

House File 670 - Introduced

HOUSE FILE 670
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 186)

A BILL FOR

1 An Act relating to self-service storage facilities, including
2 the creation and enforcement of liens on personal property
3 within leased spaces.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 578B.1 Short title.

2 This Act shall be known as the "*Self-Service Storage*
3 *Facilities Act*".

4 Sec. 2. NEW SECTION. 578B.2 Definitions.

5 As used in this chapter, unless the context clearly requires
6 otherwise:

7 1. "*Commercially reasonable sale*" means a sale that is
8 conducted at the self-service storage facility, at the nearest
9 suitable place to where the personal property is held or
10 stored, or on a publicly accessible internet site that conducts
11 sales or auctions.

12 2. "*Default*" means the failure by the occupant to perform on
13 time any obligation or duty set forth in a rental agreement or
14 this chapter.

15 3. "*Emergency*" means any sudden, unexpected occurrence
16 or circumstance at or near a self-service storage facility
17 that requires immediate action to avoid injury to persons
18 or property at or near the self-service storage facility,
19 including a fire.

20 4. "*Last-known address*" means the postal address or
21 electronic mail address provided by an occupant in a rental
22 agreement or the postal address or electronic mail address
23 provided by the occupant in a subsequent written notice of a
24 change of address.

25 5. "*Late fee*" means any fee or charge assessed for an
26 occupant's failure to pay rent when due. "*Late fee*" does not
27 include interest on a debt, reasonable expenses incurred in
28 the collection of unpaid rent, or costs associated with the
29 enforcement of any other remedy provided by law or contract.

30 6. "*Leased space*" means individual storage space at a
31 self-service storage facility which is rented to an occupant
32 pursuant to a rental agreement.

33 7. "*Occupant*" means a person entitled to the use of leased
34 space at a self-service storage facility under a rental
35 agreement or the person's successors or assigns.

1 8. *“Operator”* means the owner, operator, lessor, or
2 sublessor of a self-service storage facility or an agent or any
3 other person authorized to manage the facility. *“Operator”* does
4 not include a warehouse worker if the warehouse worker issues a
5 warehouse receipt, bill of lading, or other document of title
6 for the personal property stored.

7 9. *“Personal property”* means movable property not affixed
8 to land, including goods, wares, merchandise, motor vehicles,
9 watercraft, household items, and furnishings.

10 10. *“Property that has no commercial value”* means property
11 offered for sale in a commercially reasonable sale that
12 receives no bid or offer.

13 11. *“Rental agreement”* means an agreement or lease, written
14 or oral, that establishes or modifies the terms, conditions,
15 or rules concerning the use and occupancy of leased space at a
16 self-service storage facility.

17 12. *“Self-service storage facility”* means real property
18 designed and used for the purpose of renting or leasing
19 individual storage space to occupants who are to have access
20 to the space for the purpose of storing personal property. If
21 an operator issues a warehouse receipt, bill of lading, or
22 other document of title for the personal property stored, the
23 operator and occupant are subject to chapter 554, article 7,
24 and this chapter does not apply.

25 13. *“Verified mail”* means any method of mailing offered by
26 the United States postal service or private delivery service
27 that provides evidence of the mailing.

28 Sec. 3. NEW SECTION. 578B.3 Facility not residence.

29 1. An operator shall not knowingly permit a leased space
30 at a self-service storage facility to be used for residential
31 purposes.

32 2. An occupant shall not use a leased space for residential
33 purposes.

34 Sec. 4. NEW SECTION. 578B.4 Notice and consent for
35 inspection and repair.

1 Unless otherwise provided in a rental agreement, an
2 occupant, upon reasonable request from the operator, shall
3 allow the operator to enter a leased space for the purpose of
4 inspection or repair. If an emergency occurs, an operator may
5 enter a leased space for inspection or repair without notice to
6 or consent from the occupant.

7 Sec. 5. NEW SECTION. 578B.5 Lien — late fee — electronic
8 communication permitted.

9 1. The operator of a self-service storage facility and the
10 operator's heirs, executors, administrators, successors, and
11 assigns shall have a lien upon all of an occupant's personal
12 property located at the self-service storage facility for
13 delinquent rent, late fees, labor, or other charges incurred
14 pursuant to a rental agreement and for expenses incurred for
15 preservation, sale, or disposition of the personal property.
16 The lien established by this subsection shall have priority
17 over all other liens and security interests except for those
18 perfected prior to the time the personal property is brought to
19 the self-service storage facility.

