

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

3

HOUSE BILL 243
Committee Substitute Favorable 3/20/13
Third Edition Engrossed 3/26/13

Short Title: Liens/Self-Service Storage Facilities.

(Public)

Sponsors:

Referred to:

March 7, 2013

A BILL TO BE ENTITLED

AN ACT AUTHORIZING AN OWNER OF A SELF-STORAGE FACILITY WHO HAS A LIEN UPON PERSONAL PROPERTY TO DELIVER NOTICE OF THE PUBLIC SALE OF THE PROPERTY BY CERTIFIED MAIL OR BY VERIFIED ELECTRONIC MAIL, TO PUBLISH NOTICE IN ANY COMMERCIALY REASONABLE MANNER, AND TO CONDUCT THE SALE THROUGH AN ONLINE, PUBLICLY ACCESSIBLE AUCTION WEB SITE, AND TO INCREASE THE LATE FEES FOR SELF-STORAGE FACILITY RENTAL CONTRACTS.

The General Assembly of North Carolina enacts:

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

"§ 44A-40. **Definitions.**

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

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

...

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

...

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

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

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

...

(b) Notice and Hearing:

...

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



* H 2 4 3 - V - 3 *

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

1 (d) Notice of Sale.—The notice of sale shall include:

2 (1) ~~The name and address of the lienor;~~

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

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

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

8 **"§ 66-306. Late fees.**

9 (a) In all rental contracts in which a definite time for the payment of the rent is fixed,
10 the late fee for each rental unit shall not exceed fifteen dollars (\$15.00) or fifteen percent (15%)
11 of the rental payment—payment, whichever is greater, and shall not be imposed by the
12 self-service storage business until the rental payment for that rental unit is five days or more
13 late.

14"

15 **SECTION 4.** This act becomes effective October 1, 2013. Section 3 applies only to
16 contracts entered into on or after the effective date.