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## House Bill 331 – Self-Storage Units: Liens; Sales

### Sectional Analysis

*"An Act relating to self-storage facilities for personal property, including vehicles and watercraft; relating to the treatment of firearms, ammunition, and controlled substances found in self-storage units; distinguishing self-storage facility liens from another type of storage lien; and excluding self-storage liens from the treatment of certain unclaimed property."*

**Section 1** – Amends AS 28.11.025 relating to claims of ownership by private property owners to add a new subsection (d) stipulating that AS 28.11.025 does not apply to a vehicle in a self-storage facility under AS 34.35.600 through AS 34.35.695. (Page 1, lines 7 – 9)

**Section 2** – Amends AS 34.35 to add a new section to article 5 stipulating that AS 34.35.220 – Persons entitled to carrier, warehouse, and livestock liens and AS 34.35.225 – Sale to enforce liens do not apply to a self-storage facility. (Page 1, lines 10 – 12)

**Section 3** – Amends 34.35 to add a new section titled Article 13A. Self-Storage Facilities.

#### Sec. 34.35.600. Self-storage facility liens.

This section details that a facility owner has a storage lien on unit property if the unit renter fails to abide by a written rental agreement, including paying the rental charges and reasonable late fees. A late fee is considered reasonable if the fee does not exceed the greater of \$20 or 20 percent of the monthly rental fee. (Page 2, lines 2 – 6)

#### Sec. 34.35.605. Priority of storage lien.

This section notes that if a vehicle is an item of the unit property, a storage lien is superior to a lien or encumbrance established under AS 28.10.371 – AS 28.10.401. (Page 2, Lines 7 – 11)

(b) Stipulates that a storage lien is superior to a security interest perfected under AS 45.29. A storage lien is also superior to another lien or security lien, except a tax lien. *(Page 2, lines 10 – 11)*

Sec. 32.35.610. Attachment of storage lien.

This section stipulates that a storage lien attaches on the date on which property is placed in a storage unit. This section further stipulates that a rental agreement must contain a statement notifying the unit renter of the existence of the storage lien and the method by which the facility owner may enforce the lien. *(Page 2, lines 12 – 16)*

Sec. 34.35.615. Enforcement.

Gives facility owners the right to enforce a storage lien after a unit renter has been continuously in default for at least 10 days. *(Page 2, lines 17 – 18)*

Sec. 34.35.620. Denial of access; moving unit property.

Stipulates that after a default, the facility owner may deny the unit renter access to the storage unit and move property to another place for storage. The section also allows the facility owner to tow or otherwise remove a vehicle or watercraft from the storage facility. *(Page 2, lines 19 – 25)*

Sec. 34.35.625. Lien notice.

Requires a facility owner to mail a lien notice to the unit renter as part of enforcing a storage lien. The lien notice must include an itemized statement and the date when the default occurred. The notice must include a statement of how the unit renter can cure the default, including a demand that the unit renter cure the default before the date stated in the lien notice. The date for curing the default must not be less than 21 days after the date the facility owner provides the lien notice. The lien notice must also include a conspicuous statement noting that, unless the unit renter cures the default the facility owner will dispose of the unit property. *(Page 2, lines 26 – 31 and Page 3, lines 1 – 24)*

(11) Calls for the lien notice to include a statement that if the facility owner discovers that the unit property contains restricted property the facility owner will notify a law enforcement agency of the restricted property and the law enforcement agency will take possession of the restricted property. *(Page 3, lines 25 – 28)*

Sec. 34.35.630. Authority to dispose of unit property.

This section allows the facility owner to dispose of the unit property if a unit renter does not cure a default and pay the amount due by the deadline stated in the lien notice. *(Page 3, line 29 – 31)*

Sec. 34.35.635. Disposal publication, advertising, and notices.

