

**SENATE BILL NO. 2248**

Introduced by

Senators Krebsbach, Grindberg, W. Stenehjem

Representatives Axtman, Poolman

1 A BILL for an Act to create and enact a new chapter to title 35 of the North Dakota Century  
2 Code, relating to liens on property in self-service storage facilities.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new chapter to title 35 of the North Dakota Century Code is created and  
5 enacted as follows:

6 **Definitions.** As used in this chapter, unless the context otherwise requires:

- 7 1. "Default" means failure of the occupant to pay the rent and other charges at the  
8 time and in the manner set forth in the rental agreement.
- 9 2. "Occupant" means the person who rents storage space at a self-service storage  
10 facility under a rental agreement.
- 11 3. "Owner" means any person who owns, leases, subleases, manages, or operates a  
12 self-service storage facility and receives rent from an occupant under a rental  
13 agreement.
- 14 4. "Rental agreement" means a written agreement between the owner and the  
15 occupant which establishes the terms and conditions of the occupant's use of  
16 storage space at a self-service storage facility.
- 17 5. "Self-service storage facility" means any real property used for renting or leasing  
18 individual storage spaces in which occupants customarily store and remove their  
19 personal property. The term does not include a garage used principally for parking  
20 motor vehicles or any property of a financial institution which contains vaults, safe  
21 deposit boxes, or other receptacles for the purposes and benefits of the financial  
22 institution's customers.
- 23 6. "Storage space" means an enclosure, cubicle, or room that is fully enclosed and  
24 equipped with a door designed to be locked for security by the occupant.

1           **Lien against property.** The owner of a self-service storage facility has a lien on all  
2 property stored under a rental agreement in a storage space at the self-service storage facility  
3 for rent, labor, and other charges, and for expenses reasonably incurred in the sale or other  
4 disposition of the property under law. This lien is superior to other security interests except  
5 those perfected before the date the lien attaches.

6           **Denial of access - Disposal of property.** If the occupant is in default, the owner may  
7 deny the occupant access to the leased space and enforce the lien by selling the property  
8 stored in the leased space. Sale of the property may be by public or private proceeding and  
9 may also be as a unit or in parcels. After the proceeding, the owner may dispose of any  
10 property that was offered for sale but which remained unsold. The proceeds of the sale must  
11 be applied to satisfy the lien.

12           **Custody and control of property.** Unless the rental agreement provides otherwise,  
13 until a sale under this chapter, the occupant is responsible for the care, custody, and control of  
14 all property stored in the leased storage space.

15           **Notice of proceedings.** Before conducting a sale, the owner shall:

- 16           1. Send by certified mail a notice of default to the occupant at the occupant's last  
17 known address. The notice must include:
  - 18           a. A statement that the contents of the occupant's leased space are subject to  
19 the operator's lien and that the occupant is denied access to the property until  
20 the owner's claim is satisfied;
  - 21           b. A statement of the charges due;
  - 22           c. A demand for payment of the charges due within a specified time, not less  
23 than ten days after the date of notice;
  - 24           d. A statement in bold type providing that, unless the claim is paid within the time  
25 stated, the contents of the occupant's leased space will be sold; and
  - 26           e. The name, address, and telephone number of the owner or a designated  
27 agent whom the occupant may contact to respond to the notice.
- 28           2. Publish, once a week for two consecutive weeks, with the first publication not more  
29 than fifteen days before the sale and the last publication at least seven days before  
30 the sale, the time, place, and terms of the sale in a newspaper of general  
31 circulation in the county where the self-service storage facility is located.

1           **Sale of property - Application of proceeds.** At any time before the sale, the occupant  
2 may pay the amount necessary to satisfy the lien and redeem the occupant's property. If a sale  
3 is held, the owner shall satisfy the lien from the proceeds of the sale and hold the balance, if  
4 any, for delivery on demand to the occupant or any other recorded lienholder for a period of two  
5 years from the date of sale. The owner may retain any balance unclaimed after the two-year  
6 period.

7           **Protection of purchaser in good faith.** A purchaser in good faith of any property sold  
8 under this chapter takes the property clear of any rights of persons against whom the lien was  
9 valid and other lienholders.

10          **Liability of owner.** If the owner complies with this chapter, the owner's liability to the  
11 occupant is limited to the proceeds received from the sale of the property less the amount  
12 necessary to satisfy the lien. The owner's liability to other lienholders is limited to the proceeds  
13 received from the sale of any property covered by the other lien less the amount necessary to  
14 satisfy the owner's lien.

15          **Validity of certain rental agreements.** Any rental agreement entered before August 1,  
16 1997, remains valid and may be enforced or terminated in accordance with its terms or as  
17 permitted by any other law of this state.