20 2. The lien described in subsection 1 attaches on the date
21 on which personal property is brought to the self-service
22 storage facility.

23 3. If the rental agreement specifies a limit on the value
24 of personal property that the occupant may store in the leased
25 space, such limit shall be deemed to be the maximum value of
26 the personal property in the occupant's leased space.

27 4. A rental agreement under this chapter may provide for a
28 reasonable late fee for failure of the occupant to timely make
29 payments for the leased space when due. A monthly late fee of
30 twenty dollars or twenty percent of the monthly rental amount,
31 whichever is greater, shall be reasonable and is not a penalty.

32 5. The operator and occupant may agree to use electronic
33 mail to satisfy any notice requirement under this chapter. If
34 the parties agree, the rental agreement shall contain a section
35 outlining the rights and duties for each party regarding the

1 use of electronic mail.

2 Sec. 6. NEW SECTION. 578B.6 Right to deny access due to
3 default.

4 If the occupant is in default, the operator shall have the
5 right to deny the occupant access to the leased space at the
6 self-service storage facility.

7 Sec. 7. NEW SECTION. 578B.7 Enforcement of lien.

8 1. If an occupant is in default for a period of at least
9 thirty days, the operator may enforce the lien granted in
10 section 578B.5 by selling the occupant's personal property.
11 Sale of the occupant's personal property may be by public or
12 private proceedings. Such personal property may be sold as a
13 unit or in parcels, by way of one or more contracts, at any time
14 or place, and on any terms as long as the sale is commercially
15 reasonable. The operator may otherwise dispose of any property
16 that has no commercial value.

17 2. Before conducting a sale under this section, the operator
18 shall do all of the following:

19 a. Send notice of default to the occupant by hand mail,
20 verified mail, or electronic mail pursuant to subsection 7.
21 The notice of default shall include all of the following:

22 (1) A statement of the operator's claim showing that the
23 amount due at the time of the notice and the date when the
24 amount became due.

25 (2) A brief and general description of the personal property
26 subject to the lien. The description shall be reasonably
27 adequate to permit the occupant to identify the property,
28 except that any container including a trunk, valise, or box
29 that is locked, fastened, sealed, or tied in a manner which
30 deters immediate access to the container's contents shall be
31 described as such and shall omit a description of the contents.

32 (3) A demand for payment of the charges due within a
33 specified time, which shall not be less than fourteen days
34 after the date of the notice.

35 (4) A statement that unless the claim is paid within the

1 time stated, the contents of the occupant's leased space will
2 be sold or otherwise disposed of after a specified time.

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

6 b. Notify all persons whom the operator has actual knowledge
7 who claim a security interest in the personal property.
8 At least seven days before the sale, the operator shall
9 also advertise the time, place, and terms of the sale in a
10 commercially reasonable manner. The manner of advertisement
11 is deemed commercially reasonable if it is likely to attract
12 at least three independent bidders to attend or view the sale
13 in person or online at the time and place advertised. The
14 operator may buy the occupant's personal property at any public
15 sale held pursuant to this section.

16 3. If the personal property subject to the operator's lien
17 is a vehicle, watercraft, or trailer, and rent or other charges
18 remain due and unpaid for thirty days, the operator may have
19 the vehicle, watercraft, or trailer towed from the self-service
20 storage facility. The operator shall not be liable for any
21 damages to the vehicle, watercraft, or trailer once the tower
22 takes possession of the property. Removal of any vehicle,
23 watercraft, or trailer from the self-service storage facility
24 shall not release the operator's lien.

25 4. At any time before a sale is held under this section or
26 before a vehicle, watercraft, or trailer is towed under this
27 section, the occupant may pay the amount necessary to satisfy
28 the lien and redeem the occupant's personal property.