This section details the steps a facility owner must take to dispose of unit property if the unit renter does not cure the default and pay the amount due by the deadline stated in the lien notice. *(Page 4, lines 1 – 31)*

(b) Allows the facility owner to privately sell, give away, donate, or throw away unit property that is not commercially viable to dispose of by a public sale. *(Page 4, lines 6 – 10)*

(c) Outlines the steps a facility owner shall take before disposing of unit property under (a) of this section, including publishing a notice of sale in a newspaper in the judicial district in which the storage facility is located. Facility owners may also advertise the sale one time a week for two weeks in a commercially reasonable manner that is likely to attract at least three bidders who are not related to the facility owner or each other. *(Page 4, lines 11 – 21)*

(2) Notes that if the unit property is a vehicle, the facility owner must mail a notice of the disposal of the vehicle to the vehicle owner and any lienholders. *(Page 4, lines 18 – 21)*

(d) Details the information that must be included in the publication, advertisement, and notice of sale, including the time, place, and manner of the sale and a statement that the facility owner will sell the unit property to satisfy the facility owner's lien. *(Page 4, line 22 – 31, and page 5, lines 1 – 3)*

*Sec. 34.35.640. Sale of unit property.*

This section details the means and methods for holding a sale of unit property. The facility owner shall hold the sale not less than five days after the publication or advertisement of the sale under AS 34.35.635(c)(1). *(Page 5, lines 4 – 17)*

*Sec. 34.35.645. Redemption by unit renter, vehicle owner, or vehicle lienholder.*

This section details how the unit renter may redeem the unit property before disposal of unit property takes place under AS 34.35.635. This section notes that if the unit renter redeems the unit property, the facility owner shall immediately return the unit property to the unit renter. If a vehicle owner of record or the lienholders pay the amount due before the facility owner disposes of the vehicle under AS 34.35.635 and 34.35.640, the facility owner shall transfer possession of the vehicle to the vehicle owner or lienholder who pays the amount due. If the unit renter stored the vehicle with other unit property in the storage unit, the vehicle owner or lienholder is required to pay only that part of the amount due that is proportionate to the storage area occupied by the vehicle. *(Page 5, lines 18 – 31)*

*Sec. 34.35.650. Good faith purchasers.*

A person who purchases unit property in good faith and without notice of noncompliance takes the unit property free of any rights of the unit renter, the facility owner, and any lienholders, even if the facility owner has not complied with AS 34.35.600 - 34.35.695. *(Page 6, lines 2 – 6)*

*Sec. 34.35.655. Vehicle title.*

This section stipulates that if a vehicle is sold at a public sale and is titled, the Department of Administration shall transfer title to the vehicle to the purchaser who purchased the vehicle and who requests the transfer. *(Page 6, line 7 – 10)*

*Sec. 34.35.660. Proceeds of disposal.*

This section details how the storage facility owner is to apply the proceeds from the disposal of private property to satisfy a storage lien. The section puts in place an order for the use of proceeds. *(Page 6, lines 11 – 31, and page 7, lines 1 – 5)*

(b) Stipulates that if the disposal proceeds are not sufficient to pay secured lienholders completely, the facility owner is not liable for the unpaid balance owed to the secured lienholders. *(Page 6, lines 22 – 24)*

(c) Details the process the facility owners must use if disposal proceeds remain after as storage lien and secured lienholders are paid off. Facility owners must mail the unit renter a notice that there are excess disposal proceeds. Facility owners must hold proceeds for the unit renter for a period of one year after the disposal sale. If the unit renter does not claim the excess proceeds within the one-year period, the excess sale proceeds belong to the facility owner. *(Page 6, lines 25 – 30)*

*Sec. 34.35.665 Limit on value of property stored.*

This section details that if a rental agreement specifies a limit on the value of property that a unit renter may store in the storage unit, the specified limit is considered to be the maximum value of the unit renter's property stored in the rented unit. *(Page 7, lines 6 – 9)*

*Sec. 34.35.670 Mailing requirements.*

This section details the process that must be used when a facility owner is required to mail a notice under AS 34.35.600 – 34.35.695. *(Page 7, lines 10 – 20)*

- (1) Requires the facility owner to call the unit renter and mail the notice to the unit renter's postal address and electronic mail address. *(Page 7, lines 12 – 16)*
- (2) Requires notices mailed to a postal address to be done by a method offered by the U.S. Postal Service that provides evidence of mailing. Mailed notices can also be delivered via private delivery services. *(Page 7, lines 17 – 20)*

Section 34.35.675. Release of lien.

This section requires a facility owner to deliver to the unit renter an acknowledgment of satisfaction suitable for recording when a lien under AS 34.35.600 – 34.35.695 is satisfied by payment of the amount due. The section requires the facility owner to deliver the acknowledgment of satisfaction to the unit renter no later than 15 days after the request is made in writing. *(Page 7, lines 21 – 31)*

- (b) Stipulates that the facility owner is liable to the unit renter for damages suffered by the unit renter if the facility owner fails, without just cause, for a period of 30 days after receiving the written request to deliver an acknowledgment of satisfaction as required. *(Page 7, lines 27 – 31)*

Sec. 34.35.680. Records.

This section requires the facility owner to keep a written record of when and how the facility owner disposed of the unit property. The written record must be kept for one year from the date of the lien notice. The section clarifies that the facility owner shall allow the former unit renter to review the written record on request. *(Page 8, lines 1 – 4)*

Sec. 34.35.685. Restricted property.

This section details how a facility owner is to handle restricted property discovered in the unit property of the defaulting renter. The section requires the facility owner to notify a law enforcement agency about the restricted property and allow the law enforcement agency to take possession of the restricted property. *(Page 8, lines 5 – 31, and page 9, lines 1 – 7)*

(b) Details the process that must be used if the facility owner discovers the restricted property after the lien notice has been mailed. The facility owner shall make the notification and transfer of restricted property and then mail a notice to the unit renter stating that the facility owner has notified a law enforcement agency about the restricted property and that the law enforcement agency has taken possession of the restricted property.

If the restricted property includes a firearm or ammunition, the notice must also include a statement that the unit renter has one year from the date the law enforcement agency takes possession of the firearm or ammunition to file a claim with the law enforcement agency to obtain the return of the firearm or ammunition. *(Page 8, lines 10 – 24)*

(c) Gives a unit renter one year to file a claim for the item with the law enforcement agency. Notwithstanding AS 18.65.340, the law enforcement agency shall return the item to the unit renter unless the unit renter's possession would violate a state or federal law that regulates the possession of the item. If the unit renter fails to file a claim for the firearm or ammunition within one year, the law enforcement agency shall dispose of the firearm or ammunition as a surplus firearm as provided in AS 18.65.340. *(Page 8, lines 25 – 31, and page 9, lines 1 – 2)*

(d) Stipulates that the facility owner is not liable to the unit renter or the owner of the restricted property for the value of the restricted property or damage suffered as a result of the notice and transfer. *(Page 9, lines 3 – 7)*

#### Sec. 34.35.690. Additional rights and obligations.

This section stipulates that the provisions of AS 34.35.600 – 34.35.695 do not prevent a rental agreement from containing other rights, duties, and obligations. The rights provided to a facility owner by AS 34.35.600 – 34.35.695 are in addition to other rights provided by law to a creditor against a debtor. *(Page 9, lines 8 – 12)*

#### Sec. 34.35.695 Definitions.

This section defines terms used in the Act including facility owner, law enforcement agency, lien notice, and self-storage facility. The section defines restricted property as a firearm, ammunition, or a controlled substance. *(Page 9, lines 13 – 31, page 10, lines 1 – 21)*

**Section 4** – Amends AS 34.45 to add a new section to article 1.

*Sec. 34.45.095 Application.*

This section clarifies that AS 34.45.010 – 34.45.084 dealing with property consigned or deposited with a consignee or bailee does not apply to a self-storage facility under AS 35.600 – 34.35.695. *(Page 10, lines 23 – 24)*

**Section 5**

Amends the uncodified law of the State of Alaska to add a new section that stipulates that a facility owner may not obtain a lien on unit property under AS 34.35.600 – 34.35.695, enacted by section 3 of this Act, unless the rental agreement is entered into on or after the effective date of this Act. *(Page 10, lines 25 – 31)*