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**SUBSTITUTE HOUSE BILL 1043**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** House Business & Financial Services (originally sponsored by Representatives Ryu and Parker)

READ FIRST TIME 01/23/15.

1 AN ACT Relating to self-service storage facilities; amending RCW  
2 19.150.010, 19.150.040, and 19.150.060; and adding new sections to  
3 chapter 19.150 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 19.150.010 and 2008 c 61 s 1 are each amended to  
6 read as follows:

7 The definitions in this section apply throughout this chapter  
8 unless the context clearly requires otherwise.

9 (1) "Self-service storage facility" means any real property  
10 designed and used for the purpose of renting or leasing individual  
11 storage space to occupants who are to have access to the space for  
12 the purpose of storing and removing personal property on a self-  
13 service basis, but does not include a garage or other storage area in  
14 a private residence. No occupant may use a self-service storage  
15 facility for residential purposes.

16 (2) "Owner" means the owner, operator, lessor, or sublessor of a  
17 self-service storage facility, his or her agent, or any other person  
18 authorized by him or her to manage the facility, or to receive rent  
19 from an occupant under a rental agreement.

20 (3) "Occupant" means a person, or his or her sublessee,  
21 successor, or assign, who is entitled to the use of the storage space

1 at a self-service storage facility under a rental agreement, to the  
2 exclusion of others.

3 (4) "Rental agreement" means any written agreement or lease which  
4 establishes or modifies the terms, conditions, rules or any other  
5 provision concerning the use and occupancy of a self-service storage  
6 facility.

7 (5) "Personal property" means movable property not affixed to  
8 land, and includes, but is not limited to, goods, merchandise,  
9 furniture, and household items.

10 (6) "Last known address" means that address provided by the  
11 occupant in the latest rental agreement, or the address provided by  
12 the occupant in a subsequent written notice of a change of address.

13 (7) "Reasonable manner" means to dispose of personal property by  
14 donation to a not-for-profit charitable organization, removal of the  
15 personal property from the self-service storage facility by a trash  
16 hauler or recycler, or any other method that in the discretion of the  
17 owner is reasonable under the circumstances.

18 (8) "Commercially reasonable manner" means a public sale of the  
19 personal property in the self-storage space. The personal property  
20 may be sold in the owner's discretion on or off the self-service  
21 storage facility site as a single lot or in parcels. If five or more  
22 bidders are in attendance at a public sale of the personal property,  
23 the proceeds received are deemed to be commercially reasonable.

24 (9) "Costs of the sale" means reasonable costs directly incurred  
25 by the delivering or sending of notices, advertising, accessing,  
26 inventorying, auctioning, conducting a public sale, removing, and  
27 disposing of property stored in a self-service storage facility.

28 (10) "Late fee" means a fee or charge assessed by an owner of a  
29 self-service storage facility as an estimate of any loss incurred by  
30 an owner for an occupant's failure to pay rent when due. A late fee  
31 is not a penalty, interest on a debt, nor is a late fee a reasonable  
32 expense that the owner may incur in the course of collecting unpaid  
33 rent in enforcing the owner's lien rights pursuant to RCW 19.150.020  
34 or enforcing any other remedy provided by statute or contract.

35 (11) "Verified mail" means any method of mailing that is offered  
36 by the United States postal service that provides evidence of  
37 mailing.

38 **Sec. 2.** RCW 19.150.040 and 2007 c 113 s 2 are each amended to  
39 read as follows:

1       (1) When any part of the rent or other charges due from an  
2 occupant remains unpaid for fourteen consecutive days, an owner may  
3 terminate the right of the occupant to the use of the storage space  
4 at a self-service storage facility by sending a preliminary lien  
5 notice to the occupant's last known address, and to the alternative  
6 address specified in RCW 19.150.120(2), by first-class mail, postage  
7 prepaid, or electronic mail address, containing all of the following:

8       ((+1)) (a) An itemized statement of the owner's claim showing  
9 the sums due at the time of the notice and the date when the sums  
10 become due.

11       ((+2)) (b) A statement that the occupant's right to use the  
12 storage space will terminate on a specified date (not less than  
13 fourteen days after ~~((the mailing of))~~ the notice is sent) unless all  
14 sums due and to become due by that date are paid by the occupant  
15 prior to the specified date.

16       ((+3)) (c) A notice that the occupant may be denied or continue  
17 to be denied, as the case may be, access to the storage space after  
18 the termination date if the sums are not paid, and that an owner's  
19 lien, as provided for in RCW 19.150.020 may be imposed thereafter.

20       ((+4)) (d) The name, street address, and telephone number of the  
21 owner, or his or her designated agent, whom the occupant may contact  
22 to respond to the notice.

23       (2) The owner may not send by electronic mail the notice required  
24 under this section to the occupant's last known address or  
25 alternative address unless:

26       (a) The occupant expressly agrees to notice by electronic mail;

27       (b) The rental agreement executed by the occupant specifies in  
28 bold type that notices will be given to the occupant by electronic  
29 mail;

30       (c) The owner provides the occupant with the electronic mail  
31 address from which notices will be sent and directs the occupant to  
32 modify his or her email settings to allow electronic mail from that  
33 address to avoid any filtration systems; and

34       (d) The owner notifies the occupant of any change in the  
35 electronic mail address from which notices will be sent prior to the  
36 address change.

