

AMENDED IN SENATE JULY 1, 2014  
AMENDED IN SENATE JUNE 15, 2014  
AMENDED IN ASSEMBLY APRIL 11, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 983**

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**Introduced by Assembly Member Melendez**

February 22, 2013

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An act to amend Sections 21701, 21702.5, 21703, 21705, 21706, 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 deny the occupant access to the space, enter the space, and remove property to safekeeping if the total sum has not been paid by the termination date specified in the preliminary lien notice. The bill would allow the owner to send the preliminary lien notice by electronic mail if specified conditions are met. 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, sent and would revise the time period within which that notice is to be sent. This bill would make technical changes to the declaration in opposition to lien sale, as specified. sale and would require an additional notice to be sent under specified conditions.~~

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 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. 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 the provisions  
 20 of Division 7 (commencing with Section 7101) of the Commercial  
 21 Code, and the provisions of this chapter do not apply.

1 (b) “Owner” means the owner, operator, lessor, or sublessor of  
2 a self-service storage facility, his or her agent, or any other person  
3 authorized by him or her to manage the facility, or to receive rent  
4 from an occupant under a rental agreement, and no real estate  
5 license is required.

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

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

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

17 (f) “Last known address” means that postal address or electronic  
18 mail address provided by the occupant in the latest rental  
19 agreement, or the postal address or electronic mail address provided  
20 by the occupant in a subsequent written notice of a change of  
21 address.

22 SEC. 2. Section 21702.5 of the Business and Professions Code  
23 is amended to read:

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

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

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

1 made for authorization to conduct the lien sale pursuant to the  
2 requirements of Section 3071 of the Civil Code or Section 503 of  
3 the Harbors and Navigation Code.

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

8 (e) In addition to the right to foreclose on the vehicle, watercraft,  
9 or trailer, the owner may have the vehicle, watercraft, or trailer  
10 towed from the premises if rent and other charges have not been  
11 paid for 60 days and the notice required in Section 21703 has been  
12 sent. Not less than 10 days before having the vehicle towed, the  
13 owner shall send notice by first-class mail with certificate of  
14 mailing to the occupant's last known address, or by electronic mail  
15 to the occupant's last known electronic mail address, stating the  
16 name, address, and telephone number of the towing company and  
17 the street address of the location where the towed property can be  
18 redeemed. When the towing company takes possession of the  
19 vehicle, watercraft, or trailer, the owner shall not be liable for the  
20 property or damage to the property. The towing company shall be  
21 in compliance with Section 12520 of the Vehicle Code, and shall  
22 act in accordance with Section 22658 of the Vehicle Code in  
23 removing the property.

24 SEC. 3. Section 21703 of the Business and Professions Code  
25 is amended to read:

26 21703. (a) If any part of the rent or other charges due from an  
27 occupant remain unpaid for 14 consecutive days, an owner may  
28 terminate the right of the occupant to the use of the storage space  
29 at a self-service storage facility by sending a notice to the  
30 occupant's last known postal address or electronic mail address  
31 and to the alternative postal address or electronic mail address  
32 specified in subdivision (b) of Section 21712.

33 (b) The notice shall be sent by certified mail, postage prepaid,  
34 or by regular first-class mail if the owner obtains a certificate of  
35 mailing indicating the date the notice was mailed or by electronic  
36 mail. The notice shall contain all of the following:

37 (1) An itemized statement of the owner's claim showing the  
38 sums due at the time of the notice and the date when the sums  
39 became due.

1 (2) A statement that the occupant’s right to use the storage space  
2 will terminate on a specified date (not less than 14 days after the  
3 mailing of the notice) unless all sums due are paid by the occupant  
4 prior to the specified date.

5 (3) A notice that the occupant may be denied access to the  
6 storage space after the termination date if the sums are not paid  
7 and that an owner’s lien, as provided for in Section 21702, may  
8 be imposed thereafter.

9 (4) The name, street address, and telephone number of the owner  
10 or his or her designated agent whom the occupant may contact to  
11 respond to the notice.

12 (c) The owner shall not send the notice required by this section  
13 by electronic mail to the occupant’s last known address or  
14 alternative address unless all of the following occur:

15 (1) The occupant expressly agrees to notice by electronic mail.

16 (2) The rental agreement executed by the occupant specifies in  
17 bold type that notices will be given to the occupant by electronic  
18 mail.

19 (3) The owner provides the occupant with the electronic mail  
20 address from which notices will be sent and directs the occupant  
21 to modify his or her electronic mail settings to allow electronic  
22 mail from that address to avoid any filtration systems.