29 5. In the event of a sale under this section, the operator
30 may satisfy the lien from the proceeds of the sale, but shall
31 hold the balance, if any, for a period of ninety days for
32 delivery on demand to the occupant. If the occupant does not
33 claim the balance within ninety days, the balance shall be paid
34 to the county treasurer in the county where the self-service
35 storage facility is located. The county treasurer shall hold

1 the funds for a period of two years. If a claim is not made by
2 the owner of the fund, then the fund shall become the property
3 of the county. There shall be no further recourse by any
4 person against the operator for an action pursuant to this
5 section.

6 6. A purchaser in good faith of any personal property sold
7 to satisfy a lien under this chapter takes the property free
8 of any rights of persons against whom the lien was valid,
9 despite noncompliance by the operator with the requirements of
10 this chapter. The purchaser of a motor vehicle shall apply
11 for a new title to the vehicle by the procedures outlined in
12 section 321.47. For all other property which has a written
13 title, the purchaser shall follow the applicable procedures for
14 the property for the transfer of title by operation of law.
15 No sale under this chapter extinguishes an unreleased prior
16 perfected lien.

17 7. Notice to the occupant under subsection 2, paragraph
18 "a", shall be sent to the occupant's last-known address by hand
19 delivery, verified mail, or electronic mail. Notices sent
20 by hand delivery shall be deemed delivered when the occupant
21 has signed an acknowledgment of delivery. Notices sent by
22 verified mail shall be deemed delivered when deposited with the
23 United States postal service or private delivery service if the
24 notices are properly addressed with postage prepaid. Notices
25 sent by electronic mail shall be deemed delivered when an
26 electronic mail is sent to the last-known address provided by
27 the occupant. If the operator sends notice by electronic mail
28 and receives an automated message stating that the electronic
29 mail cannot be delivered, the operator shall send notice by
30 hand delivery or by verified mail to the occupant's last-known
31 address with postage prepaid.

32 8. If the operator complies with the requirements of this
33 section, the operator's liability:

34 a. To the occupant, shall be limited to the net proceeds
35 received from the sale of the occupant's personal property

1 less any proceeds paid to the holders of any lien or security
2 interest of record on the personal property being sold.

3 *b.* To the holders of any lien or security interest of record
4 on the personal property being sold, shall be limited to the
5 net proceeds received from the sale of the personal property
6 subject to the holder's lien or security interest.

7 **Sec. 8. NEW SECTION. 578B.8 Exclusive care, custody, and**
8 **control of personal property vested in occupant.**

9 Unless the rental agreement specifically provides otherwise
10 and until a lien sale under section 578B.7, the exclusive care,
11 custody, and control of all personal property stored in a
12 leased space remains vested in the occupant.

13 **Sec. 9. NEW SECTION. 578B.9 Supplemental nature of chapter.**

14 This chapter does not impair the powers of the parties to a
15 rental agreement to create rights, duties, or obligations that
16 do not arise from this chapter. This chapter does not impair
17 or impact the rights of parties to create liens by special
18 contract or agreement, nor does it affect or impair other liens
19 arising at common law or in equity, or by a statute of this
20 state. The rights provided to an operator by this chapter are
21 in addition to all other rights provided by law to a creditor
22 against a debtor.

23 **Sec. 10. Section 321.20, subsection 1, unnumbered paragraph**
24 **1, Code 2019, is amended to read as follows:**

25 Except as provided in [this chapter](#), an owner of a vehicle
26 subject to registration shall make application to the county
27 treasurer of the county of the owner's residence, or if a
28 nonresident, to the county treasurer of the county where the
29 primary users of the vehicle are located, or if a lessor of
30 the vehicle pursuant to [chapter 321F](#) which vehicle has a
31 gross vehicle weight of less than ten thousand pounds, to the
32 county treasurer of the county of the lessee's residence,
33 or if a firm, association, or corporation with vehicles in
34 multiple counties, the owner may make application to the county
35 treasurer of the county where the primary user of the vehicle

