

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 492**

Introduced by Harr, 8.

Read first time January 17, 2017

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to self-service storage facilities; to adopt
- 2 the Self-Service Storage Facilities Act; and to authorize certain
- 3 liens as prescribed.
- 4 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 9 of this act shall be known and may be  
2 cited as the Self-Service Storage Facilities Act.

3           Sec. 2. For purposes of the Self-Service Storage Facilities Act:

4           (1) Commercially reasonable sale means a sale that (a) is conducted  
5 at the self-service storage facility or on a publicly accessible web site  
6 that conducts lien sales and (b) is attended by at least three persons  
7 who appear personally, online, by telephone, or by any other method;

8           (2) Default means the failure to perform on time any obligation or  
9 duty set forth in a rental agreement;

10          (3) Electronic mail means an electronic message or an executable  
11 program or computer file that contains an image of a message that is  
12 transmitted between two or more computers or electronic terminals and  
13 includes electronic messages that are transmitted within or between  
14 computer networks;

15          (4) Emergency means any sudden, unexpected occurrence or  
16 circumstance at or near a self-service storage facility that requires  
17 immediate action to avoid injury to persons or property at or near the  
18 self-service storage facility, including, but not limited to, a fire;

19          (5) Last-known address means the postal address or electronic mail  
20 address provided by an occupant in a rental agreement or the postal  
21 address or electronic mail address provided by the occupant in a  
22 subsequent written notice of a change of address;

23          (6) Leased space means the individual storage space at a self-  
24 service storage facility which is rented to an occupant pursuant to a  
25 rental agreement;

26          (7) Occupant means a person entitled to the use of leased space at a  
27 self-service storage facility under a rental agreement or his or her  
28 successors or assigns;

29          (8) Operator means the owner, operator, lessor, or sublessor of a  
30 self-service storage facility or an agent or any other person authorized  
31 to manage the facility. Operator does not include a warehouseman unless

1 the warehouseman issues a warehouse receipt, bill of lading, or other  
2 document of title for the personal property stored;

3 (9) Personal property means movable property not affixed to land.  
4 Personal property includes, but is not limited to, goods, wares,  
5 merchandise, motor vehicles, watercraft, household items, and  
6 furnishings;

7 (10) Property which has no commercial value means property offered  
8 for sale in a commercially reasonable sale that receives no bid or offer;

9 (11) Rental agreement means any written agreement or lease that  
10 establishes or modifies the terms, conditions, or rules concerning the  
11 use and occupancy of a self-service storage facility;

12 (12) Self-service storage facility means any real property used for  
13 renting or leasing individual storage spaces in which the occupants  
14 customarily store and remove their own personal property on a self-  
15 service basis; and

16 (13) Verified mail means any method of mailing offered by the United  
17 States Postal Service that provides evidence of the mailing.

18 Sec. 3. (1) An operator shall not knowingly permit a leased space  
19 at a self-service storage facility to be used for residential purposes.

20 (2) An occupant shall not use a leased space for residential  
21 purposes.

22 Sec. 4. An occupant, upon reasonable request from the operator,  
23 shall allow the operator to enter a leased space for the purpose of  
24 inspection or repair. If an emergency occurs, an operator may enter a  
25 leased space for inspection or repair without notice to or consent from  
26 the occupant.

27 Sec. 5. (1) The operator of a self-service storage facility and the  
28 operator's heirs, executors, administrators, successors, and assigns  
29 shall have a lien upon all of an occupant's personal property located at  
30 the self-service storage facility for delinquent rent, late fees, labor,  
31 or other charges incurred pursuant to a rental agreement and for expenses

1 incurred for preservation, sale, or disposition of the personal property.  
2 The lien established by this subsection shall have priority over all  
3 other liens except for tax liens and liens or security interests of any  
4 lienholder or security interest holder of record on such personal  
5 property that are perfected or recorded prior to, on, or after the date  
6 on which the personal property is placed in a leased space.

7 (2) The lien described in subsection (1) of this section attaches on  
8 the date on which personal property is placed in a leased space.

9 (3) The rental agreement shall contain a statement, in bold type,  
10 advising the occupant:

11 (a) Of the existence of the lien; and

12 (b) That personal property stored in the leased space may be sold to  
13 satisfy the lien if the occupant is in default.

14 (4) If the rental agreement specifies a limit on the value of  
15 personal property that the occupant may store in the leased space, such  
16 limit shall be deemed to be the maximum value of the personal property in  
17 the occupant's leased space.

18 Sec. 6. If any part of the rent or other charges due from the  
19 occupant are in default, the operator shall have the right to deny the  
20 occupant access to the leased space at the self-service storage facility.

21 Sec. 7. (1) If an occupant is in default for a period of more than  
22 forty-five days, the operator may enforce the lien granted in section 5  
23 of this act by selling the occupant's stored personal property for cash.  
24 Sale of the occupant's personal property may be by public or private  
25 proceedings. Such personal property may be sold as a unit or in parcels,  
26 by way of one or more contracts, at any time or place, and on any terms  
27 as long as the sale is a commercially reasonable sale. The operator may  
28 otherwise dispose of any property which has no commercial value.

