

As Amended by House Committee

Session of 2020

HOUSE BILL No. 2454

By Committee on Commerce, Labor and Economic Development

1-16

1 AN ACT concerning self-storage rental units; relating to sales ~~or towing~~  
2 by operators of property due to abandonment or nonpayment of rent;  
3 contractual value of property; amending K.S.A. 58-816 and K.S.A.  
4 2019 Supp. 58-817 and repealing the existing sections.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 58-816 is hereby amended to read as follows: 58-  
8 816. (a) The operator of a self-service storage facility has a lien on all  
9 personal property stored within each leased space for rent, labor or other  
10 charges, and for expenses reasonably incurred in its sale, as provided in the  
11 self-service storage act.

12 **(b) For purposes of any claim or action against an operator**  
13 **involving a claim of damage to, or the loss of, personal property stored**  
14 **in a leased space pursuant to a rental agreement with the operator, the**  
15 **value of such personal property shall be limited by the maximum**  
16 **value of personal property permitted to be stored in the leased space**  
17 **under the terms of the rental agreement.**

18 ~~(b)(c)~~ (c) The rental agreement shall contain a statement, in bold type,  
19 advising the occupant:

20 (1) Of the existence of the lien;  
21 (2) that property stored in the leased space may be sold to satisfy the  
22 lien if the occupant is in default;

23 ~~(3) that a vehicle, watercraft or trailer stored in the leased space may~~  
24 ~~be towed if the occupant is in default; and~~

25 ~~(3)(4)(3)~~ (3) that any proceeds from the sale of the property ~~which~~ that  
26 remain after satisfaction of the lien will be paid to the state treasurer if  
27 unclaimed by the occupant within one year after sale of the property; **and**

28 **(4) of the claim limitation pursuant to subsection (b).**

29 ~~(e) For purposes of any claim or action against an operator~~  
30 ~~involving a claim of damage to, or the loss of, personal property stored in~~  
31 ~~a leased space pursuant to a rental agreement with the operator, the value~~  
32 ~~of such personal property shall be limited by the maximum value of~~  
33 ~~personal property permitted to be stored in the leased space under the~~  
34 ~~terms of the rental agreement.~~

35 Sec. 2. K.S.A. 2019 Supp. 58-817 is hereby amended to read as  
36 follows: 58-817. (a) (1) If the occupant is in default for a period of more

1 than 45 days, the operator may enforce the lien by selling the property  
2 stored in the leased space for cash. Sale of the property stored on the  
3 premises may be *conducted online or in person*, by public or private  
4 proceedings and may also be as a unit or in parcels, or by way of one or  
5 more contracts and at any time or place, and on any terms as long as the  
6 sale is commercially reasonable. The operator may otherwise dispose of  
7 any property ~~which~~ *that* has no commercial value.

8 (2) The proceeds of such sale shall then be applied to satisfy the lien,  
9 with any surplus disbursed as provided in subsection (d).

10 (b) Before conducting a sale under subsection (a), the operator shall:

11 (1) Notify the occupant of the default by first-class mail at the  
12 occupant's last-known address, and by electronic mail if the occupant has  
13 provided an electronic mail address to the operator;

14 (2) send a second notice of default, not less than seven days after the  
15 notice required by subsection (b)(1), by first-class mail to the occupant at  
16 the occupant's last-known address, and by electronic mail if the occupant  
17 has provided an electronic mail address to the operator. A second notice of  
18 default shall include:

19 (A) A statement that the contents of the occupant's leased space are  
20 subject to the operator's lien;

21 (B) a statement of the operator's claim, indicating the charges due on  
22 the date of the notice, the amount of any additional charges ~~which~~ *that*  
23 shall become due before the date of release for sale and the date those  
24 additional charges shall become due;

25 (C) a demand for payment of the charges due within a specified time,  
26 not less than 10 days after the date of the notice;

27 (D) a statement that unless the claim is paid within the time stated,  
28 the contents of the occupant's space will be sold after a specified time; and

29 (E) the name, street address and telephone number of the operator, or  
30 a designated agent whom the occupant may contact to respond to the  
31 notice.

32 (3) At least seven days before the sale, advertise the time, place and  
33 terms of the sale in a newspaper of general circulation in the jurisdiction  
34 where the sale is to be held *or in any other commercially reasonable*  
35 *manner*. Such advertisement shall be in the classified section of the  
36 newspaper, *if notice is placed in the newspaper. If at least three*  
37 *independent bidders do not attend the sale in person or view the sale*  
38 *online at the time and place advertised, the sale shall be canceled,*  
39 *rescheduled and readvertised. Further notice to the occupant shall not be*  
40 *required.*

41 (c) At any time before a sale under this section, the occupant may pay  
42 the amount necessary to satisfy the lien and redeem the occupant's  
43 personal property.

1 (d) If a sale is held under this section, the operator shall:

2 (1) Satisfy the lien from the proceeds of the sale; and

3 (2) hold the balance, if any, for delivery on demand to the occupant or  
4 any other recorded lienholders for a period of one year after receipt of  
5 proceeds of the sale and satisfaction of the lien. Thereafter, the proceeds  
6 remaining after satisfaction of the lien shall be considered abandoned  
7 property to be reported and paid to the state treasurer in accordance with  
8 the disposition of unclaimed property act.

9 (e) A purchaser in good faith of any personal property sold under the  
10 self-service storage act takes the property free and clear of any rights of:

11 (1) Persons against whom the lien was valid; and

12 (2) other lienholders.

13 (f) If the operator complies with the provisions of the self-service  
14 storage act, the operator's liability:

15 (1) To the occupant shall be limited to the net proceeds received from  
16 the sale of the personal property; and

17 (2) to other lienholders shall be limited to the net proceeds received  
18 from the sale of any personal property covered by the other lien.

19 (g) If an occupant is in default, the operator may deny the occupant  
20 access to the leased space.

21 (h) Notices to the occupant shall be sent to the occupant at the  
22 occupant's last-known address. Notices shall be deemed delivered when  
23 deposited with the United States postal service, properly addressed as  
24 provided in subsection (b), with postage prepaid.

25 ~~(i) If the personal property subject to the operator's lien is a vehicle,~~  
26 ~~watercraft or trailer and rent or other charges remain unpaid for 60 days,~~  
27 ~~the operator may have the vehicle, watercraft or trailer towed from the~~  
28 ~~self-service storage facility. The notices required pursuant to subsection~~  
29 ~~(b) shall be provided prior to the towing and the notice required pursuant~~  
30 ~~to subsection (b)(2) shall additionally include a statement that unless the~~  
31 ~~claim is paid within the time stated, not less than 10 days after the date of~~  
32 ~~the notice, the operator may have the vehicle, watercraft or trailer towed~~  
33 ~~from the self-service storage facility. The operator shall not be liable for~~  
34 ~~any damages to the vehicle, watercraft or trailer once the tower takes~~  
35 ~~possession of such property. Removal of any vehicle, watercraft or trailer~~  
36 ~~from the self-service storage facility shall not release the operator's lien.~~

37 Sec. 3. K.S.A. 58-816 and K.S.A. 2019 Supp. 58-817 are hereby  
38 repealed.

39 Sec. 4. This act shall take effect and be in force from and after its  
40 publication in the statute book.