

House Bill 2706

Sponsored by Representative GARRETT, Senator BEYER; Representatives HOYLE, HUFFMAN, PARRISH, Senators DEVLIN, FERRIOLI, ROSENBAUM (at the request of Dave Barrows for the Self Storage Association)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits owner of self-service storage facility to charge late fee for failure to pay or late payment of rent due.

Permits owner to notify occupant about foreclosure sale for occupant's personal property by verified mail or electronic mail. Increases value of property for which owner may choose disposition method. Permits owner to advertise foreclosure sale in any commercially reasonable manner. Permits owner to have personal property that is motor vehicle, watercraft or trailer towed from self-service storage facility and provides that tower has lien on personal property for towing and storage charges.

A BILL FOR AN ACT

1
2 Relating to self-service storage facilities; creating new provisions; and amending ORS 87.685, 87.686,
3 87.689 and 87.691.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2013 Act and ORS 87.685 to 87.695 are added to and made a**
6 **part of ORS chapter 87.**

7 **SECTION 2. An owner may charge and collect a reasonable fee for an occupant's late**
8 **payment of rent due for use of an individual storage space in a self-service storage facility.**
9 **The rental agreement must specify the amount of the fee and the date on which the owner**
10 **may charge the fee. The owner may charge the fee once in each month in which the occu-**
11 **pant fails to pay the rent due or pays the rent due later than the due date specified in the**
12 **rental agreement. For purposes of this section, a fee is reasonable if the fee does not exceed**
13 **the greater of \$20 or 20 percent of the monthly rent due for the individual storage space.**
14 **The owner may charge and collect the late fee in addition to any other fees authorized by law**
15 **or under the rental agreement.**

16 **SECTION 3. ORS 87.685 is amended to read:**

17 87.685. As used in ORS 87.685 to 87.693[, *unless the context requires otherwise*]:

18 (1) "Default" means [*the*] **a failure to perform in a timely manner any obligation or duty set forth**
19 **in [*the*] a rental agreement.**

20 (2) "Last known address" means [*the*] **a physical or electronic mail address [*provided by the*]**
21 **that an occupant provided in the latest rental agreement or the physical or electronic mail ad-**
22 **dress [*provided by*] the occupant provided in a subsequent written notice of a change of address.**

23 (3) "Occupant" means a person or a sublessee, successor or assignee of the person who is enti-
24 tled, under a rental agreement, to the exclusive use of specified **individual** storage space at a self-
25 service storage facility.

26 (4) "Owner" means [*the*] **an owner, operator, lessor or sublessor of a self-service storage facility**
27 **or an agent or any other person [*authorized by*] that the owner, operator, lessor or sublessor au-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **thorizes** to manage the facility or to receive rent from an occupant under a rental agreement.

2 (5) “Personal property” means movable property **that is** not affixed to land and includes, but is
 3 not limited to, goods, merchandise, household items and watercraft.

4 (6) “Rental agreement” means *[any]* a written agreement or lease that establishes or modifies
 5 *[the]* terms, conditions, rules or any other provisions concerning *[the]* **an occupant’s** use and occu-
 6 pancy of a self-service storage facility.

7 (7)(a) “Self-service storage facility” means *[any]* real property **that is** designed and used for *[the]*
 8 *purpose of]* renting or leasing individual storage space to occupants who *[are to]* have **exclusive**
 9 access to the storage space *[for the purpose of storing and removing]* **to store or remove** personal
 10 property.

11 (b) *[The term]* “**Self-service storage facility**” does not include:

12 (A) A warehouse or other facility *[used for storage of]* **that a person uses to store** personal
 13 property *[and at]* **for which the person that operates the facility issues** a warehouse receipt, bill
 14 of lading or other document of title *[covering the personal property is issued]* under ORS chapter 77
 15 *[by the person operating the facility. The term “self-service storage facility” does not include]; or*

16 (B) Real property *[used]* **that a person uses** for residential purposes.

