

IN THE SENATE

SENATE BILL NO. 1264

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO SELF-SERVICE STORAGE FACILITIES; AMENDING SECTION 55-2301,
2 IDAHO CODE, TO REVISE DEFINITIONS, TO REMOVE A DEFINITION, AND TO DE-
3 FINE A TERM; AMENDING SECTION 55-2304, IDAHO CODE, TO REVISE PROVISIONS
4 REGARDING RENTAL AGREEMENTS; AMENDING SECTION 55-2305, IDAHO CODE, TO
5 REVISE PROVISIONS REGARDING THE CREATION OF LIENS; AMENDING SECTION
6 55-2306, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ENFORCEMENT OF
7 LIENS; AMENDING CHAPTER 23, TITLE 55, IDAHO CODE, BY THE ADDITION OF
8 A NEW SECTION 55-2308, IDAHO CODE, TO PROVIDE A PROCEDURE IN THE EVENT
9 OF DEFAULT WHEN THE PROPERTY STORED IN THE LEASED SPACE IS A VEHICLE OR
10 TRAILER; AND AMENDING CHAPTER 23, TITLE 55, IDAHO CODE, BY THE ADDITION
11 OF A NEW SECTION 55-2309, IDAHO CODE, TO PROVIDE THAT AN OPERATOR MAY
12 DENY ACCESS TO THE LEASED SPACE UNDER CERTAIN CONDITIONS.
13

14 Be It Enacted by the Legislature of the State of Idaho:

15 SECTION 1. That Section 55-2301, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 55-2301. DEFINITIONS. As used in this chapter:

18 (1) "Default" means the failure by the lessee to perform, on time, any
19 obligation or duty set forth in the rental agreement or the provisions of
20 this chapter.

21 (2) "Last known address" means that address provided by the lessee in
22 the rental agreement or the address provided by the lessee to the operator in
23 a subsequent written notice of a change of address.

24 (3) "Leased space" means the individual storage space at the self-ser-
25 vice storage facility ~~which~~ that is or may be rented to a lessee pursuant to
26 a rental agreement. The leased space may be enclosed, covered, or open stor-
27 age.

28 (4) "Lessee" means a person, sublessee, successor, or assignee enti-
29 tled to the use of a leased space at a self-service storage facility under the
30 terms of a rental agreement.

31 (5) "Operator" means ~~any person authorized by~~ the owner, operator,
32 lessor, or sublessor of a self-service storage facility or an agent or an-
33 other person authorized to manage the facility or to receive rent from a
34 lessee under a rental agreement. The term does not include a warehouse oper-
35 ator if the warehouse operator issues a warehouse receipt, bill of lading, or
36 other document of title for the personal property stored.

37 (6) "Owner" means ~~the person who holds legal title to the self-service~~
38 ~~storage facility. An owner may also be an operator.~~

39 ~~(7)~~ "Personal property" means those items placed within the leased
40 space and includes, but is not limited to, goods, wares, merchandise, motor
41 vehicles, watercraft and household items and furnishings.

1 (87) "Rental agreement" means a signed, written agreement or contract
2 that establishes or modifies conditions or rules concerning the use and oc-
3 cupancy by a lessee of leased space at a self-service storage facility and
4 includes any signed, written amendment to such an agreement.

5 (98) "Self-service storage facility" means any real property used for
6 renting or leasing individual storage space in which the lessees themselves
7 store and remove their own personal property on a "self-service" basis.

8 (9) "Vehicle" is as defined in section 49-123, Idaho Code, and
9 "trailer" is as defined in section 49-121, Idaho Code. Should the operator
10 choose to proceed with a lien sale of a vehicle, the operator must comply with
11 the provisions of chapter 17, title 49, Idaho Code.

12 SECTION 2. That Section 55-2304, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 55-2304. RENTAL AGREEMENT. (1) From and after July 1, 1990, any op-
15 erator offering storage spaces in a self-service storage facility for rent
16 shall provide a written rental agreement which shall be executed by the oper-
17 ator and the lessee. The operator of a ~~self-storage~~ self-service storage fa-
18 cility shall provide a lessee with a copy of the rental agreement at the time
19 of the rental by delivery at that time or as provided for in the rental agree-
20 ment.

