

HOUSE BILL NO. 160

INTRODUCED BY B. TSCHIDA, G. DEVRIES, R. LYNCH

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA SELF-STORAGE FACILITIES ACT; REVISING DEFINITIONS; PROHIBITING UNLAWFUL USE OF FACILITIES BY RENTERS; REVISING NOTICE REQUIREMENT FOR INSPECTIONS; CLARIFYING WHEN THE RENTER MAY BE DENIED ACCESS; REVISING SALE REQUIREMENTS; AND AMENDING SECTIONS 70-6-602, 70-6-603, 70-6-604, 70-6-606, AND 70-6-607, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-6-602, MCA, is amended to read:

"70-6-602. Definitions. As used in this part, the following definitions apply:

~~(1)~~ "Certified mail" means:

~~— (a) a method of mailing that is offered by the United States postal service and provides evidence of mailing; or~~

~~— (b) a method of mailing that is accompanied by a certificate of mailing executed by the individual who caused the notice to be mailed.~~

~~(2)~~(1) "Commercially reasonable sale" means a sale that:

(a) is conducted at the self-storage facility, offsite at another location, or on a publicly accessible website that conducts lien sales; and

(b) is attended or viewed by at least three persons who appear personally or online, by telephone, or by any other method.

~~(3)~~(2) "Default" means the failure to timely perform an obligation or duty set forth in a rental agreement or this part.

~~(4)~~(3) "Electronic mail" means an electronic message or an executable program or computer file that contains an image that is transmitted between two or more computers or electronic terminals. The term includes an electronic message that is transmitted within or between computer networks.

~~(5)~~(4) "Emergency" means a sudden, unexpected occurrence or circumstance at or near a self-storage facility that requires immediate action to avoid injury to persons or property at or near the self-storage facility. The

1 term includes but is not limited to flood, ~~or fire, or any suspected use of the leased space for residential or other~~
 2 unlawful purposes.

3 ~~(6)~~(5) "Last-known address" means the postal address or electronic mail address provided in a rental
 4 agreement; or the postal address or electronic mail address provided by the renter through subsequent written
 5 notice of a change of address.

6 ~~(7)~~(6) "Leased space" means the individual storage space at a self-storage facility that is rented to a
 7 renter pursuant to a rental agreement.

8 ~~(8)~~(7) "Operator" means the owner, operator, lessor, or sublessor of a self-storage facility or an agent
 9 or another person authorized to manage the facility or to receive rent from a renter under a rental agreement. The
 10 term does not include a warehouse operator if the warehouse operator issues a warehouse receipt, bill of lading,
 11 or other document of title for the personal property stored.

12 ~~(9)~~(8) "Personal property" means movable property not affixed to land. Personal property includes but
 13 is not limited to goods, wares, merchandise, motor vehicles, and other titled or otherwise registered vehicles or
 14 property.

15 ~~(10)~~(9) "Property that has no commercial value" means property offered for sale in a commercially
 16 reasonable sale that receives no bid or offer.

17 ~~(11)~~(10) "Rental agreement" means a written agreement or lease that establishes or modifies the terms,
 18 conditions, or rules concerning the use and occupancy of a leased space at a self-storage facility.

19 ~~(12)~~(11) "Renter" means a person entitled to the use of a leased space at a self-storage facility under a
 20 rental agreement or the person's successors or assigns.

21 ~~(13)~~(12) "Self-storage facility" means ~~a rented or leased~~ real property consisting of individual storage
 22 spaces in which a renter customarily stores and removes personal property on a self-service basis.

23 (13) "Verified mail" means:

24 (a) a method of mailing that is offered by the United States postal service or private delivery service and
 25 provides evidence of mailing; or

26 (b) a method of mailing that is accompanied by a certificate of mailing executed by the individual who
 27 caused the notice to be mailed."

28

29 **Section 2.** Section 70-6-603, MCA, is amended to read:

30 **"70-6-603. Self-storage use -- residential prohibition on residential or other unlawful purposes.**

1 (1) An operator may not knowingly permit a leased space at a self-storage facility to be used for residential
2 purposes.

3 (2) A renter may not use a leased space for residential or other unlawful purposes."
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5 **Section 3.** Section 70-6-604, MCA, is amended to read:

6 **"70-6-604. Operator inspection -- repair -- emergency.** (1) An operator must notify the renter by
7 telephone, regular mail, or electronic mail at least 3 days before entering a leased space for the purpose of
8 inspection or repair. An operator shall disclose to the renter the nature of the inspection or repair.

9 (2) ~~If an emergency occurs~~ In the event of an emergency, an operator may enter a leased space for
10 inspection or repair without notice to or consent from the renter. An operator who enters a leased space in the
11 event of an emergency shall notify the renter by telephone, regular mail, or electronic mail within 48 hours after
12 the incident:

13 (a) that the operator entered the leased space; and

14 (b) of the nature of the emergency.

15 (3) An operator shall maintain a record of instances of entering a leased space for inspection, repair, or
16 emergency.

