

AMENDED IN ASSEMBLY APRIL 11, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 983

Introduced by Assembly Member Melendez

February 22, 2013

An act to amend Sections ~~21701~~, 21702.5, ~~21703~~, 21705, 21706, 21710, and 21713 of the Business and Professions Code, relating to self-service storage facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 983, as amended, Melendez. Self-service storage facilities.

Existing law, the California Self-Service Storage Facility Act, specifies remedies and procedures for self-service storage facility owners when occupants are delinquent in paying rent or other charges. Under existing law, if rent or other charges due from an occupant remain unpaid for 14 consecutive days, an owner may terminate the right of the occupant to the use of the storage space at a self-service storage facility by sending a preliminary lien notice by certified mail to the occupant's address. After sending a notice, the owner may, within 14 days of the termination date specified in the preliminary lien notice, deny the occupant access to the space, enter the space, and remove property to safekeeping. Existing law specifies procedures for an owner to enforce the lien following receipt of a declaration in opposition to a lien sale. Existing law provides that an owner may sell the property subject to lien if the occupant cannot be contacted or served at the address provided in the declaration.

This bill would *delete the 14-day period, and would, instead*, allow an owner to send a preliminary lien notice by email. This bill would ~~allow an owner to deny the occupant access to the space, enter the space,~~

and remove property to safekeeping by the termination date specified in the preliminary lien notice. This bill would allow an owner to have a vehicle, watercraft, or trailer, subject to lien, towed from the premises if rent and other charges have not been paid for 60 days and the required notice has been sent. This bill would make technical changes to the declaration in opposition to lien sale, as specified. This bill would remove the provision allowing an owner to sell the property subject to lien if the occupant cannot be contacted or served at the address provided in the declaration. This bill would specify that an occupant has 30 days from the date of the owner’s receipt of the declaration in opposition to lien sale to serve the owner and file a complaint in a court of competent jurisdiction, otherwise the owner may enforce the lien and sell the goods.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 21701 of the Business and Professions~~
2 ~~Code is amended to read:~~
3 ~~21701. For the purposes of this chapter, the following terms~~
4 ~~shall have the following meanings:~~
5 ~~(a) “Self-service storage facility” means real property designed~~
6 ~~and used for the purpose of renting or leasing individual storage~~
7 ~~space to occupants who are to have access to the space for the~~
8 ~~purpose of storing and removing personal property or for storing~~
9 ~~individual storage containers provided to occupants who have~~
10 ~~exclusive use of the container for the purpose of storing and~~
11 ~~removing personal property, whether or not the individual storage~~
12 ~~containers are transported pursuant to Section 21701.1. Self-service~~
13 ~~storage facility shall not include a garage or other storage area in~~
14 ~~a private residence. An occupant shall not use a self-service storage~~
15 ~~facility for residential purposes. A self-service storage facility is~~
16 ~~not a warehouse, nor a public utility, as defined in Section 216 of~~
17 ~~the Public Utilities Code. If an owner issues a warehouse receipt,~~
18 ~~bill of lading, or other document of title for the personal property~~
19 ~~stored, the owner and the occupant are subject to Division 7~~
20 ~~(commencing with Section 7101) of the Commercial Code, and~~
21 ~~this chapter shall not apply.~~
22 ~~(b) “Owner” means the owner, operator, lessor, or sublessor of~~
23 ~~a self-service storage facility, his or her agent, or any other person~~

1 authorized by him or her to manage the facility, or to receive rent
2 from an occupant under a rental agreement, and no real estate
3 license is required.

4 (e) ~~“Occupant” means a person, or his or her sublessee,~~
5 ~~successor, or assign, who is entitled to the use of the storage space~~
6 ~~at a self-service storage facility under a rental agreement, to the~~
7 ~~exclusion of others.~~

8 (d) ~~“Rental agreement” means any written agreement or lease~~
9 ~~that establishes or modifies the terms, conditions, rules, or any~~
10 ~~other provision concerning the use and occupancy of a self-service~~
11 ~~storage facility.~~

12 (e) ~~“Personal property” means movable property not affixed to~~
13 ~~land, and includes, but is not limited to, goods, merchandise,~~
14 ~~furniture, and household items.~~

15 (f) ~~“Last known address” means that mailing address or email~~
16 ~~address provided by the occupant in the latest rental agreement,~~
17 ~~or the mailing address or email address provided by the occupant~~
18 ~~in a subsequent written notice of a change of address.~~

19 ~~SEC. 2.~~

20 *SECTION 1.* Section 21702.5 of the Business and Professions
21 Code is amended to read:

22 21702.5. (a) Any lien on a vehicle or vessel subject to
23 registration or identification under the Vehicle Code that has
24 attached and is set forth in the documents of title to the vehicle or
25 vessel shall have priority over any lien created pursuant to this
26 chapter.

