

SECOND REGULAR SESSION

# HOUSE BILL NO. 1471

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SKAGGS.

Read 1<sup>st</sup> time January 15, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3592L.011

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### AN ACT

To repeal sections 415.410, 415.415, and 415.420, RSMo, and to enact in lieu thereof three new sections relating to self-service storage facilities.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 415.410, 415.415, and 415.420, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 415.410, 415.415, and 415.420, to read as follows:

415.410. 1. An operator may not knowingly permit a leased space at a self-service storage facility to be used for residential purposes. An occupant may not use a leased space for residential purposes.

2. An operator may enter leased space at all times which are reasonably necessary to insure the protection and preservation of the self-service storage facility or any personal property stored therein.

3. Prior to placing any personal property into [his] **the occupant's** leased space, each occupant shall deliver a written statement to the operator of such leased space containing the name and address of each person having a valid lien against such personal property.

4. The lessee shall be informed in writing that the lessor either does or does not have liability insurance.

415.415. 1. The operator of a self-service storage facility has a lien on all personal property, **regardless of whether the property is owned by the occupant**, stored within each leased space for rent, labor, or other charges, and for expenses reasonably incurred in sale of such personal property, as provided in sections 415.400 to 415.430. **The lien provided for in this**

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

5 **section attaches as of the date that the personal property is brought to the self-service**  
6 **storage facility or as of the date the occupant takes possession of the self-service storage**  
7 **facility.** The lien established by this subsection shall have priority over all other liens [except  
8 those liens that have been perfected and recorded, on personal property] **acquired subsequent**  
9 **to the bringing of the property on the premises leased.** The rental agreement shall contain  
10 a statement, in bold type, advising the occupant of the existence of such lien and that property  
11 stored in the leased space may be sold to satisfy such lien if the occupant is in default, and that  
12 any proceeds from the sale of the property which remain after satisfaction of the lien will be paid  
13 to the state treasurer if unclaimed by the occupant within one year after the sale of the property.

14 2. If the occupant is in default for a period of more than thirty days, the operator may  
15 enforce the lien granted in subsection 1 of this section and sell the property stored in the leased  
16 space for cash. Sale of the property stored on the premises may be done at a public or private  
17 sale, may be done as a unit or in parcels, or may be by way of one or more contracts, and may  
18 be at any time or place and on any terms as long as the sale is done in a commercially reasonable  
19 manner in accordance with the provisions of section 400.9-507, RSMo. The operator may  
20 otherwise dispose of any property which has no commercial value.

21 3. The proceeds of any sale made under this subsection shall be applied to satisfy the  
22 lien, with any surplus being held for delivery on demand to the occupant or any other lienholders  
23 which the operator knows of or which are contained in the statement filed by the occupant  
24 pursuant to subsection 3 of section 415.410 for a period of one year after receipt of proceeds of  
25 the sale and satisfaction of the lien. No proceeds shall be paid to an occupant until such occupant  
26 files a sworn affidavit with the operator stating that there are no other valid liens outstanding  
27 against the property sold and that [he,] the occupant[,] shall indemnify the operator for any  
28 damages incurred or moneys paid by the operator due to claims arising from other lienholders  
29 of the property sold. After the one-year period set in this subsection, any proceeds remaining  
30 after satisfaction of the lien shall be considered abandoned property to be reported and paid to  
31 the state treasurer in accordance with laws pertaining to the disposition of unclaimed property.

32 4. Before conducting a sale under subsection 2 of this section, the operator shall:

33 (1) At least forty-five days before any disposition of property under this section, notify  
34 the occupant and each lienholder which the operator knows of or which is contained in any  
35 statement filed by the occupant pursuant to subsection 3 of section 415.410 of the default by  
36 first-class mail at the occupant's or lienholder's last known address;

37 (2) No later than ten days after mailing the notice required in subdivision (1) of this  
38 subsection, mail a second notice of default, by registered or certified mail, to the occupant at the  
39 occupant's or lienholder's last known address, which notice shall include:

40 (a) A statement that the contents of the occupant's leased space are subject to the

41 operator's lien;

42 (b) A statement of the operator's claim, indicating the charges due on the date of the  
43 notice, the amount of any additional charges which shall become due before the date of release  
44 for sale and the date those additional charges shall become due;

45 (c) A demand for payment of the charges due within a specified time, not less than ten  
46 days after the date on which the second notice was mailed;

47 (d) A statement that unless the claim is paid within the time stated, the contents of the  
48 occupant's space will be sold after a specified time; and

49 (e) The name, street address and telephone number of the operator, or a designated agent  
50 whom the occupant may contact, to respond to the notice;

51 (3) At least seven days before the sale, advertise the time, place and terms of the sale in  
52 a newspaper of general circulation in the jurisdiction where the sale is to be held. Such  
53 advertisement shall be in the classified section of the newspaper and shall state that the items will  
54 be released for sale. **If a sale involves property of more than one occupant, a single**  
55 **advertisement may be used to dispose of property of any one sale.**

56 5. At any time before a sale under this section, the occupant may pay the amount  
57 necessary to satisfy the lien and redeem the occupant's personal property.

415.420. 1. A purchaser in good faith of any personal property sold under sections  
2 415.400 to 415.430 takes the property free and clear of any rights of any persons against whom  
3 the lien was valid and other lienholders.

4 2. If the operator complies with the provisions of sections 415.400 to 415.430, the  
5 operator's liability to the occupant shall be limited to the net proceeds received from the sale of  
6 the personal property, and to other lienholders shall be limited to the net proceeds received from  
7 the sale of any personal property covered by the other lien.

8 3. If an occupant is in default, [once the operator has given the occupant notice under  
9 subdivision (1) of subsection 4 of section 415.415] **for more than five days**, the operator may  
10 deny the occupant access to the leased space, **without notice. In denying the occupant access**  
11 **to the leased space, the operator may proceed without judicial process, if this can be done**  
12 **without breach of the peace, or may proceed by action.**

13 4. Unless otherwise specifically provided in sections 415.400 to 415.430, all notices  
14 required by sections 415.400 to 415.430 shall be sent by registered or certified mail. Notices sent  
15 to the operator shall be sent to the self-service storage facility where the occupant's property is  
16 stored. Notices to the occupant shall be sent to the occupant at the occupant's last known  
17 address. Notices shall be deemed delivered when deposited with the United States postal  
18 service, properly addressed as provided in subsection 4 of section 415.415, with postage prepaid.