37       **Sec. 3.** RCW 19.150.060 and 2007 c 113 s 3 are each amended to  
38 read as follows:

1       (1) If a notice has been sent, as required by RCW 19.150.040, and  
2 the total sum due has not been paid as of the date specified in the  
3 preliminary lien notice, the lien proposed by this notice attaches as  
4 of that date and the owner may deny an occupant access to the space,  
5 enter the space, inventory the goods therein, and remove any property  
6 found therein to a place of safe keeping. The owner (~~shall then~~  
7 ~~serve by personal service or send to the occupant, addressed to the~~  
8 ~~occupant's last known address and to the alternative address~~  
9 ~~specified in RCW 19.150.120(2) by certified mail, postage prepaid,)~~  
10 must provide the occupant a notice of final lien sale or final notice  
11 of disposition (~~which shall~~) by personal service, verified mail, or  
12 electronic mail to the occupant's last known address and alternative  
13 address or electronic mail address. If the owner sends notice  
14 required under this section to the occupant's last known electronic  
15 mail address and does not receive a reply or receipt of delivery, the  
16 owner must send a second notice to the occupant's last known postal  
17 address by verified mail. The notice required under this section must  
18 state all of the following:

19       (~~(1)~~) (a) That the occupant's right to use the storage space  
20 has terminated and that the occupant no longer has access to the  
21 stored property.

22       (~~(2)~~) (b) That the stored property is subject to a lien, and  
23 the amount of the lien accrued and to accrue prior to the date  
24 required to be specified in (~~subsection (3)~~) (c) of this  
25 (~~section~~) subsection.

26       (~~(3)~~) (c) That all the property, other than personal papers and  
27 personal photographs, may be sold to satisfy the lien after a  
28 specified date which is not less than fourteen days from the last  
29 date of (~~mailing~~) sending of the final lien sale notice, or a  
30 minimum of forty-two days after the date when any part of the rent or  
31 other charges due from the occupants remain unpaid, whichever is  
32 later, unless the amount of the lien is paid. The owner is not  
33 required to sell the personal property within a maximum number of  
34 days of when the rent or other charges first became due. If the total  
35 value of property in the storage space is less than three hundred  
36 dollars, the owner may, instead of sale, dispose of the property in  
37 any reasonable manner, subject to the restrictions of RCW  
38 19.150.080(4). After the sale or other disposition pursuant to this  
39 section has been completed, the owner shall provide an accounting of  
40 the disposition of the proceeds of the sale or other disposition to

1 the occupant at the occupant's last known address and at the  
2 alternative address.

3 ~~((4))~~ (d) That any stored motor vehicles or boats may be towed  
4 or removed from the self-service storage facility in lieu of sale  
5 pursuant to section 4 of this act.

6 (e) That any excess proceeds of the sale or other disposition  
7 under RCW 19.150.080(2) over the lien amount and reasonable costs of  
8 sale will be retained by the owner and may be reclaimed by the  
9 occupant, or claimed by another person, at any time for a period of  
10 six months from the sale and that thereafter the proceeds will be  
11 turned over to the state as abandoned property as provided in RCW  
12 63.29.165.

13 ~~((5))~~ (f) That any personal papers and personal photographs  
14 will be retained by the owner and may be reclaimed by the occupant at  
15 any time for a period of six months from the sale or other  
16 disposition of property and that thereafter the owner may dispose of  
17 the personal papers and photographs in a reasonable manner, subject  
18 to the restrictions of RCW 19.150.080(3).

19 ~~((6))~~ (g) That the occupant has no right to repurchase any  
20 property sold at the lien sale.

21 (2) The owner may not send by electronic mail the notice required  
22 under this section to the occupant's last known address or  
23 alternative address unless:

24 (a) The occupant expressly agrees to notice by electronic mail;

25 (b) The rental agreement executed by the occupant specifies in  
26 bold type that notices will be given to the occupant by electronic  
27 mail;

28 (c) The owner provides the occupant with the electronic mail  
29 address from which notices will be sent and directs the occupant to  
30 modify his or her email settings to allow electronic mail from that  
31 address to avoid any filtration systems; and

32 (d) The owner notifies the occupant of any change in the  
33 electronic mail address from which notices will be sent prior to the  
34 address change.

35 NEW SECTION. Sec. 4. A new section is added to chapter 19.150  
36 RCW to read as follows:

37 (1) If an occupant is in default for sixty or more days and the  
38 personal property stored in the leased space is a motor vehicle or  
39 boat, the owner may have the personal property towed or removed from

1 the self-service storage facility in lieu of a sale. Prior to having  
2 the vehicle towed, the owner must provide notice to the occupant  
3 stating the name, address, and contact information of the towing  
4 company.

5 (2) The owner is not liable for any damage to the personal  
6 property towed or removed from the self-service storage facility once  
7 the property is in the possession of a third party.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 19.150  
9 RCW to read as follows:

10 If a rental agreement contains a condition on occupant's use of  
11 the space that specifies a limit on the value of personal property  
12 that may be stored, that limit is the maximum value of the stored  
13 personal property in the occupant's space for the purposes of the  
14 storage facility owner's liability only.

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