17 (8) “**Verified mail**” means **any method of mailing that the United States Postal Service**
 18 **or a private delivery service offers that provides evidence of mailing.**

19 **SECTION 4.** ORS 87.686 is amended to read:

20 87.686. (1) *[Each]* **A** rental agreement *[shall describe]* **must state** whether **the owner holds an**
 21 **insurance policy that protects** personal property *[of the occupant]* **that is** stored at the self-service
 22 storage facility *[is protected by insurance held by the owner]* **identified in the rental agreement.**

23 (2) If the **owner holds an insurance policy that protects** personal property *[is protected by*
 24 *insurance held by the owner]* **stored at the self-service storage facility,** the rental agreement *[shall*
 25 *contain a statement describing]* **must describe** the nature of the insurance coverage.

26 (3) If the **owner does not hold an insurance policy that protects** personal property *[is not*
 27 *protected by insurance held by the owner]* **stored at the self-service storage facility,** the rental
 28 agreement *[shall contain a statement indicating that the personal property of the occupant]* **must state**
 29 **that the occupant’s personal property** is not protected by insurance held by the owner.

30 (4) At the time the occupant signs the rental agreement, the occupant shall initial the applicable
 31 statement described in subsection (2) or (3) of this section *[regarding insurance].*

32 **SECTION 5.** ORS 87.689 is amended to read:

33 87.689. (1) *[The]* **An owner may foreclose a** lien created by ORS 87.687 *[may be foreclosed]* upon
 34 **the occupant’s** default *[by the occupant].*

35 (2) Before an owner may foreclose **by sale** a lien created by ORS 87.687 *[by sale],* the owner
 36 shall *[give notice of]* **notify the occupant of** the foreclosure and sale *[to the occupant]* by **sending**
 37 registered or certified mail **or other verified mail to the occupant’s last known address or by**
 38 **sending electronic mail to the occupant’s last known address** *[sent to the occupant at the last*
 39 *known address of the occupant].*

40 (3) **A** notice provided under this section *[shall]* **must** include:

41 (a) An itemized statement of the owner’s claim *[showing]* **that shows** the sum due *[at the time*
 42 *of]* **on the date of the** notice.

43 (b) An identification of the specific *[unit rented by]* **individual storage space that** the occupant
 44 **rented** at the self-service storage facility.

45 (c) A statement that **denies the occupant** access to the occupant’s personal property stored at

1 the self-service storage facility [*is denied*], if [*such denial is permitted under*] the terms of the rental
 2 agreement **allow the owner to deny access.**

3 (d) A demand for payment within a specified time **that is** not earlier than 30 days after **the**
 4 default.

5 (e) A conspicuous statement [*declaring*] **that declares** that, unless the claim is paid within the
 6 time stated in the notice, the personal property will be advertised for sale and will be sold at a
 7 specified time and place.

8 (f) The name, street address and telephone number of the owner or the owner's designated agent
 9 whom the occupant may contact to respond to the notice.

10 (4) Any notice given under this section is presumed delivered [*when it*] **if the notice** is properly
 11 addressed with postage prepaid and **is** deposited with the United States Postal Service **or if the**
 12 **owner has a record or other evidence that shows that the owner sent the notice to an elec-**
 13 **tronic mail address that the occupant designated in the rental agreement for receiving**
 14 **electronic mail.**

15 **SECTION 6.** ORS 87.691 is amended to read:

16 87.691. (1) After the time specified in the notice given under ORS 87.689 expires, if the **owner**
 17 **determines, based on the owner's previous experience, that the** personal property subject to the
 18 lien created by ORS 87.687 has a [*fair market*] value of [*\$100*] **\$300** or less, the owner may dispose
 19 of the property [*in*] **at the owner's** sole discretion [*of the owner*].

20 (2) After the time specified in the notice given under ORS 87.689 expires, if the **owner deter-**
 21 **mines, based on the owner's previous experience, that the** personal property subject to the lien
 22 created by ORS 87.687 has a [*fair market*] value of more than [*\$100*] **\$300**, the owner shall [*cause an*
 23 *advertisement of the sale to be published once a week for two consecutive weeks in a newspaper of*
 24 *general circulation in the city or county in which the self-service storage facility is located. If there is*
 25 *no newspaper of general circulation in the city or county, the advertisement must be posted in not fewer*
 26 *than six conspicuous places in the neighborhood in which the self-service storage facility is located.*
 27 *The advertisement must include:*] **advertise the sale in either of the following ways:**

28 (a) **By causing an advertisement of the sale to be published in a periodical that circulates**
 29 **at least once each week in the county in which the self-service storage facility is located.**
 30 **The advertisement must run at least once per week for at least two weeks before the date**
 31 **of the sale.**

