

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 180

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO SELF-SERVICE STORAGE; PROVIDING THAT THE LIMIT FOR THE MAXIMUM VALUE OF STORED PERSONAL PROPERTY ALLOWED FOR IN RENTAL AGREEMENTS IS DEEMED TO BE THE MAXIMUM VALUE OF THE STORED PERSONAL PROPERTY; PROVIDING THAT AN ACTION TO SELL PROPERTY MAY BE TAKEN UPON FORTY-FIVE DAYS OF CONTINUOUS DEFAULT; ALLOWING THE IMPOSITION OF LATE FEES FOR RENTAL PAYMENTS IN DEFAULT; PROVIDING FOR AN ALTERNATIVE CONTACT IN A RENTAL AGREEMENT TO RECEIVE A NOTICE OF INTENT TO ENFORCE A LIEN; AMENDING REQUIREMENTS FOR THE POSTING OF NOTICE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 48-11-3 NMSA 1978 (being Laws 1987, Chapter 314, Section 3) is amended to read:

"48-11-3. RENTAL AGREEMENT.--

A. The rental agreement shall contain a notice

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1 stating that all articles stored under the terms of that
2 agreement will be sold or otherwise disposed of under the terms
3 and conditions of the Self-Service Storage Lien Act if the
4 [~~tenant~~] occupant is in default. The agreement shall contain a
5 disclosure provision stating the name and address of any
6 lienholder with an interest in the property that is or will be
7 stored in the self-service storage facility. The agreement
8 shall also contain the address, telephone number and electronic
9 address of the [~~tenant~~] occupant.

10 B. The rental agreement shall include a space for
11 the occupant to designate an alternative contact, including the
12 name and the postal or electronic address of the alternative
13 contact, to receive the notice of intent to enforce a lien
14 pursuant to Paragraph (2) of Subsection A of Section 48-11-7
15 NMSA 1978. The failure or refusal of an occupant to designate
16 an alternative contact shall not affect an occupant's or
17 owner's rights or remedies under the Self-Service Storage Lien
18 Act or any other provision of law. The alternative contact, if
19 any, shall not have any rights to access the storage space or
20 to the personal property stored in the storage space unless
21 expressly stated in the rental agreement.

22 C. For a rental agreement entered into before the
23 2025 changes made to this section, the owner may comply with
24 this section by sending a notice to the occupant by verified
25 mail or electronic mail informing the occupant of the option to

1 designate an alternative contact to receive the notice of
 2 intent to enforce a lien pursuant to Paragraph (2) of
 3 Subsection A of Section 48-11-7 NMSA 1978. The notice shall
 4 include a form for the occupant to designate an alternative
 5 contact, including the name and the postal or electronic
 6 address of the alternative contact, and an address where the
 7 occupant may return the completed form."

8 SECTION 2. Section 48-11-5 NMSA 1978 (being Laws 1987,
 9 Chapter 314, Section 5) is amended to read:

10 "48-11-5. LIEN ESTABLISHED.--When an owner has a lien, it
 11 is on all personal property located at the self-service storage
 12 facility for rent, late fees for any rental payments in
 13 default, labor or other charges in relation to the personal
 14 property and for expenses necessary for its preservation or
 15 expenses reasonably incurred in its sale or other disposition
 16 pursuant to the provisions of the Self-Service Storage Lien
 17 Act. The lien attaches as of the date the occupant goes into
 18 default and continues as long as the owner retains possession
 19 of the personal property and until the default is corrected or
 20 a sale is conducted or the property is otherwise disposed of to
 21 satisfy the lien."

22 SECTION 3. Section 48-11-7 NMSA 1978 (being Laws 1987,
 23 Chapter 314, Section 7, as amended) is amended to read:

24 "48-11-7. ENFORCEMENT OF LIEN.--

25 A. An owner's lien, as provided under the Self-

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1 Service Storage Lien Act, for a claim that has become due may
2 be satisfied as follows:

3 (1) after the occupant has been in default
4 continuously for a period of five days, the owner may deny the
5 occupant access to the occupant's space for storage;

6 (2) after the occupant has been in default
7 continuously for a period of thirty days, the owner may enter
8 the space and may remove the personal property within it to a
9 safe place; provided that the owner has sent a notice of intent
10 to enforce a lien, pursuant to Subsection B of this section, to
11 the occupant [~~at the occupant's~~] and the alternative contact,
12 if any, at the last known address of the occupant and
13 alternative contact within five days of entering the space.

14 The owner shall also give notice to all lienholders listed in
15 the disclosure provision in the rental agreement; and

16 (3) no action to sell [~~any~~] property as
17 provided in the Self-Service Storage Lien Act shall be taken by
18 an owner until the occupant has been in default continuously
19 for a period of [~~ninety~~] forty-five days.

20 B. The notice of intent to enforce a lien shall
21 include:

22 (1) an itemized statement of the owner's claim
23 showing the sum due at the time of the notice and the date when
24 the sum became due;

25 (2) a brief and general statement of the

1 personal property subject to the lien; [~~That description shall~~
2 ~~be~~] provided that the description is reasonably adequate to
3 permit the person notified to identify the property, except
4 that any container, including a trunk, valise or box that is
5 locked, fastened, sealed or tied in a manner that deters
6 immediate access to its contents, may be so described without
7 describing its contents;

8 (3) a notification of denial of access to the
9 personal property that [~~notification shall provide~~] includes
10 the name, street address and telephone number of the owner or
11 the owner's designated agent whom the occupant may contact to
12 respond to that notification;

13 (4) a demand for payment within a specified
14 time, not less than fifteen days after the delivery of the
15 notice; and

16 (5) a conspicuous statement that unless the
17 claim is paid within the time stated in the notice, the
18 personal property will be advertised for sale or other
19 disposition and will be sold or otherwise disposed of to
20 satisfy the owner's lien.

