

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 390

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO SELF-STORAGE LIENS; CHANGING THE PUBLICATION
REQUIREMENT FOR NOTICE OF SALE OF THE PROPERTY.

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

SECTION 1. Section 48-11-7 NMSA 1978 (being Laws 1987,
Chapter 314, Section 7) is amended to read:

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

A. An owner's lien, as provided under the Self-
Service Storage Lien Act, for a claim that has become due may
be satisfied as follows:

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

(2) after the occupant has been in default
continuously for a period of thirty days, the owner may enter

1 the space and may remove the personal property within it to a
2 safe place; [~~providing~~] provided that the owner has sent a
3 notice of intent to enforce a lien, pursuant to Subsection B of
4 this section, to the occupant at [~~his~~] the occupant's last
5 known address within five days of entering the space. The
6 owner shall also give notice to all lienholders listed in the
7 disclosure provision in the rental agreement; and

8 (3) no action to sell any property as provided
9 in the Self-Service Storage Lien Act shall be taken by an owner
10 until the occupant has been in default continuously for a
11 period of ninety days.

12 B. The notice of intent to enforce a lien shall
13 include:

14 (1) an itemized statement of the owner's claim
15 showing the sum due at the time of the notice and the date when
16 the sum became due;

17 (2) a brief and general statement of the
18 personal property subject to the lien. That description shall
19 be reasonably adequate to permit the person notified to
20 identify the property, except that any container, including a
21 trunk, valise or box that is locked, fastened, sealed or tied
22 in a manner [~~which~~] that deters immediate access to its
23 contents, may be so described without describing its contents;

24 (3) a notification of denial of access to the
25 personal property. That notification shall provide the name,

1 street address and telephone number of the owner or [~~his~~] the
2 owner's designated agent whom the occupant may contact to
3 respond to that notification;

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

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

12 C. All notices made pursuant to this section shall
13 be by certified mail return receipt requested.

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

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

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1 (2) the time, place and manner of the sale or
2 other disposition. The sale or disposition shall take place
3 not sooner than fifteen days after the first publication.

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

10 E. Any sale or other disposition of the personal
11 property shall conform to the terms of the notification as
12 provided for in this section.

13 F. Any sale or other disposition of the personal
14 property shall be held at the self-service storage facility or
15 at the nearest suitable place within the county to where the
16 personal property is held or stored.

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

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

underscoring material = new
~~[bracketed material] = delete~~

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

3 I. In the event of a sale under this section, the
4 owner may satisfy [~~his~~] the owner's lien from the proceeds of
5 the sale, subject to the rights of any prior lienholder who has
6 not received notice. The lien rights of such prior lienholder
7 are automatically transferred to the proceeds of the sale. If
8 the 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 J. 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."

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