32 (b) **By advertising the sale in any other commercially reasonable manner. For purposes**
 33 **of this paragraph, a manner of advertising is commercially reasonable if at least three in-**
 34 **dependent bidders attend the sale at the time and place advertised. For purposes of this**
 35 **paragraph, a bidder is independent if the bidder is not related to the owner or another bidder**
 36 **and does not have a controlling interest in or common pecuniary interest with the owner or**
 37 **another bidder.**

38 (3) **The advertisement described in subsection (2) of this section must specify:**

39 (a) The address of the self-service storage facility, the number, if any, of the space where the
 40 personal property is located and the name of the occupant.

41 (b) The time, place and manner of the sale.

42 [(3)] (4) The sale of the personal property may not take place earlier than 15 days after the first
 43 **advertisement, publication or posting concerning the sale.** The sale [*shall*] **must** conform to the
 44 terms stated in the advertisement published or posted under this section.

45 [(4)] (5) The owner **may conduct the lien sale without obtaining a license and may offer**

1 **the personal property for sale on a publicly accessible website that regularly offers personal**
 2 **property for auction or sale, but the owner shall [hold] complete** the sale of the personal prop-
 3 erty at the self-service storage facility or at a suitable place closest to where the personal property
 4 is held or stored.

5 [(5)(a)] **(6)(a)** If the owner [receives no] **does not receive any** bids at the public sale held under
 6 this section, the owner may [otherwise] dispose of the **personal property in another manner at the**
 7 **owner's [in the] sole discretion [of the owner]**. The owner may satisfy the lien created by ORS 87.687
 8 and reasonable expenses associated with the disposition from the proceeds of the disposition but
 9 shall hold the balance, if any, for delivery on demand to the occupant. If the occupant does not claim
 10 the balance of the proceeds within two years [of] **after** the date of the disposition, the owner shall
 11 presume the balance is abandoned and shall report and deliver the balance as provided in ORS
 12 98.352.

13 (b) The owner, an employee of the owner, an affiliate or relative of the owner or an associate
 14 or relative of the employee may not acquire, directly or indirectly, property that is subject to dis-
 15 posal under this section.

16 **(7)(a) If personal property that is subject to the lien is a motor vehicle, watercraft or**
 17 **trailer, the owner may have the personal property towed away from the self-service storage**
 18 **facility if:**

19 **(A) Rent and other charges for storing the personal property at the self-service storage**
 20 **facility remain unpaid for 60 days or more; and**

21 **(B) The owner sends notice as provided in ORS 87.689.**

22 **(b) An owner is not liable for damage to personal property that a tower removes from**
 23 **the self-service storage facility once the tower takes possession of the personal property.**

24 **(c) A tower has a lien on personal property the tower removes from the self-service**
 25 **storage facility for reasonable towing and storage charges as provided in ORS 98.812.**

26 [(6)] **(8)** Before a sale or other disposition of [the] personal property under this section, the oc-
 27 cupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under
 28 this section and thereby redeem the personal property. Upon receiving payment, the owner shall
 29 return the personal property, and thereafter the owner has no liability with respect to the personal
 30 property.

31 [(7)] **(9)** After a sale under this section, the owner may satisfy the lien created by ORS 87.687
 32 from the proceeds of the sale, but shall hold the balance, if any, for delivery on demand to the oc-
 33 cupant. If the occupant does not claim the balance of the proceeds within two years after the date
 34 of sale, the owner shall presume that the balance of the proceeds is abandoned and shall report and
 35 deliver the balance as provided in ORS 98.352.

36 [(8)] **(10)** A purchaser in good faith of the personal property sold to satisfy a lien created by
 37 ORS 87.687 takes the property free of any rights of persons against whom the lien was valid, [despite
 38 noncompliance by] **even if** the owner **does not comply** with the requirements of this section and
 39 ORS 87.689.

40 **SECTION 7. Section 2 of this 2013 Act and the amendments to ORS 87.685, 87.686, 87.689**
 41 **and 87.691 by sections 3 to 6 of this 2013 Act apply to rental agreements that an owner and**
 42 **occupant enter into on or after the effective date of this 2013 Act and to foreclosure sales**
 43 **that occur on or after the effective date of this 2013 Act.**