1 is located, for the registration and issuance of a certificate
2 of title for the vehicle upon the appropriate form furnished
3 by the department. However, upon the transfer of ownership,
4 the owner of a vehicle subject to the apportioned registration
5 provisions of [chapter 326](#) shall make application for issuance
6 of a certificate of title to either the department or the
7 appropriate county treasurer. The owner of a vehicle purchased
8 pursuant to section 578B.7 shall present documentation that
9 such sale was completed in compliance with that section. The
10 application shall be accompanied by a fee of twenty dollars,
11 and shall bear the owner's signature. A nonresident owner
12 of two or more vehicles subject to registration may make
13 application for registration and issuance of a certificate
14 of title for all vehicles subject to registration to the
15 county treasurer of the county where the primary user of any
16 of the vehicles is located. The owner of a mobile home or
17 manufactured home shall make application for a certificate
18 of title under [this section](#) from the county treasurer of the
19 county where the mobile home or manufactured home is located.
20 The application shall contain:

21 Sec. 11. Section 321.20A, subsection 1, Code 2019, is
22 amended to read as follows:

23 1. Notwithstanding other provisions of [this chapter](#),
24 the owner of a commercial vehicle subject to the apportioned
25 registration provisions of [chapter 326](#) may make application
26 to the department or the appropriate county treasurer
27 for a certificate of title. The owner of a commercial
28 vehicle purchased pursuant to section 578B.7 shall present
29 documentation that such sale was completed in compliance
30 with that section. The application for certificate of title
31 shall be made within thirty days of purchase or transfer and
32 shall be accompanied by a twenty dollar title fee and the
33 appropriate fee for new registration. The department or the
34 county treasurer shall deliver the certificate of title to the
35 owner if there is no security interest. If there is a security

1 interest, the title, when issued, shall be delivered to the
2 first secured party. Delivery may be made using electronic
3 means.

4 Sec. 12. Section 321.23, subsection 1, paragraph a, Code
5 2019, is amended to read as follows:

6 a. If the vehicle to be registered is a specially
7 constructed vehicle, reconstructed vehicle, street rod, replica
8 vehicle, or foreign vehicle, such fact shall be stated in the
9 application. A fee of ten dollars shall be paid by the person
10 making the application upon issuance of a certificate of title
11 by the county treasurer. For a specially constructed vehicle,
12 reconstructed vehicle, street rod, or replica vehicle subject
13 to registration, the application shall be accompanied by a
14 statement from the department authorizing the motor vehicle
15 to be titled and registered in this state. The owner of a
16 specially constructed vehicle, reconstructed vehicle, street
17 rod, replica vehicle, or foreign vehicle purchased pursuant to
18 section 578B.7 shall present documentation that such sale was
19 completed in compliance with that section.

20 Sec. 13. Section 321.47, subsection 1, Code 2019, is amended
21 to read as follows:

22 1. If ownership of a vehicle is transferred by operation of
23 law upon inheritance, devise or bequest, dissolution decree,
24 order in bankruptcy, insolvency, replevin, foreclosure or
25 execution sale, abandoned vehicle sale, or when the engine of a
26 motor vehicle is replaced by another engine, or a vehicle is
27 sold or transferred to satisfy an artisan's lien as provided
28 in [chapter 577](#), a landlord's lien as provided in [chapter 570](#),
29 a self-service storage facility lien as provided in section
30 578B.7, a storage lien as provided in [chapter 579](#), a judgment
31 in an action for abandonment of a manufactured or mobile home
32 as provided in [chapter 555B](#), upon presentation of an affidavit
33 relating to the disposition of a valueless mobile, modular, or
34 manufactured home as provided in [chapter 555C](#), or repossession
35 is had upon default in performance of the terms of a security

1 agreement, the county treasurer in the transferee's county of
2 residence or, in the case of a mobile home or manufactured
3 home, the county treasurer of the county where the mobile home
4 or manufactured home is located, upon the surrender of the
5 prior certificate of title or the manufacturer's or importer's
6 certificate, or when that is not possible, upon presentation
7 of satisfactory proof to the county treasurer of ownership
8 and right of possession to the vehicle and upon payment of a
9 fee of twenty dollars and the presentation of an application
10 for registration and certificate of title, may issue to the
11 applicant a registration card for the vehicle and a certificate
12 of title to the vehicle. A person entitled to ownership of
13 a vehicle under a decree of dissolution shall surrender a
14 reproduction of a certified copy of the dissolution and upon
15 fulfilling the other requirements of [this chapter](#) is entitled
16 to a certificate of title and registration receipt issued in
17 the person's name.

