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SESSION 2013

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HOUSE BILL 243
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PROPOSED SENATE COMMITTEE SUBSTITUTE H243-CSTG-28 [v.5]

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Short Title: Liens/Self-Service Storage Facilities.

(Public)

Sponsors:

Referred to:

March 7, 2013

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING AN OWNER OF A SELF-STORAGE FACILITY WHO HAS A
3 LIEN UPON PERSONAL PROPERTY TO DELIVER NOTICE OF THE PUBLIC SALE
4 OF THE PROPERTY TO THE OCCUPANT BY CERTIFIED MAIL OR BY VERIFIED
5 ELECTRONIC MAIL, TO PUBLISH NOTICE IN ANY COMMERCIALY
6 REASONABLE MANNER, TO CONDUCT THE SALE THROUGH AN ONLINE,
7 PUBLICLY ACCESSIBLE AUCTION WEB SITE, AND TO INCREASE THE
8 MINIMUM LATE FEES FOR SELF-STORAGE FACILITY RENTAL CONTRACTS.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** G.S. 44A-40 reads as rewritten:

11 **"§ 44A-40. Definitions.**

12 As used in this Article, unless the context clearly requires otherwise:

13 (1) "Last known address" means that mailing address or e-mail address provided
14 by the occupant in the latest rental agreement or the address provided by the
15 occupant in a subsequent written notice of a change of address.

16 ...

17 (5) "Personal property" means movable property not affixed to land and
18 includes, but is not limited to, goods, merchandise, ~~and household~~
19 ~~items.~~ household items, and watercraft.

20 ...

21 (8) "E-mail" or "electronic mail" means an electronic message or an executable
22 program or computer file that contains an image of a message that is
23 transmitted between two or more computers or electronic terminals. The
24 term includes electronic messages that are transmitted within or between
25 computer networks.

26 (9) "Independent bidder" means a person who is not related to the lienor, within
27 the meaning of G.S. 25-9-102(62), in the case of a lienor who is an
28 individual, or G.S. 25-9-102(63), in the case of a lienor that is an
29 organization.

30 (10) "Verified electronic mail" means electronic mail that is transmitted to an e-
31 mail address that the sender has verified by any reasonable means as being a
32 working electronic mail address."

33 **SECTION 2.** G.S. 44A-43 reads as rewritten:

34 **"§ 44A-43. Enforcement of self-service storage facility lien.**



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- 1 ...
2 (b) Notice and Hearing:
3 ...
4 (1a) If the property upon which the lien is claimed is a motor ~~vehicle-vehicle,~~
5 watercraft, or trailer, and rent and other charges related to the property
6 remain unpaid or unsatisfied for 60 days following the maturity of the
7 obligation to pay rent, the lienor may have the property towed. If a motor
8 vehicle is towed as authorized in this subdivision, the lienor shall not be
9 liable for the motor vehicle or any damages to the motor vehicle once the
10 tower takes possession of the property.
11 (2) If the property upon which the lien is claimed is other than a motor
12 ~~vehicle-vehicle, watercraft, or trailer,~~ the lienor following the expiration of
13 the 15-day period provided by subsection (a) shall issue notice to the person
14 having a security or other interest in the property, if reasonably
15 ascertainable, and to the occupant, if different, at his last known address.
16 Notice given pursuant to this subdivision shall be presumed delivered when
17 it is properly addressed, first-class postage prepaid, and deposited with the
18 United States Postal ~~Service-Service,~~ or when it is sent by verified electronic
19 mail to the occupant's last known address, if the occupant has made an
20 election in the rental agreement to receive notice by electronic mail.
21 ...
22 (c) Public Sale. –
23 (1) Not less than 20 days prior to sale by public sale the lienor:
24 a. Shall cause notice to be delivered by certified mail to the person
25 having a security interest in the property if reasonably ascertainable,
26 and to the occupant at the occupant's last known ~~address-address by~~
27 certified mail or by verified electronic mail if the occupant has made
28 an election in the rental agreement to receive notice by electronic
29 mail. Notice given by certified mail pursuant to this subdivision shall
30 be presumed delivered when it is properly addressed, first-class
31 postage prepaid, and deposited with the United States Postal Service.
32 Notice given by verified electronic mail pursuant to this subdivision
33 shall be presumed delivered when it is transmitted.
34 b. Repealed by Session Laws 2009-201, s. 1, effective October 1, 2009.
35 (1a) Not less than five days prior to sale by public sale, the lienor shall publish
36 notice of sale either (i) in a newspaper of general circulation in the county
37 where the sale is to be held. If there is no newspaper of general circulation in
38 the county where the sale is to be held, notice of sale shall be published in
39 any publication that accepts classified advertisements and has a general
40 circulation in the county where the sale is to be held. held or (ii) in any other
41 commercially reasonable manner. The manner of advertisement shall be
42 deemed commercially reasonable if at least three independent bidders attend
43 the sale at the time and place advertised and the sale is otherwise consistent
44 with the definition set out in G.S. 25-9-627.
45 (2) ~~The sale must be held on a day other than Sunday and between the hours of~~
46 ~~9:00 A.M. and 4:00 P.M.:~~
47 a. ~~At the self-service storage facility or at the nearest suitable place to~~
48 ~~where the property is held or stored; or~~
49 b. ~~In the county where the obligation secured by the lien was contracted~~
50 ~~for.~~

(2a) The sale shall be conducted in a commercially reasonable manner, as defined in G.S. 25-9-627, including offering property to an audience of bidders through an online, publicly accessible auction Web site.

a. If the sale is a live auction conducted at the facility, the nearest suitable place where the property is held or stored, or in the county where the obligation secured by the lien was contracted for, the sale must be held on a day other than Sunday and between the hours of 9:00 A.M. and 4:00 P.M.

b. A lienor may purchase at public sale.

~~(3) A lienor may purchase at public sale.~~

~~(d) Notice of Sale. — The notice of sale shall include:~~

~~(1) The name and address of the lienor;~~

~~(2) A statement to the effect that various items of personal property are being sold pursuant to the assertion of a lien for rental at the self-service storage facility;~~

~~(3) The place, date, and time of the sale."~~

SECTION 3. G.S. 66-306 reads as rewritten:

"§ 66-306. Late fees.

(a) In all rental contracts in which a definite time for the payment of the rent is fixed, the late fee for each rental unit shall not exceed fifteen dollars (\$15.00) or fifteen percent (15%) of the rental payment—payment, whichever is greater, and shall not be imposed by the self-service storage business until the rental payment for that rental unit is five days or more late.

...."

SECTION 4. This act becomes effective October 1, 2013. Section 3 applies only to contracts entered into on or after the effective date.