29 (2) Before conducting a sale under this section, the operator shall:

30 (a) At least forty-five days before the sale, send notice of default  
31 to the occupant by verified mail or electronic mail pursuant to

1 subdivision (8)(a) of this section. The notice of default shall include:

2 (i) A statement that the contents of the occupant's leased space are  
3 subject to the operator's lien;

4 (ii) A statement of the operator's claim, indicating the charges due  
5 on the date of the notice, the amount of any additional charges which  
6 shall become due before the date of sale, and the date such additional  
7 charges shall become due;

8 (iii) A demand for payment of the charges due within a specified  
9 time, which shall not be less than ten days after the date of the notice;

10 (iv) A statement that unless the claim is paid within the time  
11 stated, the contents of the occupant's leased space will be sold after a  
12 specified time; and

13 (v) The name, street address, and telephone number of the operator  
14 or a designated agent whom the occupant may contact to respond to the  
15 notice; and

16 (b) At least seven days before the sale, advertise the time, place,  
17 and terms of the sale in any commercially reasonable manner. The manner  
18 of advertisement is deemed commercially reasonable if at least three  
19 independent bidders attend the sale in person or online at the time and  
20 place advertised. A copy of the advertisement of sale shall be provided  
21 at least seven days before the sale to the holder of any lien or security  
22 interest of record on the personal property being sold.

23 (3) The operator may buy the occupant's personal property at any  
24 public sale held pursuant to this section.

25 (4) If the personal property subject to the operator's lien is a  
26 vehicle, watercraft, or trailer and rent and other charges remain unpaid  
27 for sixty days, the operator may have the vehicle, watercraft, or trailer  
28 towed from the self-service storage facility. The operator shall not be  
29 liable for any damages to the vehicle, watercraft, or trailer once the  
30 tower takes possession of the property. Removal of any vehicle,  
31 watercraft, or trailer from the self-service storage facility shall not

1 release the operator's lien.

2 (5) At any time before a sale is held under this section or before a  
3 vehicle, watercraft, or trailer is towed under this section, the occupant  
4 may pay the amount necessary to satisfy the lien and redeem the  
5 occupant's personal property.

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

7 (a) Apply the proceeds of the sale in the following order:

8 (i) To satisfy the actual expenses incurred in conducting the sale,  
9 including the costs for notice and advertisement of the sale, in an  
10 amount not to exceed five hundred dollars;

11 (ii) To satisfy the obligations secured by the lien or security  
12 interest of any lienholder or security interest holder of record; and

13 (iii) To satisfy the operator's lien; and

14 (b) Hold the balance of the proceeds remaining after the  
15 disbursements described in subdivision (6)(a) of this section, if any,  
16 for delivery on demand to the occupant for a period of one year after the  
17 date of such sale. The operator shall have no liability to any party for  
18 excess proceeds paid to the occupant. After the one-year period, any  
19 remaining proceeds shall be considered abandoned property to be reported  
20 and paid to the State Treasurer in accordance with the Uniform  
21 Disposition of Unclaimed Property Act.

22 (7) A purchaser in good faith of any personal property sold pursuant  
23 to this section to satisfy the lien granted in section 5 of this act  
24 takes the property free and clear of any rights of persons against whom  
25 the lien was valid.

26 (8)(a) Notices to the occupant under subdivision (2)(a) of this  
27 section shall be sent to the occupant's last-known address by verified  
28 mail or electronic mail. Notices sent by verified mail shall be deemed  
29 delivered when deposited with the United States Postal Service if they  
30 are properly addressed with postage prepaid. Notices sent by electronic  
31 mail shall be deemed delivered when an electronic message is sent to the

1 last-known address provided by the occupant. If the operator sends notice  
2 by electronic mail and receives an automated message stating that the  
3 electronic mail cannot be delivered, the operator shall send notice by  
4 verified mail to the occupant's last-known address with postage prepaid.

5 (b) The copy of the advertisement of sale provided to the holder of  
6 any lien or security interest of record under subdivision (2)(b) of this  
7 section shall be sent to the last-known address of the lienholder or  
8 security interest holder by United States mail. The copy of the  
9 advertisement shall be deemed delivered when deposited with the United  
10 States Postal Service if it is properly addressed with postage prepaid.

11 (9) If the operator complies with the requirements of this section,  
12 the operator's liability:

13 (a) To the occupant shall be limited to the net proceeds received  
14 from the sale of the occupant's personal property less any proceeds paid  
15 to the holders of any lien or security interest of record on the personal  
16 property being sold; and

17 (b) To the holders of any lien or security interest of record on the  
18 personal property being sold shall be limited to the net proceeds  
19 received from the sale of any personal property covered by the holder's  
20 lien or security interest.

21 Sec. 8. Unless the rental agreement specifically provides otherwise  
22 and until a lien sale under section 7 of this act, the exclusive care,  
23 custody, and control of all personal property stored in a leased space  
24 remains vested in the occupant.

25 Sec. 9. The Self-Service Storage Facilities Act does not impair the  
26 power of the parties to a rental agreement to create rights, duties, or  
27 obligations that do not arise from the act. The rights provided to an  
28 operator by the act are in addition to all other rights provided by law  
29 to a creditor against a debtor.