

*Tenn. Code Ann. § 66-31-101*

TENNESSEE CODE ANNOTATED

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\*\*\* CURRENT THROUGH THE 2011 REGULAR SESSION \*\*\*

Title 66 Property

Chapter 31 Self-service Storage Facility Act

Tenn. Code Ann. § 66-31-101 (2011)

**66-31-101. Short title**

This chapter shall be known and may be cited as the "Tennessee Self-Service Storage Facility Act."

**66-31-102. Chapter definitions**

As used in this chapter, unless the context otherwise requires:

- (1) "Default" means the failure timely to perform any obligation or duty set forth in this chapter and the rental agreement;
- (2) "Last known address" means for notification purposes the street address, post office box, or electronic mail address provided by the occupant in the latest rental agreement or in a subsequent written notice of a change of address provided by the occupant;
- (3) "Leased space" means the storage space or spaces at the self-service storage facility that are leased or rented to an occupant pursuant to a rental agreement;
- (4) "Occupant" means a person, or a sublessee, successor, or assign of such person, entitled to the use of leased space at a self-service storage facility under a rental agreement, to the exclusion of others;
- (5) "Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility, the agent of such person, or any person authorized by such person to manage the facility or to receive rent from an occupant under a rental agreement. "Owner" shall not be construed to be a warehouseman as defined in § 47-7-102(1)(h); provided, that if an owner shall issue any warehouse receipt, bill of lading or other document of title for the personal property stored, the owner and occupant shall be subject to the provisions of title 47, chapter 7, and the provisions of this chapter shall not apply;

(6) "Personal property" means movable property not affixed to land and includes, but is not limited to, goods, wares, merchandise, household items, and vehicles;

(7) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of leased space at a self-service storage facility;

(8) "Self-service storage facility" means any real property designed and used for the purpose of renting or leasing storage space to occupants who are to have access to such space for the purpose of storing and removing personal property; provided, however, "self-service storage facility" does not include any part of the real property used for residential purposes.

(9) "Vehicle" means a motor vehicle, a trailer, or a semitrailer as defined in SS 55-1-103 and 55-1-105 and a vessel as defined in SS 69-9-204;

(10) "Division" means the wildlife resources agency in the case of motorized watercraft and the department of revenue, taxpayer and vehicle services division in the case of all other vehicles;

(11) "Verified mail" means any method of mailing that is offered by the United States postal service and that provides evidence of mailing;

#### **66-31-103. Owner access to leased space**

Upon the reasonable request of the owner, the occupant shall provide access to the owner to enter the leased space for the purpose of inspection, repair, alteration, improvement, or to supply necessary or agreed services. In case of emergency, the owner may enter the leased space for any of these purposes without notice to or consent from the occupant. For the purposes of this section, "emergency" means any sudden, unexpected occurrence or circumstance which demands immediate action.

#### **66-31-104. Owner's lien on stored property**

The owner of a self-service storage facility and the owner's heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at a self-service storage facility for rent, labor, or other charges, present or future, in relation to the personal property and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to this chapter.

The lien provided for in this section is superior to any other lien or security interest, except those which are perfected and recorded in Tennessee in the name of the occupant during the term of the rental agreement and except any tax lien as otherwise provided by law.

(a) The lien attaches when personal property is placed in the leased space.

(b) The rental agreement shall contain a statement in bold type notifying the occupant of the existence of the lien and the method of its enforcement. The rental

agreement shall also include the late fee, if any, and when it may be imposed. If the rental agreement contains a limit on the value of property stored in the occupant's storage space, the limit shall be deemed to be the maximum value of the property stored in that space.

(c) The owner may also impose a reasonable late fee on the occupant for each month the occupant does not pay rent when due. For purposes of this section, a reasonable late fee is not more than the greater of twenty dollars (\$20.00) a month or twenty percent (20%) of monthly rent. Any late fee imposed by the owner pursuant to this section is in addition to any other remedy provided by law or contract.

(d) The owner shall provide adequate notice to the occupant before a late fee is imposed. Adequate notice is provided if the rental agreement complies with subsection (b) or if a notice is sent to the occupant at the last known address and notifies the occupant that a late fee may be charged for any month in which the occupant does not pay rent when due.

### **66-31-105. Enforcement of lien**

The enforcement of the owner's lien against an occupant who is in default may be done in accordance with either or both of the following procedures:

(1) In the case of short term default, denial of access:

(A) Upon the failure of a occupant to pay the rent for the storage space or unit when it becomes due, the owner may, without notice, deny the occupant access to the personal property located in the self-service storage facility or self-contained storage unit, and the owner without notice, not less than five (5) days after the date the rent is due, may enter and remove the personal property from the leased space to other suitable storage space pending its sale or other disposition; and

(B) The owner shall notify the occupant of the owner's intent to enforce the owner's lien by written notice delivered by hand delivery, by verified mail, or by electronic mail to the occupant's last known address;

Or

(2) In the case of long term default, which is a continuous fifteen (15) days, the owner may enforce the owners lien in accordance with the following procedures:

(A) The occupant shall be notified in writing;

(B) The notice shall be delivered by hand delivery, by verified mail, or by electronic mail to the occupant's last known address.