27 (b) Any lien created pursuant to this chapter on a vehicle or
28 vessel subject to registration or identification under the Vehicle
29 Code shall be enforced in accordance with Section 3071 of the
30 Civil Code, in the case of a vehicle, or Section 503 of the Harbors
31 and Navigation Code, in the case of a vessel, and not as prescribed
32 in Sections 21705 to 21711, inclusive.

33 (c) Any lien created pursuant to this chapter on a vehicle or
34 vessel subject to registration or identification under the Vehicle
35 Code shall not include any charges for rent, labor, or other services
36 incurred pursuant to the rental agreement, accruing more than 60
37 days after the date the lien imposed pursuant to this chapter
38 attaches, as set forth in Section 21705, and before application is
39 made for authorization to conduct the lien sale pursuant to the

1 requirements of Section 3071 of the Civil Code or Section 503 of
2 the Harbors and Navigation Code.

3 (d) Any proceeds from a lien sale shall be disposed of pursuant
4 to Section 3073 of the Civil Code, in the case of a vehicle, or
5 Section 507.5 of the Harbors and Navigation Code, in the case of
6 a vessel.

7 (e) In addition to the right to foreclose on the vehicle, watercraft,
8 or trailer, the owner may have the vehicle, watercraft, or trailer
9 towed from the premises if rent and other charges have not been
10 paid for 60 days and the notice required in Section 21703 has been
11 sent. Not less than five days after having the vehicle towed, the
12 owner shall send notice by first-class mail with certificate of
13 mailing ~~or email~~ to the occupant’s last known address, stating the
14 name, address, and telephone number of the towing company and
15 the street address of the location where the towed property can be
16 redeemed. When the towing company takes possession of the
17 vehicle, watercraft, or trailer, the owner shall not be liable for the
18 property or damage to the property.

19 ~~SEC. 3. Section 21703 of the Business and Professions Code~~
20 ~~is amended to read:~~

21 ~~21703. If any part of the rent or other charges due from an~~
22 ~~occupant remain unpaid for 14 consecutive days, an owner may~~
23 ~~terminate the right of the occupant to the use of the storage space~~
24 ~~at a self-service storage facility by sending a notice to the~~
25 ~~occupant’s last known address and to the alternative address~~
26 ~~specified in subdivision (b) of Section 21712. The notice shall be~~
27 ~~sent by certified mail, postage prepaid, by regular first-class mail~~
28 ~~if the owner obtains a certificate of mailing indicating the date the~~
29 ~~notice was mailed, or by email. The notice shall contain all of the~~
30 ~~following:~~

31 ~~(a) An itemized statement of the owner’s claim showing the~~
32 ~~sums due at the time of the notice and the date when the sums~~
33 ~~became due.~~

34 ~~(b) A statement that the occupant’s right to use the storage space~~
35 ~~will terminate on a specified date (not less than 14 days after the~~
36 ~~mailing of the notice) unless all sums due are paid by the occupant~~
37 ~~prior to the specified date.~~

38 ~~(c) A notice that the occupant may be denied access to the~~
39 ~~storage space after the termination date if the sums are not paid~~

1 and that an owner's lien, as provided for in Section 21702, may
2 be imposed thereafter.

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

6 ~~SEC. 4.~~

7 *SEC. 2.* Section 21705 of the Business and Professions Code
8 is amended to read:

9 21705. (a) If the notice has been sent as required by Section
10 21703 and the total sum due has not been paid by the termination
11 date specified in the preliminary lien notice, the lien imposed by
12 this chapter attaches as of that date and the owner may do all of
13 the following:

14 (1) Deny an occupant access to the space.

15 (2) Enter the space.

16 (3) Remove any property found therein to a place of safekeeping.

17 (b) Upon taking the actions described in subdivision (a), the
18 owner shall send to the occupant, addressed to the occupant's last
19 known ~~address or email~~ address, and to the alternative address
20 specified in subdivision (b) of Section 21712, by certified mail or
21 by first-class mail, if the owner obtains a certificate of mailing,
22 postage prepaid, ~~or demonstrating email has been sent~~, both of the
23 following:

24 (1) A notice of lien sale that states all of the following:

25 (A) That the occupant's right to use the storage space has
26 terminated and that the occupant no longer has access to the stored
27 property.

