

Assembly Bill No. 983

Passed the Assembly August 27, 2014

Chief Clerk of the Assembly

Passed the Senate August 26, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 983, 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 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 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.

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

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

21702.5. (a) Any lien on a vehicle or vessel subject to registration or identification under the Vehicle Code that has attached and is set forth in the documents of title to the vehicle or

vessel shall have priority over any lien created pursuant to this chapter.

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

(c) Any lien created pursuant to this chapter on a vehicle or vessel subject to registration or identification under the Vehicle Code shall not include any charges for rent, labor, or other services incurred pursuant to the rental agreement, accruing more than 60 days after the date the lien imposed pursuant to this chapter attaches, as set forth in Section 21705, and before application is made for authorization to conduct the lien sale pursuant to the requirements of Section 3071 of the Civil Code or Section 503 of the Harbors and Navigation Code.

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

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

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

21705. (a) If the notice has been sent as required by Section 21703 and the total sum due has not been paid within 14 days of

the termination date specified in the preliminary lien notice, the lien imposed by this chapter attaches as of that date and the owner may do all of the following:

- (1) Deny an occupant access to the space.
- (2) Enter the space.
- (3) Remove any property found therein to a place of safekeeping.

(b) Upon taking the actions described in subdivision (a), the owner shall send to the occupant, by certified mail, or by first-class mail if the owner obtains a certificate of mailing, postage prepaid, addressed to the occupant’s last known address, and to the alternative address specified in subdivision (b) of Section 21712, both of the following:

- (1) A notice of lien sale that states all of the following:
 - (A) That the occupant’s right to use the storage space has terminated and that the occupant no longer has access to the stored property.

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

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

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

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

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

“DECLARATION IN OPPOSITION TO LIEN SALE

You must complete all sections of this declaration. If the owner cannot contact or serve you at the physical address and telephone number that you provide

below, this declaration shall be void and the owner may sell your stored property.

I, _____, have received the notice of lien sale
(occupant's name)
of the property stored at _____.
(location and space #)

I oppose the lien sale of the property, because (provide a brief explanation of the reason the owner's lien may not be valid. For example, "I have paid my rent and other charges in full"):

My current address and telephone number are:
(physical address) _____
(city) _____
(state) _____
(ZIP Code) _____
(telephone number) _____

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

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

(signature of occupant)

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

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

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

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

SEC. 4. Section 21713 of the Business and Professions Code is amended to read:

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

Approved _____, 2014

Governor