23 (4) The owner notifies the occupant of any change in the  
24 electronic mail address from which notices will be sent prior to  
25 the address change.

26 SEC. 4. Section 21705 of the Business and Professions Code  
27 is amended to read:

28 21705. (a) If the notice has been sent as required by Section  
29 21703 and the total sum due has not been paid ~~by~~ *within 14 days*  
30 *of* the termination date specified in the preliminary lien notice, the  
31 lien imposed by this chapter attaches as of that date and the owner  
32 may do all of the following:

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

34 (2) Enter the space.

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

36 (b) Upon taking the actions described in subdivision (a), the  
37 owner shall send to the occupant, by certified mail, or by first-class  
38 mail if the owner obtains a certificate of mailing, postage prepaid,  
39 or by electronic mail, addressed to the occupant’s last known

1 address, and to the alternative address specified in subdivision (b)  
2 of Section 21712, both of the following:

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

4 (A) That the occupant’s right to use the storage space has  
5 terminated and that the occupant no longer has access to the stored  
6 property.

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

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

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

18 (E) That any excess proceeds of the sale over the lien amount  
19 and costs of sale will be retained by the owner and may be  
20 reclaimed by the occupant or claimed by another person at any  
21 time for a period of one year from the sale and that thereafter the  
22 proceeds will escheat to the county in which the sale is to take  
23 place.

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

26  
27 “DECLARATION IN OPPOSITION TO LIEN SALE

28  
29 You must complete all sections of this declaration. If the owner cannot contact  
30 or serve you at the physical address and telephone number that you provide  
31 below, this declaration shall be void and the owner may sell your stored  
32 property.

33  
34 I, \_\_\_\_\_, have received the notice of lien sale  
35 (occupant’s name)  
36 of the property stored at \_\_\_\_\_.  
37 (location and space #)

38 I oppose the lien sale of the property, because (provide a brief explanation  
39 of the reason why your property should not be sold): *the owner’s lien may not*  
40 *be valid. For example, “I have paid my rent and other charges in full”):*

1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3  
 4 My current address and telephone number are:  
 5 (physical address) \_\_\_\_\_  
 6 (city) \_\_\_\_\_  
 7 (state) \_\_\_\_\_  
 8 (ZIP Code) \_\_\_\_\_  
 9 (telephone number) \_\_\_\_\_

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

15 *I understand that the lienholder may file an action against me in any court*  
 16 *of competent jurisdiction, including small claims court, at the address provided*  
 17 *above, and if a judgment is given in his or her favor, I may be liable for the*  
 18 *court costs. I also understand that this declaration is not valid if (a) the address*  
 19 *provided in this declaration is not my current address or (b) I change my*  
 20 *address at any time prior to service of an action on the lien and I do not provide*  
 21 *the owner the address within 10 days of the change.*

22 I declare under penalty of perjury that the foregoing is true and correct, and  
 23 that this declaration was signed by me on \_\_\_\_\_ at \_\_\_\_\_ .  
 24 (date) (place)

25 \_\_\_\_\_  
 26 (signature of occupant)

27 Return this declaration to:  
 28 (self-service storage facility address)”  
 29

30 (c) If the owner sends the notice required under subdivision (b)  
 31 to the occupant’s last known electronic mail address and does not  
 32 receive a reply or receipt of delivery, the owner shall send a second  
 33 notice to the occupant’s last known postal address by certified  
 34 mail, or by first-class mail if the owner obtains a certificate of  
 35 mailing, postage prepaid.

36 SEC. 5. Section 21706 of the Business and Professions Code  
 37 is amended to read:

38 21706. If a declaration in opposition to the lien sale, executed  
 39 under penalty of perjury, is not received by the owner on or prior  
 40 to the date specified in the notice of lien sale by certified mail, is

1 not completed and signed by the occupant, or if the occupant  
2 withdraws the declaration in opposition to the lien sale in writing,  
3 the owner may, subject to Sections 21708 and 21709, sell the  
4 property upon complying with the requirements set forth in Section  
5 21707.

6 SEC. 6. Section 21713 of the Business and Professions Code  
7 is amended to read:

8 21713. This chapter shall not be construed to impair or affect  
9 the right of the parties to create additional rights, duties, and  
10 obligations in and by virtue of the rental agreement, including, but  
11 not limited to, the right to limit the value of the property the  
12 occupant may store in the storage space ~~or the right to limit the~~  
13 ~~occupant's right to enter the premises or storage space.~~ The rights  
14 provided by this chapter shall be in addition to all other rights  
15 provided by law to a creditor against his or her debtor.

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