

Fifty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED 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 creation and enforcement of 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. "Last known address" means the address provided by the occupant in the latest  
10 rental agreement or the address provided by the occupant in a subsequent written  
11 notice of a change of address.
- 12 3. "Occupant" means the person who rents storage space at a self-service storage  
13 facility under a rental agreement, or a sublessee, successor, or assignee.
- 14 4. "Owner" means any person who owns, leases, subleases, manages, or operates a  
15 self-service storage facility and receives rent from an occupant under a rental  
16 agreement.
- 17 5. "Personal property" means movable property not affixed to land including  
18 merchandise and household goods.
- 19 6. "Rental agreement" means a written agreement between the owner and the  
20 occupant which establishes or modifies the terms and conditions of the occupant's  
21 use of storage space at a self-service storage facility.
- 22 7. "Self-service storage facility" means any real property used for renting or leasing  
23 individual storage spaces in which occupants customarily store and remove their  
24 personal property. The term does not include a garage used principally for parking

motor vehicles; any property of a financial institution which contains vaults, safe deposit boxes, or other receptacles for the purposes and benefits of the financial institution's customers; or a warehouse or a public warehouse where warehouse receipts, bills of lading, or other documents of title are issued for the personal property stored.

8. "Storage space" means an enclosure, cubicle, or room that is fully enclosed and equipped with a door designed to be locked for security by the occupant.

**Lien against property.** The owner of a self-service storage facility has a lien on all personal property stored under a rental agreement in a storage space at the self-service storage facility for rent, labor, and other charges, and for expenses reasonably incurred in the sale or other disposition of the property under law. This lien is superior to other security interests except those perfected before the date the lien attaches. The lien attaches upon default by the occupant as stated in the notice of default served on the occupant as provided in this Act.

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

**Custody and control of property.** Unless the rental agreement provides otherwise, until a sale under this chapter, the occupant is responsible for the care, custody, and control of all property stored in the leased storage space, unless the owner secures the property elsewhere during the sale proceedings.

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

1. Deliver in person or send by certified mail a notice of default to prior lienholders and to the occupant at the occupant's last known address. A notice under this section is presumed delivered if it is deposited with the United States postal service and properly addressed with postage prepaid. The notice must include:
  - a. A statement that the contents of the occupant's leased space are subject to the operator's lien and that the occupant is denied access to the property until the owner's claim is satisfied;

- b. The address of the self-service storage facility, the number of the space where the personal property is located, and the name of the occupant;
- c. A statement of the charges due, the date of default, and a demand for payment of the charges due within a specified time, not less than ten days after the date of notice;
- d. A statement in bold type providing that, unless the claim is paid within the time stated, the contents of the occupant's leased space will be sold; and
- e. The name, address, and telephone number of the owner or a designated agent whom the occupant may contact to respond to the notice.

- 2. Publish, once a week for two consecutive weeks, with the first publication not more than fifteen days before the sale and the last publication at least seven days before the sale, the time, place, and terms of the sale in a newspaper of general circulation in the county where the self-service storage facility is located.

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

**Protection of purchaser in good faith.** A purchaser in good faith of any property sold under this chapter takes the property clear of any rights of persons against whom the lien was valid, subject to the rights of prior lienholders.

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

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

- 1           **Sale proceedings - Titled vehicles.** The sale proceedings in this Act are sufficient to
- 2 provide the instruments or documents of authority necessary to obtain a transfer of title to
- 3 vehicles under section 39-05-19.