

AN ACT

relating to the enforcement of a self-service storage facility lien; providing a penalty.

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

SECTION 1. Section 59.001, Property Code, is amended by adding Subdivisions (1-a) and (5) to read as follows:

(1-a) "Military service" means:

(A) military service as defined by Section 101, Servicemembers Civil Relief Act (50 U.S.C. App. Section 511); and

(B) active duty service for a period of more than 30 consecutive days as a member of the Texas State Guard or Texas National Guard under the call of the governor.

(5) "Verified mail" means any method of mailing that provides evidence of mailing.

SECTION 2. Subsection (a), Section 59.003, Property Code, is amended to read as follows:

(a) The following provisions do [~~Subchapter B, Chapter 54, does~~] not apply to a self-service storage facility:

(1) Subchapter B, Chapter 54;

(2) Chapter 70; and

(3) Chapter 181, Health and Safety Code.

SECTION 3. Subchapter A, Chapter 59, Property Code, is amended by adding Section 59.010 to read as follows:

Sec. 59.010. RIGHTS OF CERTAIN MILITARY MEMBERS. (a) In

1 this section, "servicemember" has the meaning assigned by Section
2 101, Servicemembers Civil Relief Act (50 U.S.C. App. Section 511).

3 (b) A member of the Texas State Guard or Texas National
4 Guard who is in military service is entitled to the same protections
5 and rights relating to the enforcement of storage liens under the
6 Servicemembers Civil Relief Act (50 U.S.C. App. Section 501 et
7 seq.) to which a servicemember is entitled.

8 SECTION 4. Subsections (b) and (c), Section 59.042,
9 Property Code, are amended to read as follows:

10 (b) If the tenant fails to satisfy the claim on or before the
11 14th [~~15th~~] day after the date [~~day that~~] the notice is delivered,
12 the lessor must publish or post notices advertising the sale as
13 provided by this subchapter.

14 (c) If notice is by publication, the lessor may not sell the
15 property until the 15th day after the date [~~day that~~] the notice is
16 first [~~notice is~~] published. If notice is by posting, the lessor
17 may sell the property after the 10th day after the date [~~day that~~]
18 the notices are posted.

19 SECTION 5. Section 59.043, Property Code, is amended to
20 read as follows:

21 Sec. 59.043. CONTENTS AND DELIVERY OF NOTICE OF CLAIM;
22 INFORMATION REGARDING TENANT'S MILITARY SERVICE. (a) The lessor's
23 notice to the tenant of the claim must contain:

- 24 (1) an itemized account of the claim;
25 (2) the name, address, and telephone number of the
26 lessor or the lessor's agent;
27 (3) a statement that the contents of the self-service

1 storage facility have been seized under the contractual landlord's
2 lien; ~~and~~

3 (4) a statement that if the tenant fails to satisfy the
4 claim ~~[is not satisfied]~~ on or before the 14th ~~[15th]~~ day after the
5 date ~~[day that]~~ the notice is delivered, the property may be sold at
6 public auction; and

7 (5) a statement underlined or printed in conspicuous
8 bold print requesting a tenant who is in military service to notify
9 the lessor of the status of the tenant's current military service
10 immediately.

11 (b) A lessor may require written proof of a tenant's
12 military service in the form of documentation from the United
13 States Department of Defense or other documentation reasonably
14 acceptable to the lessor.

15 (c) Subject to Subsection (d), the ~~[The]~~ lessor must deliver
16 the notice in person or by e-mail or verified ~~[by certified]~~ mail to
17 the tenant's last known e-mail or postal address as stated in the
18 rental agreement or in a written notice from the tenant to the
19 lessor furnished after the execution of the rental agreement.
20 Notice by verified mail is considered delivered when the notice,
21 properly addressed with postage prepaid, is deposited with the
22 United States Postal Service or a common carrier. Notice by e-mail
23 is considered delivered when sent to the last known e-mail address
24 of the tenant.

25 (d) The notice may not be sent by e-mail unless a written
26 rental agreement between the lessor and the tenant contains
27 language underlined or in conspicuous bold print that notice may be

1 given by e-mail if the tenant elects to provide an e-mail address.

2 SECTION 6. Subchapter C, Chapter 59, Property Code, is
3 amended by adding Section 59.0445 to read as follows:

4 Sec. 59.0445. NOTICE TO OWNER AND LIENHOLDERS. (a) This
5 section applies to the enforcement of a lien under this chapter on:

6 (1) a motor vehicle subject to Chapter 501,
7 Transportation Code;

8 (2) a motorboat, vessel, or outboard motor for which a
9 certificate of title is required under Subchapter B, Chapter 31,
10 Parks and Wildlife Code; or

11 (3) a motor vehicle, motorboat, vessel, or outboard
12 motor registered or titled outside this state.

13 (b) In addition to the notices required by Sections 59.042
14 and 59.044, not later than the 30th day after the date the lessor
15 takes possession of the motor vehicle, motorboat, vessel, or
16 outboard motor to enforce a lien under this chapter, the lessor
17 shall give written notice of sale to the last known owner and each
18 holder of a lien recorded on the registration or certificate of
19 title of the motor vehicle, motorboat, vessel, or outboard motor
20 or, if the registration or title is outside this state, the owner
21 and each lienholder of record in the location in which the motor
22 vehicle, motorboat, vessel, or outboard motor is registered or
23 titled.

