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FISCAL IMPACT REPORT

ORIGINAL DATE 02/01/13

SPONSOR Powdrell-Culbert LAST UPDATED _____ HB 256

SHORT TITLE Self-Service Storage Liens & Deadlines SB _____

ANALYST Cerny

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Minimal	Minimal	Minimal			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Attorney General (AGO)

SUMMARY

Synopsis of Bill

House Bill 256 seeks to amend NMSA 1978, Sections 48-11-7 to 8. The bill provides that after an owner's lien has become due under the Self-Service Storage Lien Act, the owner may deny an occupant the ability to retrieve the property from the storage unit. It further amends the statute to allow an occupant to pay the amount necessary to satisfy the lien and expenses to redeem the property within sixty days of continuous default. HB 256 also amends certain notice requirements as well.

HB 256 in detail:

p. 2 line 13 amends the statute such that the self-storage until owner may sell any property from a storage unit after the occupant has been in default for sixty days; the current statute requires a period of ninety days.

p. 4 line 5 states that the sale of disposition of property shall take place not sooner than fourteen days after first publication; the current statute stipulates fifteen days.

p. 4 line 20-25 and p. 5, lines 1-7 amend the current statute, which under current law allows for

satisfaction of the lien by the occupant at any time prior to the sale or disposition of property for the subsequent return of their property. The amended section such would require that the lien must be satisfied during the sixty days of continuous default to redeem the property.

p. 6 line 14 changes the text of the required posting in the owner's office to indicate that "All articles stored under a rental agreement that have incurred unpaid charges for thirty days will be sold or otherwise disposed to pay charges at the end of sixty days. (Previously notice stated ninety days.

FISCAL IMPLICATIONS

There may be minimal impact on the Consumer Protection Division of the AGO if consumer complaints rise as a result of this amended statute.

SIGNIFICANT ISSUES

AGO notes no significant legal issues with HB 256.

One consequence of the bill if enacted is it accelerates the process for disposal of personal property when the customer of a self-storage unit defaults on payments.

HB 256 decreases from ninety days to sixty the period of default which can trigger the sale of property to satisfy a lien, while at the same time limiting the time during which a customer might satisfy the lien before such sale. Previously the statute allowed for satisfaction of the lien at any time prior to sale; as amended, the lien must be satisfied within the sixty days of default.

Given the thirty-days in default waiting period before the owner may empty the unit, the five day requirement for notification by mail, and time required for mail delivery, the window of opportunity for a customer to resolve a lien within the sixty days of default could be as little as two weeks. Once the sixty day period of default has passed, the customer has no access to his property, cannot resolve the lien, and must wait until the property is sold at which time he or she may purchase or bid on the property.

On the other hand, HB 256 as amended will enable owners of self-storage businesses to conduct business more efficiently and turn over units that are languishing because of non-payment by occupants.

OTHER SUBSTANTIVE ISSUES

A similar law in Texas, Chapter 59 of the Property Code, Title 5 Subtitle B. (<http://www.storagelaws.com/Texas.htm>) provides for redemption of property under lien at any time prior to sale or other disposition by satisfaction of the lien and any reasonable expenses, comparable to the current New Mexico statute. It also provides for written notification of any excess profits from a sale to be mailed to the tenant's last address; the New Mexico law requires no notification.

CAC/bm