

Legislative Analysis



UNPAID OR PAST-DUE RENT FOR SELF-STORAGE FACILITIES

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House Bill 4484

Sponsor: Rep. Peter Pettalia

House Bill 4485

Sponsor: Rep. Bruce R. Rendon

Committee: Regulatory Reform

Complete to 9-16-13

A SUMMARY OF HOUSE BILLS 4484 & 4485 AS INTRODUCED 3-20-13

Under Section 3 of the Self-Service Storage Facility Act, the owner of a self-storage facility has a lien on all personal property located at the facility for rent and other lawful charges.

House Bill 4484 would amend Section 3 of the act to do the following, among other things:

- Protect storage facility owners from damage claims when they destroy personal or confidential information in lieu of offering it for sale (when a tenant defaults on a rental agreement).
- Protect storage facility owners from damage claims for the release, use, or misuse of personal or confidential information contained in any documents or other media stored by a tenant in a storage facility after the materials have been sold or otherwise disposed of.
- Allow storage facility owners to charge tenants reasonable late charges for failing to make timely rental payments.

The bill is described in more detail later in the summary.

House Bill 4485 would amend the Insurance Code to exempt from licensure as an insurance producer, an individual whose only sale of insurance is for stored personal property sold in connection with and incidental to the rental of storage space in a self-service storage facility under a rental agreement not to exceed one year.

Detailed Summary of House Bill 4484

Limits on storage property

The bill would allow rental agreements for self-service storage facilities or self-contained storage units to set a maximum monetary value of the property being stored at the rental facility. The limit provided for in the rental agreement would be considered the maximum monetary value of the property stored in the unit for all purposes.

Reasonable late charges

As part of a rental agreement, owners would be able to charge tenants a *reasonable* late charge in the event the tenant fails to make the appropriate rental payments. The bill would establish a reasonable late charge (and not considered a penalty) to be the greater of \$20 or 20% of the monthly rental amount. The burden of justifying the reasonableness of a higher late fee than that provided for in the bill would be the responsibility of the storage facility owner.

Towing in lieu of sale

Under the bill, if any property to which a lien attaches under the act is a motor vehicle, aircraft, mobile home, moped, motorcycle, snowmobile, trailer, or watercraft, and the rent on the storage facility goes unpaid for 60 days, the storage facility owner may have the property towed away from the storage facility by an independent motor carrier instead of offering it for sale. In the event a storage facility owner has property towed from a storage unit, the storage facility owner would not be liable or responsible for the property after the possession of the property is transferred to the motor carrier.

Distribution of proceeds

Currently under the act, proceeds from the sale of property are distributed as follows:

- First, to satisfy the storage facility owner's liens in an amount up to four months' rent, minus any amount already paid to the storage facility owner by a prior lienholder;
- Second, to satisfy outstanding balances owed to prior perfected lienholders; and
- Third, to satisfy the balance of the storage facility owner's liens.

Under the bill, the "balance of the storage facility owner's liens" would specifically include all unpaid rent, late fees, and reasonable lien enforcement expenses.

Release, use, or misuse of confidential information

Storage facility owners would not be liable for any damages or claims relating to the release, use, or misuse of confidential, proprietary, or personal identification information contained in any documents or media stored by a tenant in a storage facility or unit after the documents or media have been sold or otherwise disposed of.

Storage facility owners would be allowed, but not required, to destroy any or all of the documents or media instead of offering them for sale if the owner reasonably believes the storage space contains documents or other media containing confidential, proprietary, or personal identification information. Storage facility owners that destroy documents or other media would not be liable to any person for the destruction of such information.

In the event the storage facility owner knows of, and the space actually contains, property that is not able to be lawfully sold, the storage facility owner would be allowed, but not required, to properly dispose of the property in any other legal manner instead of offering the property for sale. Storage facility owners that dispose of property in this manner would not be liable to any person for the disposal of such property.

Enforcement of lien

Currently under the act, the owner of a storage facility must notify the tenant and any occupant designated by the tenant of the owner's intent to enforce the owner's lien. The bill would eliminate the requirement for the owner to maintain an affidavit stating how and when notice was delivered to the tenant.

FISCAL IMPACT:

House Bill 4484 would have no fiscal impact on state or local government.

House Bill 4485 would have a nominal fiscal impact on the Department of Insurance and Financial Services (DIFS) to the extent that individuals who sell insurance in connection and incidental to the rental of storage space in a self-service storage facility would no longer require licensure as an insurance producer. It is not known how many, if any, such individuals are currently licensed as insurance producers. Licensure fees for insurance producers are \$10 for application for perpetual licensure.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.