

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

H

2

HOUSE BILL 243  
Committee Substitute Favorable 3/20/13

Short Title: Liens/Self-Service Storage Facilities.

(Public)

Sponsors:

Referred to:

March 7, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT AUTHORIZING AN OWNER OF A SELF-STORAGE FACILITY WHO HAS A  
3 LIEN UPON PERSONAL PROPERTY TO DELIVER NOTICE OF THE PUBLIC SALE  
4 OF THE PROPERTY BY REGULAR AND ELECTRONIC MAIL, TO PUBLISH  
5 NOTICE IN ANY COMMERCIALY REASONABLE MANNER, AND TO CONDUCT  
6 THE SALE THROUGH AN ONLINE, PUBLICLY ACCESSIBLE AUCTION WEB  
7 SITE, AND TO INCREASE THE LATE FEES FOR SELF-STORAGE FACILITY  
8 RENTAL CONTRACTS.

9 The General Assembly of North Carolina enacts:

10 SECTION 1. G.S. 44A-40 reads as rewritten:

11 "§ 44A-40. Definitions.

12 As used in this Article, unless the context clearly requires otherwise:

13 (1) "Last known address" means that mailing address or e-mail address provided  
14 by the occupant in the latest rental agreement or the address provided by the  
15 occupant in a subsequent written notice of a change of address.

16 ...

17 (5) "Personal property" means movable property not affixed to land and  
18 includes, but is not limited to, goods, merchandise, ~~and household~~  
19 ~~items.~~ household items, and watercraft.

20 ...

21 (8) "E-mail" or "electronic mail" means an electronic message or an executable  
22 program or computer file that contains an image of a message that is  
23 transmitted between two or more computers or electronic terminals. The  
24 term includes electronic messages that are transmitted within or between  
25 computer networks."

26 SECTION 2. G.S. 44A-43 reads as rewritten:

27 "§ 44A-43. Enforcement of self-service storage facility lien.

28 ...

29 (b) Notice and Hearing:

30 ...

31 (1a) If the property upon which the lien is claimed is a motor ~~vehicle-vehicle,~~  
32 watercraft, or trailer, and rent and other charges related to the property  
33 remain unpaid or unsatisfied for 60 days following the maturity of the  
34 obligation to pay rent, the lienor may have the property towed. If a motor  
35 vehicle is towed as authorized in this subdivision, the lienor shall not be



\* H 2 4 3 - V - 2 \*

- 1 liable for the motor vehicle or any damages to the motor vehicle once the  
 2 tower takes possession of the property.
- 3 (2) If the property upon which the lien is claimed is other than a motor  
 4 ~~vehicle, vehicle, watercraft, or trailer~~, the lienor following the expiration of  
 5 the 15-day period provided by subsection (a) shall issue notice to the person  
 6 having a security or other interest in the property, if reasonably  
 7 ascertainable, and to the occupant, if different, at his last known address.  
 8 Notice given pursuant to this subdivision shall be presumed delivered when  
 9 it is properly addressed, first-class postage prepaid, and deposited with the  
 10 United States Postal ~~Service~~.Service, and it is sent by electronic mail, if  
 11 available, to the occupant's last known address.
- 12 ...
- 13 (c) Public Sale. –
- 14 (1) Not less than 20 days prior to sale by public sale the lienor:
- 15 a. Shall cause notice to be delivered by ~~certified mail~~first-class mail,  
 16 postage prepaid, and by electronic mail, if available, to the person  
 17 having a security interest in the property if reasonably ascertainable,  
 18 and to the occupant at the occupant's last known address. Notice  
 19 given pursuant to this subdivision shall be presumed delivered when  
 20 it is properly addressed, first-class postage prepaid, and deposited  
 21 with the United States Postal ~~Service~~.Service, and sent by electronic  
 22 mail, if available, to the occupant's last known address.
- 23 b. Repealed by Session Laws 2009-201, s. 1, effective October 1, 2009.
- 24 (1a) Not less than five days prior to sale by public sale, the lienor shall publish  
 25 notice of sale either (i) in a newspaper of general circulation in the county  
 26 where the sale is to be held. If there is no newspaper of general circulation in  
 27 the county where the sale is to be held, notice of sale shall be published in  
 28 any publication that accepts classified advertisements and has a general  
 29 circulation in the county where the sale is to be held.held or (ii) in any other  
 30 commercially reasonable manner. The manner of advertisement shall be  
 31 deemed commercially reasonable if at least three independent bidders attend  
 32 the sale at the time and place advertised and the sale is otherwise consistent  
 33 with the definition set out in G.S. 25-9-627.
- 34 (2) ~~The sale must be held on a day other than Sunday and between the hours of~~  
 35 ~~9:00 A.M. and 4:00 P.M.:~~
- 36 a. ~~At the self-service storage facility or at the nearest suitable place to~~  
 37 ~~where the property is held or stored; or~~
- 38 b. ~~In the county where the obligation secured by the lien was contracted~~  
 39 ~~for.~~
- 40 (2a) The sale shall be conducted in a commercially reasonable manner, as defined  
 41 in G.S. 25-9-627, including offering property to an audience of bidders  
 42 through an online, publicly accessible auction Web site.
- 43 a. If the sale is a live auction conducted at the facility, the nearest  
 44 suitable place where the property is held or stored, or in the county  
 45 where the obligation secured by the lien was contracted for, the sale  
 46 must be held on a day other than Sunday and between the hours of  
 47 9:00 A.M. and 4:00 P.M.
- 48 b. A lienor may purchase at public sale.
- 49 (3) ~~A lienor may purchase at public sale.~~
- 50 (d) Notice of Sale. — ~~The notice of sale shall include:~~
- 51 (1) ~~The name and address of the lienor;~~

1           (2)    A statement to the effect that various items of personal property are being  
2                    sold pursuant to the assertion of a lien for rental at the self-service storage  
3                    facility;

4           (3)    The place, date, and time of the sale."

5           **SECTION 3.** G.S. 66-306 reads as rewritten:

6    "**§ 66-306. Late fees.**

7           (a)    In all rental contracts in which a definite time for the payment of the rent is fixed,  
8    the late fee for each rental unit shall not exceed twenty dollars (\$20.00) or fifteen percent  
9    ~~(15%)~~ twenty percent (20%) of the rental ~~payment~~ payment, whichever is greater, and shall not  
10   be imposed by the self-service storage business until the rental payment for that rental unit is  
11   five days or more late.

12           ...."

13           **SECTION 4.** This act is effective when it becomes law.