28 (B) That the stored property is subject to a lien, the current
29 amount of the lien, and that the lien will continue to increase if
30 rent is not paid.

31 (C) That the property will be sold to satisfy the lien after a
32 specified date that is not less than 14 days from the date of mailing
33 the notice, unless the occupant executes and returns by certified
34 mail a declaration in opposition to lien sale in the form set forth
35 in paragraph (2).

36 (D) A statement that the occupant may regain full use of the
37 space by paying the full lien amount prior to the date specified in
38 subparagraph (C).

39 (E) That any excess proceeds of the sale over the lien amount
40 and costs of sale will be retained by the owner and may be

1 reclaimed by the occupant or claimed by another person at any
2 time for a period of one year from the sale and that thereafter the
3 proceeds will escheat to the county in which the sale is to take
4 place.

5 (2) A blank declaration in opposition to lien sale that shall be
6 in substantially the following form:

7
8
9

DECLARATION IN OPPOSITION TO LIEN SALE

10 If you return this form to the self-service storage facility where your property
11 is stored, you may file suit in any court with jurisdiction of matters in the
12 amount of the lien (this may be small claims court). The suit must be filed
13 within 21 days of returning this declaration in the jurisdiction where you live
14 or where the self-service storage facility is located or your property may be
15 sold.

16

17 I, _____, have received the notice of lien sale
18 (occupant's name)

19 of the property stored at _____ .
20 (location and space #)

21 I oppose the lien sale of the property, because (provide a brief explanation
22 of the reason why your property should not be sold):

23 _____
24 _____
25 _____

26 My current address and telephone number are:
27 (address) _____
28 (city) _____
29 (state) _____
30 (ZIP Code) _____
31 (telephone number) _____

32 I understand that I must file a lawsuit for a hearing on the validity of the lien
33 no later than 21 days after returning this declaration in opposition to lien sale.
34 If I do not file suit and serve the self-service storage facility where my property
35 is stored, my property may be advertised for sale and sold by the self-service
36 storage facility owner.

37 I declare under penalty of perjury that the foregoing is true and correct, and
38 that this declaration was signed by me on _____ at _____ .
39 (date) (place)

1 _____
2 (signature of occupant)

3 Return this declaration to:
4 (self-service storage facility address)

5
6 ~~SEC. 5.~~

7 *SEC. 3.* Section 21706 of the Business and Professions Code
8 is amended to read:

9 21706. If a declaration in opposition to the lien sale, executed
10 under penalty of perjury, is not received by the owner on or prior
11 to the date specified in the notice of lien sale by certified mail, is
12 not completed and signed by the occupant, or if the occupant
13 withdraws the declaration in opposition to the lien sale in writing,
14 the owner may, subject to Sections 21708 and 21709, sell the
15 property upon complying with the requirements set forth in Section
16 21707.

17 ~~SEC. 6.~~

18 *SEC. 4.* Section 21710 of the Business and Professions Code
19 is amended to read:

20 21710. If a declaration in opposition to lien sale is received by
21 the owner prior to the date set forth in the notice of lien sale, the
22 owner may enforce the lien as follows:

23 (a) The owner shall not sell the property for 30 days from the
24 date of the receipt of the declaration in opposition to the lien sale.

25 (b) If the occupant files a complaint in any court of competent
26 jurisdiction and serves the owner within 30 days of the owner's
27 receipt of declaration in opposition to lien sale, the owner shall
28 not sell the goods until the court issues a judgment on the
29 occupant's complaint in favor of the owner's lien.

30 (c) If the occupant does not serve the owner within 30 days of
31 sending the declaration in opposition to lien sale or the owner is
32 granted a judgment on the lien, the owner may advertise the goods
33 for sale and sell the property as provided by Section 21707.

34 ~~SEC. 7.~~

35 *SEC. 5.* Section 21713 of the Business and Professions Code
36 is amended to read:

37 21713. This chapter shall not be construed to impair or affect
38 the right of the parties to create additional rights, duties, and
39 obligations in and by virtue of the rental agreement, including, but
40 not limited to, the right to limit the value of the property the

- 1 occupant may store in the storage space or the right to limit the
- 2 occupant's right to enter the premises or storage space. The rights
- 3 provided by this chapter shall be in addition to all other rights
- 4 provided by law to a creditor against his or her debtor.