21 C. All notices made pursuant to this section shall
22 be by verified mail or electronic mail pursuant to the
23 occupant's option at the time of entering into the current
24 rental agreement.

25 D. An owner shall provide written notice by

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1 verified mail to the [~~occupant's~~] last known address of the
2 occupant or alternative contact or by electronic mail to the
3 [~~occupant's~~] last known electronic address of the occupant or
4 alternative contact. If an owner sends a notice by electronic
5 mail and does not receive a response, return receipt or
6 delivery confirmation from the electronic address to which the
7 notice was sent within three business days after the day on
8 which the notice was sent, the owner shall deliver a one-time
9 notice by verified mail to the [~~occupant's~~] last known address
10 of the occupant or alternative contact.

11 E. After the expiration of the time given in the
12 notice of intent to enforce a lien, the owner shall publish an
13 advertisement of the sale or other disposition of the property
14 once a week for two consecutive weeks in a newspaper of general
15 circulation in the county where the self-service storage
16 facility is located. The advertisement shall include:

17 (1) a brief and general description of the
18 personal property reasonably adequate to permit its
19 identification as provided in Paragraph (2) of Subsection B of
20 this section, the address of the self-service storage facility
21 where the personal property is located and the name and last
22 known address of the occupant; and

23 (2) the time, place and manner of the sale or
24 other disposition; provided that the sale or disposition shall
25 take place [~~not sooner than~~] at least fifteen days after the

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1 first publication.

2 If there is no newspaper of general circulation in the
3 county where the self-service storage facility is located, the
4 owner shall post the advertisement at least ten days prior to
5 the sale or other disposition in at least six conspicuous
6 places in the neighborhood where the self-service storage
7 facility is located.

8 F. [~~Any~~] A sale or other disposition of the
9 personal property shall conform to the terms of the
10 notification as provided for in this section.

11 G. [~~Any~~] A sale or other disposition of the
12 personal property shall be held at the self-service storage
13 facility or at the nearest suitable place within the county to
14 where the personal property is held or stored or may be
15 conducted on a publicly accessible online website.

16 H. Before [~~any~~] a sale or other disposition of
17 personal property pursuant to this section is made, the
18 occupant may pay the amount necessary to satisfy the lien and
19 the reasonable expenses incurred under this section and thereby
20 redeem the property. Upon receipt of the payment, the owner
21 shall return the personal property and thereafter the owner
22 shall have no liability to any person with regard to that
23 personal property.

24 I. A good faith purchaser takes the property free
25 of any rights of an unsecured lienholder and free of any rights

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1 of a secured lienholder who has received notice by owner as
2 provided in this section.

3 J. In the event of a sale under this section, the
4 owner may satisfy the owner's lien from the proceeds of the
5 sale, subject to the rights of any prior lienholder who has not
6 received notice. The lien rights of such prior lienholder are
7 automatically transferred to the proceeds of the sale. If the
8 sale was made in good faith and conducted in a reasonable
9 manner, the owner shall not be subject to any surcharge for a
10 deficiency in the amount of a prior secured lien, but shall
11 hold the balance, if any, for delivery to the occupant,
12 lienholder or other person in interest. If the occupant,
13 lienholder or other person in interest does not claim the
14 balance of the proceeds within two years of the date of sale,
15 it shall become the property of the owner without further
16 recourse by the occupant, lienholder or other person in
17 interest.

18 K. Nothing in this section affects the rights and
19 liabilities of the owner, occupant or any other person if there
20 is a willful violation of any of the provisions of the Self-
21 Service Storage Lien Act. If the property subject to a lien
22 described in this section is a vehicle, watercraft or trailer,
23 the occupant is in default for a continuous sixty-day period
24 and the owner chose not to sell the vehicle, the owner may have
25 the vehicle towed from the self-storage facility by an

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1 independent towing carrier that is licensed by the department
 2 of transportation pursuant to the Motor Carrier Act. Within
 3 one day after the day on which a vehicle is towed, the owner
 4 shall send verified notice to the occupant's last known address
 5 or electronic address that states:

6 (1) the date the vehicle was towed; and

7 (2) the address and telephone number of the
 8 person that towed the vehicle.

9 L. An owner may charge and collect a late fee of no
 10 more than twenty dollars (\$20.00) for each month that the
 11 occupant's rental payment is in default."

12 SECTION 4. Section 48-11-8 NMSA 1978 (being Laws 1987,
 13 Chapter 314, Section 8) is amended to read:

14 "48-11-8. NOTICE--POSTING.--Each owner shall post in a
 15 prominent place in [~~his~~] the owner's office at all times a
 16 notice [~~which~~] that reads as follows:

17 "All articles stored under a rental agreement [~~which~~] that
 18 have incurred unpaid charges for thirty days will be sold
 19 or otherwise disposed of to pay charges at the end of
 20 [~~ninety~~] forty-five days."."

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