilities are designed and used for the purpose of renting or leasing individual storage space to tenants who are to have access to such space for the purpose of storing and removing personal property.<sup>2</sup>

The owner of a self-service storage facility has a lien<sup>3</sup> on all personal property located at a self-service storage facility for rent, labor, or other charges and expenses necessary for property preservation or reasonably incurred in the sale or other disposition of such property.<sup>4</sup> The lien attaches on the date the personal property is brought to the self-service storage facility.<sup>5</sup>

If a tenant fails to pay the rent on the self-storage facility space when it becomes due, after 5 days the owner may deny the tenant access to the personal property located in the self-service storage facility.

##### *Enforcement of Lien*

The owner of the self-storage facility may satisfy his or her lien by conducting a lien sale. The facility owner is required to take certain steps before satisfying the lien.

First, the owner must provide written notice to the tenant prior to the sale of the property, in person or by certified mail to the tenant's last known address and conspicuously posted at the self-service storage facility. The notice must contain a statement showing:

- The amount due;
- The date it became due;
- A description of the property;
- A demand for payment within 14 days; and
- A conspicuous statement that, unless the claim is paid within the time stated in the notice, the personal property will be advertised for sale or other disposition and will be sold or otherwise disposed of at a specified time and place.

If the tenant has not satisfied the balance due after the expiration of the time provided by the notice, the facility owner may advertise for a sale of the property. An advertisement of the sale must be published once a week for 2 consecutive weeks in a newspaper of general circulation in the area where the self-service storage facility is located. If there is no such newspaper of general circulation, the advertisement must be posted at least 10 days before the sale in at least three conspicuous places in the neighborhood where the self-service storage facility is located.<sup>6</sup> The advertisement must include a brief and general description of the property believed to be contained in the storage unit, the address of the facility, the name of the tenant, and the time, place, and manner of the sale or other disposition, which may not be sooner than 15 days after the first publication.<sup>7</sup>

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<sup>1</sup> SS. 83.801 through 83.809, F.S.

<sup>2</sup> S. 83.803(1), F.S.

<sup>3</sup> A lien is a legal right or interest that a creditor has in another's property, lasting usually until a debt or duty that it secures is satisfied. Blacks Law Dictionary (10th ed. 2014), lien.

<sup>4</sup> S. 83.805, F.S.

<sup>5</sup> Id., In the event of default, the owner must give notice to persons who hold perfected security interests under the Uniform Commercial Code in which the tenant is a named debtor.

<sup>6</sup> S. 83.806, F.S.

<sup>7</sup> S. 83.806(4)(a), F.S.

After sale, the facility owner may utilize the proceeds of the sale to pay some or all of the balance due. The facility owner must hold any balance for delivery, on demand, to the tenant. The facility owner must provide notice of any balance to the tenant in person or by certified mail. The balance is considered abandoned if the tenant does not claim it within two years.<sup>8</sup>

### **Effect of Proposed Language**

CS/HB 691 allows an advertisement for sale of the contents of a self-service storage facility to be published continuously for 14 consecutive days on a public website that customarily conducts personal property auctions as an alternative to publishing once a week for two consecutive weeks in a newspaper of general circulation in the area where the self-service storage facility is located. The bill also removes the requirement, when there is no newspaper of general circulation, for the owner to post the advertisement at least 10 days before the sale in at least three conspicuous places in the neighborhood where the self-service storage facility is located.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 83.806, F.S., relating to enforcement of a lien.

**Section 2:** Provides an effective date of July 1, 2018.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Should self-service storage facilities elect to utilize the alternate method for publication allowed in the bill, there may be an indeterminate negative fiscal impact on newspapers of general circulation. To the extent that a lien sale does not cover the balance due and other costs associated with the sale of property, the use of the alternate method for publication may have an indeterminate positive fiscal impact on self-service storage facilities by reducing advertisement costs.

#### **D. FISCAL COMMENTS:**

None.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable. The bill does not appear to affect county or municipal governments.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

Not applicable.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 30, 2018, the Civil Justice and Claims Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment changed the required publication of the notice of sale to 14 consecutive days. This analysis is drafted to the committee substitute as passed by the Civil Justice and Claims Subcommittee.