21 (2) The rental agreement shall contain a conspicuous statement advis-
22 ing the lessee:

23 (a) Of the existence of the operator's lien;

24 (b) That the property in the leased space may be sold to satisfy the lien
25 if the lessee is in default; and

26 (c) That the personal property stored in a ~~storage~~ leased space will not
27 be insured unless the lessee obtains insurance on his property;

28 (d) Of the amount of any late fee and the conditions for imposing the
29 fee; and

30 (e) That all notices and correspondence may be sent as provided for in
31 the rental agreement.

32 (3) In the absence of a notice provision in the rental agreement, no-
33 tices to the lessee pursuant to section 55-2306, Idaho Code, shall be sent
34 by certified mail. The absence of a notice provision in the rental agreement
35 does not affect the validity of the rental agreement or the operator's lien.

36 (4) The rental agreement shall contain a provision requiring the lessee
37 to disclose any lienholders or secured parties who have an interest in prop-
38 erty that is stored in the ~~self-service storage facility~~ leased space.

39 (5) If the rental agreement specifies a limit on the value of personal
40 property that the lessee may store in the leased space, the limit must be
41 deemed to be the maximum value of the personal property in the leased space
42 and the maximum liability on the part of the operator to the lessee for any
43 loss of or damage to the personal property. Nothing in this section shall be
44 deemed to create any liability on the part of the operator to the lessee for
45 any loss of or damage to the lessee's personal property, regardless of cause.

46 (6) All notices sent as provided for in the rental agreement or by cer-
47 tified mail shall be constructive and conclusive notice under the rental
48 agreement and this chapter.

1 (7) A reasonable late fee may be imposed and collected by an opera-
 2 tor for each period that a lessee does not pay rent, fees, or other charges
 3 when due under the rental agreement, if the amount of the late fee and the
 4 conditions for imposing the fee are stated in the rental agreement. A late
 5 fee of twenty dollars (\$20.00) or twenty percent (20%) of the monthly rent,
 6 whichever is greater, is a reasonable fee and will not be considered a
 7 penalty.

8 (8) Nothing in this chapter shall be construed in any manner as impair-
 9 ing or affecting the right of parties to create additional rights, duties,
 10 and obligations in and by virtue of a rental agreement. In addition to the
 11 rights and remedies set forth in this chapter, the operator has the same
 12 rights and remedies available to a creditor or landlord under Idaho law.

13 SECTION 3. That Section 55-2305, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 55-2305. LIEN CREATED. The ~~owner~~ operator of a self-service storage
 16 facility, his heirs, executors, administrators, successors, and assigns
 17 shall have a lien on all personal property stored within each leased space
 18 located at the self-service storage facility for rent, labor, fees, or
 19 other charges, present or future, and for expenses reasonably incurred in
 20 enforcing the lien. Self-service storage facility liens shall be brought
 21 exclusively under the provisions of this chapter. Notwithstanding any other
 22 provision of this chapter, the exclusive care, custody, and control of the
 23 personal property stored within each leased space remains with the lessee
 24 until the property has been sold or disposed of pursuant to this chapter.

25 SECTION 4. That Section 55-2306, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 55-2306. ENFORCEMENT OF LIEN. (1) ~~Action~~ A sale of personal property
 28 to enforce a lienholder's claim which that has become due against a lessee
 29 and which that is secured by the ~~owner's~~ operator's lien may be ~~taken by~~
 30 ~~the owner or operator~~ conducted after the lessee has been in default ~~of the~~
 31 ~~rental agreement~~ continuously for a period of sixty (60) days.

32 (2) The operator shall send notice by certified mail or as provided for
 33 in the rental agreement to the lessee at his last known address and by mail
 34 to all persons disclosed by the lessee as claiming a security interest in the
 35 stored property. The notice shall include:

36 (a) The name, address and telephone number of the person claiming the
 37 lien;

38 (b) An itemized statement of the lienholder's claim showing the sum due
 39 at the time of the notice and the date when the sum became due;

40 (c) A demand for payment within a time specified, not less than ten (10)
 41 days after ~~mailing~~ sending of the notice;

42 (d) A statement that unless the claim is paid within the time stated in
 43 the notice, the personal property shall be advertised for sale and ~~shall~~
 44 ~~be~~ sold at a specified time and place, but ~~which shall not be~~ sooner than
 45 ten (10) days after the first publication;

46 (e) A brief and general description of the goods subject to the lien;
 47 and

1 (f) Notification that the operator has denied or may deny access by the
 2 lessee to his personal property until the lien has been satisfied.