24 (c) Except as provided by Subsection (d), the notice
25 required by this section must be sent by verified mail. Notice by
26 verified mail is considered mailed when the notice, properly
27 addressed with postage prepaid, is deposited with the United States

1 Postal Service or a common carrier. The notice must include:

2 (1) the amount of the charges secured by the lien;

3 (2) a request for payment; and

4 (3) a statement that if the charges are not paid in
5 full before the 31st day after the date the notice is mailed or
6 published, as applicable, the property may be sold at public
7 auction.

8 (d) The notice required by this section may be given by
9 publishing the notice once in a print or electronic version of a
10 newspaper of general circulation in the county in which the motor
11 vehicle, motorboat, vessel, or outboard motor is stored if:

12 (1) the lessor submits a written request by verified
13 mail to the governmental entity with which the motor vehicle,
14 motorboat, vessel, or outboard motor is registered or titled
15 requesting information relating to the identity of the last known
16 owner of record and any lienholder of record;

17 (2) the lessor:

18 (A) is advised in writing by the governmental
19 entity with which the motor vehicle, motorboat, vessel, or outboard
20 motor is registered or titled that the entity is unwilling or unable
21 to provide information on the last known owner of record or any
22 lienholder of record; or

23 (B) does not receive a response from the
24 governmental entity with which the motor vehicle, motorboat,
25 vessel, or outboard motor is registered or titled on or before the
26 21st day after the date the lessor submits the request;

27 (3) the identity of the last known owner of record

1 cannot be determined;

2 (4) the registration or title does not contain an
3 address for the last known owner of record; and

4 (5) the lessor cannot determine the identities and
5 addresses of the lienholders of record.

6 (e) The lessor is not required to publish notice under
7 Subsection (d) if a correctly addressed notice is sent with
8 sufficient postage in accordance with Subsections (b) and (c) and
9 is returned as unclaimed or refused or with a notation that the
10 addressee is unknown or has moved without leaving a forwarding
11 address or the forwarding order has expired.

12 (f) After notice is given under this section to the owner of
13 or the holder of a lien on the motor vehicle, motorboat, vessel, or
14 outboard motor, the owner or lienholder may take possession of the
15 motor vehicle, motorboat, vessel, or outboard motor by paying all
16 charges due to the lessor before the 31st day after the date the
17 notice is mailed or published as provided by this section.

18 (g) If the charges are not paid before the 31st day after the
19 date the notice is mailed or published, as applicable, the lessor
20 may sell the motor vehicle, motorboat, vessel, or outboard motor at
21 a public sale and apply the proceeds to the charges.

22 (h) A person commits an offense if the person knowingly
23 provides false or misleading information in a notice required by
24 this section. An offense under this subsection is a Class B
25 misdemeanor.

26 SECTION 7. Subsections (a) and (e), Section 70.006,
27 Property Code, are amended to read as follows:

1 (a) A holder of a lien under this subchapter [~~or Chapter 59~~]
2 on a motor vehicle subject to Chapter 501, Transportation Code, or
3 on a motorboat, vessel, or outboard motor for which a certificate of
4 title is required under Subchapter B, Chapter 31, Parks and
5 Wildlife Code, as amended, who retains possession of the motor
6 vehicle, motorboat, vessel, or outboard motor shall, not later than
7 the 30th day after the date on which the charges accrue, give
8 written notice to the owner and each holder of a lien recorded on
9 the certificate of title. A holder of a possessory lien on a motor
10 vehicle under Section 70.001, other than a person licensed as a
11 franchised dealer under Chapter 2301, Occupations Code, shall file
12 a copy of the notice and all information required by this section
13 with the county tax assessor-collector's office in the county in
14 which the repairs were made with an administrative fee of \$25
15 payable to the county tax assessor-collector. If the motor
16 vehicle, motorboat, vessel, or outboard motor is registered outside
17 this state, the holder of a lien under this subchapter who retains
18 possession during that period shall give notice to the last known
19 registered owner and each lienholder of record.

20 (e) After notice is given under this section to the owner of
21 or the holder of a lien on the motor vehicle, motorboat, vessel, or
22 outboard motor, the owner or holder of the lien may obtain
23 possession of the motor vehicle, motorboat, vessel, or outboard
24 motor by paying all charges due to the holder of a lien under this
25 subchapter [~~and Chapter 59~~] before the 31st day after the date the
26 notice is mailed or published as provided by this section.

27 SECTION 8. Subsection (c), Section 501.074, Transportation

1 Code, is amended to read as follows:

2 (c) If a constitutional or statutory lien is foreclosed, the
3 department may issue a new certificate of title in the name of the
4 purchaser at the foreclosure sale on receiving:

5 (1) the affidavit of the lienholder of the fact of the
6 creation of the lien and of the divestiture of title according to
7 law; and

8 (2) proof of notice as required by Sections 70.004 and
9 70.006, Property Code, or by Section 59.0445, Property Code.

10 SECTION 9. Section 59.047, Property Code, is repealed.

11 SECTION 10. The changes in law made by this Act to Chapter
12 59, Property Code, apply only to a self-service storage facility
13 rental agreement entered into, extended, or renewed on or after the
14 effective date of this Act. A self-service storage facility rental
15 agreement entered into, extended, or renewed before the effective
16 date of this Act is governed by the law in effect immediately before
17 the effective date of this Act, and the former law is continued in
18 effect for that purpose.

19 SECTION 11. This Act takes effect January 1, 2012.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 690 passed the Senate on March 24, 2011, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 23, 2011, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 690 passed the House, with amendment, on May 13, 2011, by the following vote: Yeas 138, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor