HOUSE BILL NO. 360

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE TUCK

Introduced: 2/24/16
Referred: Labor and Commerce

A BILL

FOR AN ACT ENTITLED

"An Act relating to self-storage facilities for personal property, including vehicles; distinguishing self-storage facility liens from another type of storage lien; and excluding self-storage liens from the treatment of certain unclaimed property."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 28.11.025 is amended by adding a new subsection to read:

(d) This section does not apply to a vehicle in a self-storage facility under AS 34.35.600 - 34.35.649.

*** Sec. 2.** AS 34.35 is amended by adding a new section to article 5 to read:

Sec. 34.35.227. Application. AS 34.35.220 and 34.35.225 do not apply to a self-storage facility. In this section, "self-storage facility" has the meaning given in AS 34.35.649.

*** Sec. 3.** AS 34.35 is amended by adding new sections to read:

Article 13A. Self-Storage Facilities.

Sec. 34.35.600. Self-storage facility liens. (a) A person who owns a self-

storage facility has a lien on the property that is stored in a storage unit for the payment of the amount owed for the storage unit.

(b) Notwithstanding AS 28.10.371, if a vehicle is part of the unit property, the lien provided under (a) of this section is superior to a lien or encumbrance established under AS 28.10.371 - 28.10.401.

(c) A lien established under (a) of this section is superior to a security interest perfected under AS 45.29.

Sec. 34.35.603. Denial of access. If a renter does not pay the rental charges for a storage unit within 10 days after the charges are due under the unit renter's rental agreement with the facility owner, the facility owner may deny the unit renter access to the storage unit by changing the lock or by other means.

Sec. 34.35.607. Possession of goods. If a renter does not pay the rental charges for a storage unit within 60 days after the charges are due, the facility owner may, if the facility owner has provided written notice under AS 34.35.610, take possession of the personal property stored in the storage unit.

Sec. 34.35.610. Written notice required. (a) A facility owner shall send the written notice required under AS 34.35.607 by certified mail, return receipt requested, or by electronic mail to the last address provided by the unit renter.

(b) The notice under (a) of this section must state

(1) that, if the unit renter does not pay the rental charges for a storage unit within 60 days after the charges are due, the facility owner will take possession of the unit property for nonpayment of the rental charges;

(2) the specific date on which the facility owner will take possession of the personal property under (1) of this subsection;

(3) that the facility owner will

(A) publish a notice two times in a 14-day period in a newspaper of general circulation in a municipality where the storage facility is located; or

(B) if publication under (A) of this paragraph is not practicable, post the notice in three public places in a municipality where the storage facility is located, including at the post office nearest to the storage facility;

(4) that, if the unit property includes a vehicle, the facility owner will also provide 21 days' written or published notice to the vehicle owner and any lienholders;

(5) that, if the facility owner has taken possession of property under AS 34.35.607, the unit renter has not paid the amount owed in full within three days after the publication or posting under (3) of this subsection is complete, and 21 days have elapsed after notice under (4) of this subsection, the facility owner may dispose of the personal property;

(6) that the unit property will be disposed of at a date, time, and place that will be announced by the facility owner;

(7) the amount that the unit renter must pay in full to stop the disposal, and that the amount will include the rent due, publication or posting costs, appraiser costs, personnel costs, administrative costs, advertising costs, legal costs, and lock-cutting fees;

(8) that, if the proceeds of the disposal of the unit property exceed the sum of the amount owed to the facility owner and to any lienholders on the title of any vehicle that is part of the unit property, the unit renter may claim the excess proceeds from the facility owner within one year after the date the facility owner sends the unit renter written notice of the excess proceeds; and

(9) the name of the self-storage facility, the address of the self-storage facility, the telephone number of the facility owner or the facility owner's agent, and the address where the unit renter can pay the amount owed.

Sec. 34.35.613. Authority to dispose of property. Except as provided under AS 34.35.617, if a facility owner has taken possession of property under AS 34.35.607, the unit renter has not paid the amount owed within three days after the facility owner has completed publication or posting under AS 34.35.615, and 21 days have elapsed after the giving of any notice required under AS 34.35.617, the facility owner may dispose of the unit property under AS 34.35.620.

Sec. 34.35.615. Publication or posting. (a) To satisfy the requirement to publish or post a notice under AS 34.35.613, a facility owner shall

(1) publish a notice two times in a 14-day period in a newspaper of

general circulation in a municipality where the storage facility is located; or

(2) if publication under (1) of this subsection is not practicable, post the notice in three public places for 14 days in a municipality where the storage facility is located, including at the post office nearest to the storage facility.

(b) The notice under (a) of this section must state

(1) the unit renter's name;

(2) the number of the storage unit;

(3) a brief description of the unit property;

(4) that the facility owner will take possession of the unit property on a specified date provided in the notice and may dispose of the unit property after a specified date provided in the notice.

Sec. 34.35.617. Notice regarding vehicles; payment. (a) In addition to the publication or posting required under AS 34.35.613, at least 21 days before disposing of a vehicle under AS 34.35.620, the facility owner shall provide written notice of the disposal of the vehicle to the vehicle owner of record and to lienholders, if any, listed on the vehicle title, at the address or addresses listed on the vehicle title. The facility owner shall send the notice by certified mail, return receipt requested, or by electronic mail.

(b) The notice under (a) of this section must state the location of the vehicle, the name of the unit renter, the date, location, and time of the disposal, the name, address, and contact telephone number of the facility owner, and a description of the vehicle, including its registration plate number and vehicle identification number.

(c) If the vehicle is not registered in this state or the name and address of the vehicle owner or lienholder cannot be determined, at least 21 days before disposing of a vehicle under AS 34.35.620, the facility owner shall give the notice required under (a) of this section by publishing the notice two times in a 21-day period in a newspaper of general circulation in a municipality where the storage facility is located.

(d) If the vehicle owner or lienholder pays the amount owed on the storage of the vehicle before the facility owner disposes of the vehicle under AS 34.35.620, the facility owner shall transfer possession of the vehicle to the vehicle owner or lienholder who pays the amount owed. If the unit renter stored the vehicle with other

property in the storage unit, the vehicle owner or lienholder is only required to pay that part of the amount owed that is proportionate to the storage area used by the vehicle.

Sec. 34.35.620. Disposal. (a) Before disposing of unit property, a facility owner shall hire a certified appraiser who is knowledgeable in the value of the unit property to determine the value of the unit property and whether it is commercially viable to sell all or part of the property at a public auction.

(b) If the appraiser determines that it is commercially viable to sell all or part of the unit property at a public auction, the facility owner shall attempt to sell at a public auction the unit property that is commercially viable to sell at a public auction. If the appraiser determines that it is not commercially viable to sell all or part of the unit property at a public auction, the facility owner may privately sell, give away, donate, or throw away the unit property that is not commercially viable to sell at a public auction.

(c) The facility owner shall keep the unit property in the storage unit until it is disposed of, except that the facility owner may remove the property for sale at an auction facility.

Sec. 34.35.623. Good faith purchasers. A person who purchases unit property in good faith and without notice of any noncompliance with AS 34.35.600 - 34.35.649 at a public auction or private sale, or receives the property as a donation or gift under AS 34.35.620(b), takes the property free of any rights of the unit renter, any other persons against whom the lien was valid, the vehicle title owner, and any vehicle lienholders, even, except if the unit property is a vehicle, if the facility owner has not complied with AS 34.35.600 - 34.35.649.

Sec. 34.35.625. Vehicle title. If a vehicle is sold at a public auction under AS 34.35.620, the Department of Administration shall transfer title to the vehicle to the purchaser who purchased the vehicle and who requests the transfer.

Sec. 34.35.627. Proceeds of disposal. (a) If all or part of the property is sold under AS 34.35.620, the facility owner shall apply the sale proceeds, in the following order, to

(1) the costs of conducting the disposal, including the auction costs;

(2) the balance of the amount owed by the unit renter;

(3) the payment of the liens of secured lienholders, if the unit property was a vehicle.

(b) If the proceeds are not sufficient to pay secured lienholders completely, the facility owner is not liable for the unpaid balance.

(c) If sale proceeds remain after application of (a) of this section, the facility owner shall notify the unit renter by certified mail, return receipt requested, or by electronic mail that there are excess sale proceeds. The facility owner shall hold the excess sale proceeds for one year from the date of the sale, and the unit renter may claim the excess sale proceeds within the one-year period. If the unit renter does not claim the excess proceeds within the one-year period, the excess sale proceeds belong to the facility owner.

(d) In the notice under (c) of this section, the facility owner shall state that there are excess sale proceeds from the sale, that the facility owner will hold the excess sale proceeds for one year from the date the facility owner sends the notice, that the unit renter may claim the excess sale proceeds within the one-year period, and that if the unit renter does not claim the excess sale proceeds within the one-year period, the excess sale proceeds will belong to the facility owner.

Sec. 34.35.630. Release of lien. (a) Notwithstanding AS 34.35.900(a), if a unit renter requests in writing that a facility owner deliver to the unit renter an acknowledgment of satisfaction suitable for recording when a lien under AS 34.35.600 - 34.35.649 is satisfied by payment of the amount owed, the facility shall deliver the acknowledgment of satisfaction to the unit renter not later than 15 days after the request.

(b) If a facility owner fails without just cause for a period of 30 days after receiving the written request under (a) of this section to execute and deliver to the unit renter an acknowledgment of satisfaction as required under (a) of this section, the facility owner is liable to the unit renter for the damages suffered by the unit renter because of the failure.

Sec. 34.35.635. Records. The facility owner shall keep for one year from the date of notice under AS 34.35.610 a written record of when and how the facility owner

disposed of the unit property. The facility owner shall allow the former unit renter to review the record on request.

Sec. 34.35.649. Definitions. In AS 34.35.600 - 34.35.649,

(1) "amount owed" means

(A) rental charges owed to a facility owner by a unit renter;

(B) costs incurred by a facility owner for mailing and for publishing or posting the notice of the lien under AS 34.35.610, 34.35.615, and 34.35.617; and

(C) costs, including publication or posting costs, appraiser costs, personnel costs, administrative costs, advertising costs, legal costs, lock-cutting costs, and auctioneer costs incurred by a facility owner for disposing of the property;

(2) "facility owner" means a person who owns a self-storage facility;

(3) "property" means personal property, including vehicles, boats, motor homes, utility trailers, and similar items;

(4) "self-storage facility" means a facility

(A) that provides, by payment of a rental charge, storage space for property; and

(B) where the unit renter controls by a lock or other means access to the storage unit;

(5) "storage unit" means a rental unit in a self-storage facility;

(6) "unit property" means the property stored in a storage unit;

(7) "unit renter" means a person who rents a storage unit;

(8) "vehicle" has the meaning given in AS 28.11.025.

*** Sec. 4.** AS 34.45 is amended by adding a new section to article 1 to read:

Sec. 34.45.095. Application. AS 34.45.010 - 34.45.085 do not apply to a self-storage facility. In this section, "self-storage facility" has the meaning given in AS 34.35.649.