3 (3) Upon expiration of the time specified in subsection (2) (c) of this
 4 section, an advertisement of the sale shall be published once ~~a week for two~~
 5 ~~(2) consecutive weeks~~ in a newspaper of general circulation in the county
 6 where the self-service storage facility is located. The advertisement shall
 7 include:

8 (a) The location, date, time, and manner of the sale of the property
 9 stored in the leased space at the self-service storage facility;

10 (b) A brief and general description of the personal property; and

11 (c) The name and last known address of the lessee.

12 (4) At any time before the advertised sale of the personal property has
 13 been conducted or the vehicle or trailer has been towed, the lessee or any
 14 other person may pay the amount necessary to satisfy the lien, including all
 15 documented and verifiable labor and expenses incurred in enforcing the lien,
 16 and be permitted to remove the personal property, vehicle, or trailer from
 17 the leased space.

18 (5) In the event of a sale, the operator shall:

19 (a) Ensure that the sale is conducted in conformance with the terms of
 20 the published notice;

21 (b) Identify the specific properties and disclose the names and ad-
 22 dresses provided by the lessee, of persons claiming a security interest
 23 in the specified properties; and

24 (c) Comply with the provisions of chapter 17, title 49, Idaho Code, when
 25 foreclosing on titled vehicles.

26 (6) The proceeds of the sale must be applied to the discharge of the lien
 27 and costs. The remainder, if any, shall be paid over to the lessee or any
 28 other person authorized in writing by the lessee to claim the balance.

29 (7) The operator may dispose of the personal property without liability
 30 to any person if the operator has complied with the provisions of subsections
 31 (1) through (5) of this section, and the personal property has not been pur-
 32 chased.

33 (8) The operator may conduct the lien sale without obtaining an auc-
 34 tioneer's license and may offer the personal property for sale as a unit or
 35 in parcels on a publicly accessible website that regularly offers personal
 36 property for auction or sale, at the self-service storage facility, or at an-
 37 other location determined by the operator.

38 (9) A purchaser in good faith of any personal property sold pursuant to
 39 this section to satisfy the lien shall take the property free and clear of any
 40 rights of persons against whom the lien was valid, even if the operator has
 41 not complied with the provisions of this chapter or the rental agreement.

42 SECTION 5. That Chapter 23, Title 55, Idaho Code, be, and the same is
 43 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 44 ignated as Section 55-2308, Idaho Code, and to read as follows:

45 55-2308. LESSEE IN DEFAULT -- VEHICLE OR TRAILER REMOVAL. (1) If a
 46 lessee is in default of the rental agreement for sixty (60) days or more and
 47 the personal property stored in the leased space is a vehicle or trailer, the
 48 operator may have the vehicle or trailer towed from the self-service storage
 49 facility by an independent towing company. Prior to having the vehicle or

1 trailer towed, the operator shall send notice to the lessee as provided for
2 in the rental agreement or by certified mail to the last known address stat-
3 ing:

4 (a) A demand for payment within a time specified, no less than ten (10)
5 days after sending of the notice;

6 (b) That unless the claim is paid within the time stated in the notice,
7 the vehicle or trailer may be towed; and

8 (c) The name, address, and telephone number of the towing company.

9 (2) The operator shall send a copy of the notice by United States mail
10 with certificate of mailing to any lienholder of the vehicle or trailer that
11 is listed in the rental agreement, no less than ten (10) days prior to having
12 the vehicle or trailer towed.

13 (3) The operator has no liability to any person regarding the vehicle or
14 trailer once the towing company takes possession of the vehicle or trailer.

15 (4) Should the operator choose to proceed with a lien sale of a vehicle,
16 the operator must comply with the provisions of chapter 17, title 49, Idaho
17 Code. The towing company that tows the vehicle must comply with the provi-
18 sions of either chapter 17 or 18, title 49, Idaho Code, as applicable, prior
19 to conducting a sale of the vehicle.

20 SECTION 6. That Chapter 23, Title 55, Idaho Code, be, and the same is
21 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
22 ignated as Section 55-2309, Idaho Code, and to read as follows:

23 55-2309. ACCESS RESTRICTION. The operator has the right to deny the
24 lessee access to the leased space by overlocking or other means if:

25 (1) The rent or other charges due from the lessee are delinquent and un-
26 paid;

27 (2) The leased space is being used for residential or other unlawful
28 purposes; or

29 (3) The lessee fails to vacate the leased space after the rental agree-
30 ment is terminated in accordance with its terms.