

HOUSE BILL No. 2739

By Committee on Judiciary

2-6

9 AN ACT concerning the Kansas self-service storage act; relating to no-
10 tice, definition of property of no commercial value and lien sales;
11 amending K.S.A. 58-814 and 58-817 and repealing the existing
12 sections.

13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 58-814 is hereby amended to read as follows: 58-
16 814. In the self-service storage act the following words shall mean the
17 following:

18 (a) "Self-service storage facility" means any real property used for
19 renting or leasing individual storage spaces in which the occupants them-
20 selves customarily store and remove their own personal property on a
21 self-service basis.

22 (b) "Rental agreement" means any written statement that establishes
23 or modifies the terms, conditions or rules concerning the use and occu-
24 pancy of a self-service storage facility.

25 (c) "Leased space" means the individual storage space at the self-
26 service facility which is rented to an occupant pursuant to a rental
27 agreement.

28 (d) "Occupant" means a person, a sublessee, successor or assign, en-
29 titled to the use of a leased space at a self-service storage facility under a
30 rental agreement.

31 (e) "Operator" means the owner, operator, lessor or sublessor of a
32 self-service storage facility, an agent or any other person authorized to
33 manage the facility, except that "operator" does not mean a warehouse-
34 man, unless the operator issues a warehouse receipt, bill of lading, or
35 other document of title for the personal property stored.

36 (f) "Personal property" means movable property, not affixed to land,
37 and "personal property" includes, but is not limited to, goods, wares,
38 merchandise, motor vehicles, watercraft, household items and
39 furnishings.

40 (g) "Default" means the failure to perform on time any obligation or
41 duty set forth in the rental agreement.

42 (h) "Last-known address" means that address provided by the occu-
43 pant in the rental agreement or the address provided by the occupant in

1 a subsequent written notice of a change of address.

2 (i) *“Public sale” means a sale following public notice, at a place where*
3 *the public has access and at a price that is determined after the public*
4 *has had an opportunity for competitive bidding.*

5 (j) *“Private sale” means any sale that is not a public sale as defined*
6 *in this section and includes, but is not limited to, a sale effected by solic-*
7 *itation and negotiation conducted either directly or through a broker.*

8 Sec. 2. K.S.A. 58-817 is hereby amended to read as follows: 58-817.

9 (a) (1) If the occupant is in default for a period of more than 45 days,
10 the operator may enforce the lien by selling the property stored in the
11 leased space for cash. Sale of the property stored on the premises may
12 be by public or private *sale* proceedings and may also be as a unit or in
13 parcels, or by way of one or more contracts and at any time or place, and
14 on any terms as long as the sale is commercially reasonable. The operator
15 may otherwise dispose of any property which has no commercial value,
16 *including both rubbish found in the occupant’s leased space and property*
17 *that theoretically has value, but that does not receive an offer or bid*
18 *during a lien sale.*

19 (2) The proceeds of such sale shall then be applied to satisfy the lien,
20 with any surplus disbursed as provided in subsection (d).

21 (b) Before conducting a sale under subsection (a), the operator shall:

22 (1) Notify the occupant of the default by first-class mail at the oc-
23 cupant’s last-known address;

24 (2) send a second notice of default, not less than seven days after the
25 notice required by subsection (b)(1), by ~~restricted~~ *certified or registered*
26 mail to the occupant at the occupant’s last-known address which includes:

27 (A) A statement that the contents of the occupant’s leased space are
28 subject to the operator’s lien;

29 (B) a statement of the operator’s claim, indicating the charges due
30 on the date of the notice, the amount of any additional charges which
31 shall become due before the date of release for sale and the date those
32 additional charges shall become due;

33 (C) a demand for payment of the charges due within a specified time,
34 not less than 10 days after the date of the notice;

35 (D) a statement that unless the claim is paid within the time stated,
36 the contents of the occupant’s space will be sold after a specified time;
37 and

38 (E) the name, street address and telephone number of the operator,
39 or a designated agent whom the occupant may contact to respond to the
40 notice.

41 (3) At least seven days before the sale, advertise the time, place and
42 terms of the sale in a newspaper of general circulation in the jurisdiction
43 where the sale is to be held. Such advertisement shall be in the classified

1 section of the newspaper. The ad shall state *generally* the items that will
2 be released for sale.

3 (c) At any time before a sale under this section, the occupant may
4 pay the amount necessary to satisfy the lien and redeem the occupant's
5 personal property.

6 (d) If a sale is held under this section, the operator shall:

7 (1) Satisfy the lien from the proceeds of the sale; and

8 (2) hold the balance, if any, for delivery on demand to the occupant
9 or any other recorded lienholders for a period of one year after receipt
10 of proceeds of the sale and satisfaction of the lien. Thereafter, the pro-
11 ceeds remaining after satisfaction of the lien shall be considered aban-
12 doned property to be reported and paid to the state treasurer in accord-
13 ance with the disposition of unclaimed property act.

14 (e) A purchaser in good faith of any personal property sold under the
15 self-service storage act takes the property free and clear of any rights of:

16 (1) Persons against whom the lien was valid; and

17 (2) other lienholders.

18 (f) If the operator complies with the provisions of the self-service
19 storage act, the operator's liability:

20 (1) To the occupant shall be limited to the net proceeds received
21 from the sale of the personal property, and

22 (2) to other lienholders shall be limited to the net proceeds received
23 from the sale of any personal property covered by the other lien.

24 (g) If an occupant is in default, the operator may deny the occupant
25 access to the leased space.

26 (h) Unless otherwise specifically provided, all notices required by the
27 self-service storage act shall be sent by ~~restricted~~ *certified or registered*
28 mail. Notices sent to the operator shall be sent to the self-service storage
29 facility where the occupant's property is stored. Notices to the occupant
30 shall be sent to the occupant at the occupant's last-known address. Notices
31 shall be deemed delivered when deposited with the United States postal
32 service, properly addressed as provided in subsection (b), with postage
33 prepaid.

34 Sec. 3. K.S.A. 58-814 and 58-817 are hereby repealed.

35 Sec. 4. This act shall take effect and be in force from and after its
36 publication in the statute book.