

FIRST REGULAR SESSION

# SENATE BILL NO. 373

92ND GENERAL ASSEMBLY

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INTRODUCED BY SENATOR BARTLE.

Read 1st time January 28, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0996S.021

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## AN ACT

To repeal sections 301.210, 415.405, 415.410, 415.415, and 415.420, RSMo, and to enact in lieu thereof five new sections relating to warehouse and 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Section A. Sections 301.210, 415.405, 415.410, 415.415, and 415.420, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 301.210, 415.405, 415.410, 415.415, and 415.420, to read as follows:

301.210. 1. In the event of a sale or transfer of ownership of a motor vehicle or trailer for which a certificate of ownership has been issued, the holder of such certificate shall endorse on the same an assignment thereof, with warranty of title in form printed thereon, and prescribed by the director of revenue, with a statement of all liens or encumbrances on such motor vehicle or trailer, and deliver the same to the buyer at the time of the delivery to him of such motor vehicle or trailer; provided that, when the transfer of a motor vehicle, trailer, boat or outboard motor occurs within a corporation which holds a license to operate as a motor vehicle or boat dealer pursuant to sections 301.550 to 301.575, the provisions of subdivision (3) of subsection 6 of section 144.070, RSMo, shall not apply.

2. The buyer shall then present such certificate, assigned as aforesaid, to the director of revenue, at the time of making application for the registration of such motor vehicle or trailer, whereupon a new certificate of ownership shall be issued to the buyer, the fee therefor being that prescribed in subsection 5 of section 301.190.

3. If such motor vehicle or trailer is sold to a resident of another state or country, or if such motor vehicle or trailer is destroyed or dismantled, the owner thereof shall immediately

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

notify the director of revenue. Certificates when so signed and returned to the director of revenue shall be retained by the director of revenue and all certificates shall be appropriately indexed so that at all times it will be possible for him to expeditiously trace the ownership of the motor vehicle or trailer designated therein.

4. It shall be unlawful for any person to buy or sell in this state any motor vehicle or trailer registered under the laws of this state, unless, at the time of the delivery thereof, there shall pass between the parties such certificates of ownership with an assignment thereof, as provided in this section, and the sale of any motor vehicle or trailer registered under the laws of this state, without the assignment of such certificate of ownership, shall be fraudulent and void. **This subsection shall not apply to the sale or transfer of titled property stored in a self-storage facility pursuant to sections 415.400 to 415.430, RSMo.**

415.405. As used in sections 415.400 to 415.430, the following terms shall mean:

(1) "Default", the failure to perform on time any obligation or duty set forth in a rental agreement;

(2) "Last known address", that address provided by the occupant in the rental agreement or the address provided by the occupant in a subsequent written notice of a change of address;

(3) "Leased space", the individual storage space at the self-service facility which is rented to an occupant pursuant to a rental agreement;

**(4) "No commercial value", any property offered for sale in a commercially reasonable manner that receives no bid or offer;**

~~[(4)]~~ (5) "Occupant", a person, lessee, sublessee, successor or assignee entitled to the use of a leased space at a self-service storage facility under a rental agreement;

~~[(5)]~~ (6) "Operator", the owner, operator, lessor or sublessor of a self-service storage facility, or an agent or any other person authorized to manage the facility; except that, the term "operator" does not include a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored;

~~[(6)]~~ (7) "Personal property", movable property which is not affixed to land, including, but not limited to, goods, wares, merchandise, motor vehicles, watercraft, household items, and furnishings;

**(8) "Private sale", an unadvertised sale negotiated and concluded directly between the buyer and seller;**

**(9) "Public sale", a sale made after public notice;**

~~[(7)]~~ (10) "Rental agreement", any written contract or agreement that establishes or modifies the terms, conditions or rules concerning the use and occupancy of a self-service storage facility, which is signed by the occupant and the operator;

~~[(8)]~~ (11) "Self-service storage facility", any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their

own personal property on a self-service basis.

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 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] **casualty** insurance.

415.415. 1. The operator of a self-service storage facility has a lien on all personal property 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 established by this subsection shall have priority over all other liens [except those liens that have been perfected and recorded, on personal property]. The rental agreement shall contain a statement, in bold type, advising the occupant of the existence of such lien and that property stored in the leased space may be sold to satisfy such lien if the occupant is in default, and that any proceeds from the sale of the property which remain after satisfaction of the lien will be paid to the state treasurer if unclaimed by the occupant within one year after the sale of the property.

2. If the occupant is in default for a period of more than thirty days, the operator may enforce the lien granted in subsection 1 of this section and sell the property stored in the leased space for cash. Sale of the property stored on the premises may be done at a public or private sale, may be done as a unit or in parcels, or may be by way of one or more contracts, and may be at any time or place and on any terms as long as the sale is done in a commercially reasonable manner in accordance with the provisions of section [400.9-507] **400.9-627**, RSMo. The operator may otherwise dispose of any property which has no commercial value.

**3. Provisions of section 301.210, RSMo, notwithstanding, if the stored personal property to be sold is titled property, the operator may enforce the lien granted in subsection 1 of this section and sell the property stored in the leased space for cash without first acquiring a certificate of ownership from the director of the department of revenue. The purchaser of the titled personal property at a lien sale as provided in this chapter, shall within thirty days after the purchase date apply for a new certificate of ownership as provided in section 301.190, RSMo.**

[3.] 4. The proceeds of any sale made under this subsection shall be applied to satisfy

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

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

(1) At least forty-five days before any disposition of property under this section, **which shall run concurrently with subsection 2 of this section**, notify the occupant and each lienholder [which the operator knows of or] which is contained in any statement filed by the occupant pursuant to subsection 3 of section 415.410 of the default by first-class mail at the occupant's or lienholder's last known address;

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

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

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

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

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

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

(3) At least seven days before the sale, advertise the time, place and terms of the sale in a newspaper of general circulation in the jurisdiction where the sale is to be held. Such advertisement shall be in the classified section of the newspaper and shall state that the items will be released for sale.

[5.] 6. At any time before a sale under this section, the occupant may pay the amount 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 415.400 to 415.430 takes the property free and clear of any rights of any persons against whom the lien was valid and other lienholders.

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

3. If an occupant is in default, [once the operator has given the occupant notice under subdivision (1) of subsection 4 of section 415.415,] the operator may deny the occupant access to the leased space.

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

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