

1 HOUSE BILL 256

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Jane E. Powdrell-Culbert

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10 AN ACT

11 RELATING TO STORAGE; AMENDING THE SELF-SERVICE STORAGE LIEN
12 ACT; CLARIFYING THAT A DEADLINE FOR PAYMENT OF PAST DUE
13 BALANCES MAY BE SET; REDUCING THE MINIMUM TIME BEFORE PROPERTY
14 CAN BE SOLD.

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

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

19 "48-11-7. ENFORCEMENT OF LIEN.--

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

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

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

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

14 B. The notice of intent to enforce a lien shall
15 include:

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

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

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1 (3) a notification of denial of access to the
2 personal property. That notification shall provide the name,
3 street address and telephone number of the owner or [~~his~~] the
4 owner's designated agent whom the occupant may contact to
5 respond to that notification;

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

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

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

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

22 (1) a brief and general description of the
23 personal property reasonably adequate to permit its
24 identification as provided in Paragraph (2) of Subsection B of
25 this section, the address of the self-service storage facility

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1 where the personal property is located and the name and last
2 known address of the occupant; and

3 (2) the time, place and manner of the sale or
4 other disposition. The sale or disposition shall take place
5 not sooner than ~~[fifteen]~~ fourteen days after the first
6 publication.

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

13 E. Any sale or other disposition of the personal
14 property shall conform to the terms of the notification as
15 provided for in this section.

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

20 ~~G. [Before any sale or other disposition of~~
21 ~~personal property pursuant to this section is made, the~~
22 ~~occupant may pay the amount necessary to satisfy the lien and~~
23 ~~the reasonable expenses incurred under this section and thereby~~
24 ~~redeem the property. Upon receipt of the payment, the owner~~
25 ~~shall return the personal property and thereafter the owner~~

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1 ~~shall have no liability to any person with regard to that~~
2 ~~personal property]~~ At any time prior to sixty days of
3 continuous default, the occupant may pay the amount necessary
4 to satisfy the lien and the reasonable expenses incurred under
5 this section, and thereby redeem the property. Nothing in this
6 subsection shall preclude the occupant from bidding on or
7 purchasing the occupant's property at the sale.

8 H. A good faith purchaser takes the property free
9 of any rights of an unsecured lienholder and free of any rights
10 of a secured lienholder who has received notice by owner as
11 provided in this section.

12 I. In the event of a sale under this section, the
13 owner may satisfy [~~his~~] the owner's lien from the proceeds of
14 the sale, subject to the rights of any prior lienholder who has
15 not received notice. The lien rights of such prior lienholder
16 are automatically transferred to the proceeds of the sale. If
17 the sale was made in good faith and conducted in a reasonable
18 manner, the owner shall not be subject to any surcharge for a
19 deficiency in the amount of a prior secured lien, but shall
20 hold the balance, if any, for delivery to the occupant,
21 lienholder or other person in interest. If the occupant,
22 lienholder or other person in interest does not claim the
23 balance of the proceeds within two years of the date of sale,
24 it shall become the property of the owner without further
25 recourse by the occupant, lienholder or other person in

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1 interest.

2 J. Nothing in this section affects the rights and
3 liabilities of the owner, occupant or any other person if there
4 is a willful violation of any of the provisions of the Self-
5 Service Storage Lien Act."

6 SECTION 2. Section 48-11-8 NMSA 1978 (being Laws 1987,
7 Chapter 314, Section 8) is amended to read:

8 "48-11-8. NOTICE--POSTING.--Each owner shall post in a
9 prominent place in ~~[his]~~ the owner's office at all times a
10 notice ~~[which]~~ that reads as follows:

11 "All articles stored under a rental agreement ~~[which]~~ that
12 have incurred unpaid charges for thirty days will be sold
13 or otherwise disposed of to pay charges at the end of
14 ~~[ninety]~~ sixty days."."