(C) The notice shall include:

(i) An itemized statement of the owner's claim showing the sum due at the time of the notice and the date when the sum became due;

(ii) A demand for payment of the sum due within a specified time not less than thirty (30) days after the date of the notice and a statement of the approximate additional expenses which may be incurred between the date of the notice and the date of the sale;

(iii) A statement that the contents of the occupant's leased space are subject to the owner's lien;

(iv) If the owner elects to deny the occupant access to the leased space or elects to enter and/or remove the occupant's personal property from the leased space to other suitable storage space, a statement so advising the occupant shall be included in the notice;

(v) The name, street address and telephone number of the owner or designated agent whom the occupant may contact to respond to the notice; and

(vi) A conspicuous statement that unless the claim is paid within the time stated, the personal property will be advertised for sale or will be otherwise disposed of at a specified time and place, not sooner than sixty (60) days after default;

(E) Any sale or other disposition of the personal property shall conform to the terms of the notification as provided for in this section. If the personal property is advertised for sale and the sale is not consummated, the owner shall give written notice to the occupant of other disposition of the personal property;

(F) Any sale or other disposition of the personal property shall be held at the self-service storage facility or at the nearest suitable place to where the personal property is held or stored;

(G) After expiration of the time stated in the notice and if the personal property has not otherwise been disposed, the owner shall advertise the sale of the personal property. Such advertisement of sale shall include, but not be limited to, the publishing one (1) time before the date of the sale of the personal property in a newspaper of general circulation which serves the area where the self storage facility is located. The advertisement shall include:

(i) A statement that the contents of the occupant's leased space shall be sold to satisfy the owner's lien;

(ii) The address of the self-service storage facility and the number or other description, if any, of the space where the personal property is located and the name of the occupant; and

(iii) The time, place and manner of sale.

(H) Before any sale or other disposition of personal property pursuant to this section, the occupant may pay the amount necessary to satisfy the owner's lien and the reasonable expenses incurred under this section and thereby redeem the personal property. Upon the payment and satisfaction of the amount necessary to satisfy the lien, the owner shall return the personal property and thereafter the owner shall have no liability to any person with respect to such personal property;

(I) The owner may buy at any sale of personal property to enforce the owner's lien;

(J) A purchaser in good faith of the personal property sold to satisfy the owner's lien takes the property free of any rights of persons against whom the lien was valid, despite noncompliance by the owner with the requirements of this section; and

(K) In the event of a sale under this section, the owner may satisfy the owner's lien and the expenses of such sale from the proceeds of the sale but shall hold the balance, if any, for delivery on demand to the occupant. If the occupant does not claim the balance of the proceeds within one (1) year of the date of the sale, such balance shall be deemed to be abandoned, and the owner shall pay such balance to the state treasurer who shall receive, hold and dispose of same in accordance with the provisions of the Uniform Disposition of Unclaimed Property Act, compiled in chapter 29 of this title.

(L) If the property upon which the lien is claimed is a vehicle and rent and other charges related to the property remain unpaid or unsatisfied for sixty (60) days after the maturity of the obligation to pay rent, the facility owner may utilize either of the following options:

(i) The facility owner may have the property towed. If a vehicle is towed as authorized in this subdivision (2)(L)(i), the owner shall not be liable for the vehicle or any damages to the vehicle once the tower takes possession of the property; or

(ii) The facility owner shall contact the appropriate division in such manner as the division prescribes for the purposes of determining the existence and identity of any lien holder and the name and address of the owner of the vehicle, as shown in the records of the division. Within ten (10) days of receipt of such information concerning any lien holder and the owner of such motor vehicle, as shown in the division's records, the owner shall send a written notice to any such lien holder and to the owner, if such owner is not the occupant, by verified mail, stating that:

(a) Such vehicle is being held by the facility owner;

(b) A lien has attached pursuant to this chapter; and

(c) Payment shall be made within thirty (30) days after notification to satisfy the lien. The vehicle owner or lien holder may pay the balance owed and take possession of the vehicle. If the owner or lien holder does not satisfy the lien,

the facility owner may sell the vehicle in any manner, including but not limited to, public auction.

(M) The owner's liability arising from the sale is limited to the net proceeds received from the sale of the personal property;

(N) The owner is not liable for identity theft or other harm resulting from the misuse of information contained in a document or electronic storage media:

(i) That are part of the occupant's property sold or otherwise disposed; and

(ii) Of which the owner did not have actual knowledge;

(O) An owner shall not be entitled to any remedies provided by this chapter, including but not limited to, enforcement of a lien against an occupant, if:

(i) The requirements of this section are not satisfied;

(ii) The sale of the personal property located in the leased space is not in conformity with § 66-31-105(2)(G); or

(iii) There is a willful violation of any provision of this chapter.

#### **66-31-106. Rights supplemental**

(a) Nothing in this chapter shall be construed as in any manner impairing or affecting the right of the parties to create additional rights, duties, and obligations in and by virtue of the rental agreement. The rights provided by this chapter shall be in addition to all other rights allowed by law to a creditor against a debtor.

(b) Rental agreement;

(1) The rental agreement shall contain a notice stating that all property stored under the terms of such agreement may be sold or otherwise disposed of if no payment has been received for a continuous fifteen-day period when due.

(2) The rental agreement shall contain a provision directing the occupant to disclose to the owner any lien holder with an interest in property that is or may be stored in the self-service storage facility.

#### **66-31-107. Application of chapter**

(a) The provisions of this chapter shall apply to all rental agreements entered into or extended or renewed after July 1, 2011.

(b) All rental agreements entered into before July 1, 1980, and not extended or renewed after that date, and the rights and duties and interests flowing from them shall remain

valid, and may be enforced or terminated in accordance with their terms or as permitted by any other statute or law of this state

**This act shall take effect on July 1, 2011, the public welfare requiring it, and shall apply to each rental agreement made or renewed after July 1, 2011.**