17 (4) A notice sent by regular mail is considered delivered when postmarked and properly addressed with
18 postage paid. A notice sent by electronic mail is considered delivered on the date the electronic mail is sent to
19 the last-known address provided by the renter."
20

21 **Section 4.** Section 70-6-606, MCA, is amended to read:

22 **"70-6-606. Renter default -- access restriction.** (1) ~~If the rent or other charges due from the renter are~~
23 ~~delinquent and unpaid, the~~ The operator has the right to deny the renter access to the leased space at the
24 self-storage facility: if:

25 (a) the rent or other charges due from the renter is delinquent and unpaid;

26 (b) the leased space is being used for residential or other unlawful purposes; or

27 (c) the renter fails to vacate the leased space after the rental agreement is terminated in accordance with
28 its terms.

29 (2) A reasonable late fee may be imposed and collected by an operator for each period that a renter does
30 not pay rent or other charges when due under the rental agreement; if the amount of the late fee and the

1 conditions for imposing the fee are stated in the rental agreement or in an addendum to that agreement. A late
 2 fee of \$20 or 20% of the monthly rent, whichever is greater, is a reasonable fee and may not be considered a
 3 penalty. Any reasonable expense incurred as a result of rent collection or lien enforcement by an operator may
 4 be charged to the renter in addition to late fees.

5 (3) A renter who purposely or knowingly accesses a leased space after having been in default of the
 6 rental agreement and denied access under ~~70-6-607~~ and subsection (1) of this section may be prosecuted under
 7 Title 45, chapter 6."

8

9 **Section 5.** Section 70-6-607, MCA, is amended to read:

10 **"70-6-607. Renter default -- personal property sale.** (1) If a renter is in default for a period of more
 11 than 60 days, the operator may enforce the lien provided in 70-6-605 by selling the renter's stored personal
 12 property at a commercially reasonable sale. Personal property may be sold:

13 (a) as a unit or in parcels; or

14 (b) by way of one or more contracts.

15 (2) The operator may otherwise dispose of property that has no commercial value.

16 (3) Before conducting a sale under this section, the operator shall:

17 (a) at least 30 days before the sale, send notice of default to the renter. The notice of default must
 18 include:

19 (i) a statement that the contents of the renter's leased space are subject to the operator's lien;

20 (ii) a statement of the operator's claim, indicating the charges due on the date of the notice and that
 21 additional charges shall continue to accrue and become due;

22 (iii) a demand for payment of the charges due and a deadline for payment;

23 (iv) a statement that unless the claim is paid before the deadline, the contents of the renter's leased
 24 space will be sold or otherwise disposed of after a specified time; and

25 (v) the name, street address, and telephone number of the operator or a designated agent that the renter
 26 may contact to respond to the notice.

27 (b) at least 7 days before the sale, notify by verified mail ~~and or~~ electronic mail, if provided by the renter,
 28 the date, time, and location of the sale;

29 (c) at least 7 days before the sale, advertise the time, place, and terms of the sale in a newspaper of
 30 general circulation in the county where the sale is to be held. Alternatively, the operator may advertise the sale

1 in any other commercially reasonable manner. The manner of advertisement is commercially reasonable if the
 2 sale is attended or viewed by at least three persons who appear personally or online, by telephone, or by any
 3 other method at the time and place advertised.

4 (4) If the personal property subject to the operator's lien is titled, registered, or owned by public record
 5 and if charges ~~and~~ or rent remain unpaid for 60 days, the operator may have the personal property removed from
 6 the self-storage facility by a professional transfer or tow truck company, including but not limited to motor vehicles,
 7 watercraft, aircraft, and trailers. The operator is not liable for any damage to personal property under this
 8 subsection after the professional transfer or tow truck company takes possession of the property.

9 (5) At any time before a sale is held under this section or before a vehicle, watercraft, aircraft, or trailer
 10 is removed under this section, the renter may pay the amount necessary to satisfy the lien and access the renter's
 11 personal property.

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

13 (a) satisfy the lien with the proceeds of the sale; and

14 (b) send a check of the net proceeds to the renter at the renter's ~~last-known~~ last-known address or to
 15 any other recorded lienholder. The operator is not liable to any party for excess proceeds paid to the renter. If
 16 the check has not been cashed after 1 year, any remaining proceeds are considered abandoned property and
 17 must be reported and paid to the department of revenue in accordance with the Uniform Unclaimed Property Act
 18 in Title 70, chapter 9, part 8.

19 (7) A purchaser in good faith of any personal property sold pursuant to this section to satisfy the lien
 20 granted in 70-6-605 takes the property free and clear of any rights of persons against whom the lien was valid,
 21 despite noncompliance by the operator with the requirements of this part.

22 (8) Notices to the renter under subsection (3) must be sent to the renter's last-known address by ~~United~~
 23 ~~States certified mail, standard mail, and~~ verified mail or electronic mail, if provided by the renter. Notices sent by
 24 ~~standard~~ verified mail are considered delivered when postmarked ~~by the United States postal service, and~~
 25 properly addressed with postage paid. Notices sent by electronic mail are considered delivered on the date the
 26 electronic ~~message~~ mail is sent to the last-known address provided by the renter.

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

28 (a) to the renter ~~shall be~~ is limited to the net proceeds received from the sale of the renter's personal
 29 property until the proceeds escheat to the state according to subsection (6)(b); and

30 (b) to other lienholders ~~shall be~~ is limited to the net proceeds received from the sale of any personal

1 property covered by the other lienholder's lien property until the proceeds escheat to the state according to
2 subsection (6)(b)."

3 - END -