TEXAS STATUTES AND CODE

PROPERTY CODE

Title 5. EXEMPT PROPERTY AND LIENS

Subtitle B. LIENS

Chapter 59. SELF-SERVICE STORAGE FACILITY LIENS

Subchapter A. GENERAL PROVISIONS

§ 59.001. Definitions

In this chapter:

(1) "Lessor" means an owner, lessor, sublessor, or managing agent of a self-service storage facility.

(2) "Rental agreement" means a written or oral agreement that establishes or modifies the terms of use of a self-service storage facility.

(3) "Self-service storage facility" means real property that is rented to be used exclusively for storage of property and is cared for and controlled by the tenant.

(4) "Tenant" means a person entitled under a rental agreement to the exclusive use of storage space at a self-service storage facility.

§ 59.002. Applicability

This chapter applies to a self-service storage facility rental agreement that is entered into, extended, or renewed after September 1, 1981

§ 59.003. Applicability of Other Statutes

(a) Subchapter B, Chapter 54,[1] does not apply to a self-service storage facility.

(b) Unless a lessor issues a warehouse receipt, bill of lading, or other document of title relating to property stored at the facility, the following statutes do not apply to a self-service storage facility:

(1) Chapter 7, Business & Commerce Code, as amended; and

(2) Chapter 14, Agriculture Code

§ 59.004. Variation by Agreement and Waiver

Except as expressly provided by this chapter, a lessor or tenant may not vary the provisions of this chapter by agreement or waive rights conferred by this chapter

§ 59.005. Damages for Violation

A person injured by a violation of this chapter may sue for damages under the Deceptive Trade Practices—Consumer Protection Act (Subchapter E, Chapter 17, Business & Commerce Code) .[1]

[1] Business & Commerce Code, 17.41 et seq.

§ 59.006. Attachment and Priority of Lien

A lien under this chapter attaches on the date the tenant places the property at the self-service storage facility. The lien takes priority over all other liens on the same property.

§ 59.007. Purchase of Property

A good faith purchaser of property sold to satisfy a lien under this chapter takes the property free of a claim by a person against whom the lien was valid, regardless of whether the lessor has complied with this chapter.

§ 59.008. Redemption

A tenant may redeem property seized under a judicial order or a contractual landlord's lien prior to its sale or other disposition by paying the lessor the amount of the lien and the lessor's reasonable expenses incurred under this chapter.

§ 59.009. Residential Use

A tenant may not use or allow the use of a self-service storage facility as a residence

§ 59.021. Lien; Property Attached

A lessor has a lien on all property in a self-service storage facility for the payment of charges that are due and unpaid by the tenant.

§ 59.041. Enforcement of Lien

(a) Except as provided by Subsection (b) of this section, a lessor may enforce a lien under this chapter only under a judgment by a court of competent jurisdiction that forecloses the lien and orders the sale of the property to which it is attached.

(b) A lessor may enforce a lien under this chapter by seizing and selling the property to which the lien is attached if:

(1) the seizure and sale are made under the terms of a contractual landlord's lien as underlined or printed in conspicuous bold print in a written rental agreement between the lessor and tenant; and

(2) the seizure and sale are made in accordance with this chapter.

§ 59.042. Procedure for Seizure and Sale

(a) A lessor who wishes to enforce a contractual landlord's lien by seizing and selling or otherwise disposing of the property to which it is attached must deliver written notice of the claim to the tenant.

(b) If the tenant fails to satisfy the claim before the 15th day after the day that the notice is delivered, the lessor must publish or post notices advertising the sale as provided by this subchapter.

(c) If notice is by publication, the lessor may not sell the property until the 15th day after the day that the first notice is published. If notice is by posting, the lessor may sell the property after the 10th day after the day that the notices are posted.

§ 59.043. Contents and Delivery of Notice of Claim

(a) The lessor's notice to the tenant of the claim must contain:

(1) an itemized account of the claim;

(2) the name, address, and telephone number of the lessor or the lessor's agent;

(3) a statement that the contents of the self-service storage facility have been seized under the contractual landlord's lien; and

(4) a statement that if the claim is not satisfied before the 15th day after the day that the notice is delivered, the property may be sold at public auction.

(b) The lessor must deliver the notice in person or by certified mail to the tenant's last known address as stated in the rental agreement or in a written notice from the tenant to the lessor furnished after the execution of the rental agreement. Notice by mail is considered delivered when the notice, properly addressed with postage prepaid, is deposited with the United States Postal Service.

§ 59.044. Notice of Sale

(a) The notice advertising the sale must contain:

(1) a general description of the property;

(2) a statement that the property is being sold to satisfy a landlord's lien;

(3) the tenant's name;

(4) the address of the self-service storage facility; and

(5) the time, place, and terms of the sale.

(b) The lessor must publish the notice once in each of two consecutive weeks in a newspaper of general circulation in the county in which the self-service storage facility is located. If there is not a newspaper of general circulation in the county, the lessor may instead post a copy of the notice at the self-service storage facility and at least five other conspicuous locations near the facility.

§ 59.045. Conduct of Sale

A sale under this subchapter must be a public sale at the self-service storage facility or a reasonably near public place. The lessor must conduct the sale according to the terms specified in the notice advertising the sale and sell the property to the highest bidder.

§ 59.046. Excess Proceeds of Sale

If the proceeds of a sale under this subchapter are greater than the amount of the lien and the reasonable expenses of the sale, the lessor shall deliver written notice of the excess to the tenant's last known address as stated in the rental agreement or in a written notice from the tenant to the lessor furnished after the execution of the rental agreement. The lessor shall retain the excess and deliver it to the tenant if the tenant requests it before two years after the date of the sale. If the tenant does not request the excess before two years after the date of the sale, the lessor owns the excess.

§ 59.047. Additional Procedures for Sale of Certain Property

A holder of a lien under this chapter on a motor vehicle subject to Chapter 501, Transportation Code, or on a motorboat, vessel, or outboard motor for which a certificate of title is required under Subchapter B, Chapter 31, Parks and Wildlife Code, may follow the procedures prescribed by Section 70.006 in addition to the procedures prescribed by this chapter.