18 Sec. 14. Section 462A.77, Code 2019, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 10. The buyer of a vessel sold pursuant to
21 section 578B.7 shall present documentation that such sale was
22 completed in compliance with that section.

23 Sec. 15. Section 462A.82, subsection 1, Code 2019, is
24 amended to read as follows:

25 1. If ownership of a vessel is transferred by operation of
26 law, such as by inheritance, order in bankruptcy, insolvency,
27 replevin, ~~or~~ execution sale, or in compliance with section
28 578B.7, the transferee, within thirty days after acquiring the
29 right to possession of the vessel by operation of law, shall
30 mail or deliver to the county recorder satisfactory proof of
31 ownership as the county recorder requires, together with an
32 application for a new certificate of title, and the required
33 fee. A title tax is not required on these transactions.

34 Sec. 16. REPEAL. Chapter 578A, Code 2019, is repealed.

35

EXPLANATION

1 The inclusion of this explanation does not constitute agreement with
2 the explanation's substance by the members of the general assembly.

3 This bill enacts a new Code chapter on self-service storage
4 facility liens and repeals the current Code chapter on the same
5 subject.

6 The bill provides definitions. Significant definitions are
7 as follows. "Leased space" means individual storage space at a
8 self-service storage facility which is rented to an occupant
9 pursuant to rental agreement. "Occupant" means a person
10 entitled to the use of leased space at a self-service storage
11 under a rental agreement or the person's successors or assigns.
12 "Operator" means the owner, operator, lessor, or sublessor
13 of a self-service storage facility or an agent or any other
14 person authorized to manage the facility. "Operator" does
15 not include a warehouse worker if the warehouse worker issues
16 a warehouse receipt, bill of lading, or other document of
17 title for the personal property stored. "Self-service storage
18 facility" means real property designed and used for the purpose
19 of renting or leasing individual storage space to occupants
20 who are to have access to the space for the purpose of storing
21 personal property. If an operator issues a warehouse receipt,
22 bill of lading, or other document of title for the personal
23 property stored, the operator and occupant are subject to Code
24 chapter 554, article 7, and new Code chapter 578B does not
25 apply.

26 The bill provides that a leased space shall not be leased for
27 a residential purpose by an operator or used by an occupant for
28 a residential purpose. The bill provides that unless otherwise
29 provided in a rental agreement, upon reasonable request from
30 the operator, the occupant shall allow the operator to enter
31 the leased space for inspection and repair. However, during
32 an emergency, the operator may enter the leased space without
33 notice and consent from the occupant.

34 The bill provides that an operator shall have a lien on
35 an occupant's personal property for delinquent rent, late

1 fees, labor, or other charges incurred pursuant to the rental
2 agreement and for expenses incurred for preservation, sale, or
3 disposition of the personal property. The bill provides that
4 the operator's lien shall have priority over all other liens
5 and security interests except those perfected prior to the time
6 the personal property is brought to the self-service storage
7 facility. The bill provides that the lien attaches on the date
8 the personal property is brought to the self-service storage
9 facility. The bill provides that if the rental agreement
10 specifies a limit on the value of personal property that the
11 occupant may store in the leased space, such limit shall be
12 deemed to be the maximum value of the personal property in
13 the occupant's leased space. The bill provides that a rental
14 agreement under the bill may provide for a reasonable late fee
15 for failure to make timely payments. The bill provides that
16 \$20 or 20 percent of the monthly rental amount, whichever is
17 greater, shall be deemed reasonable and is not a penalty.

18 The bill provides that the operator and occupant may agree
19 to use electronic mail to satisfy any notice requirement under
20 the bill. The bill provides that if the parties agree, the
21 rental agreement shall contain a section outlining the rights
22 and duties for each party regarding the use of electronic mail.

23 The bill provides that the operator may deny the occupant
24 access to the leased space if the occupant is in default.

25 The bill provides a process for enforcement of a lien, which
26 allows an operator to sell an occupant's personal property if
27 an occupant has been in default for a period of at least 30
28 days and requires notices to be served on the occupant prior
29 to a commercially reasonable sale. Prior to the sale, the
30 occupant may satisfy the lien and redeem the personal property.
31 Additional details are provided in the bill.

32 The bill provides that the occupant has exclusive care,
33 custody, and control of personal property stored in leased
34 property until a lien sale, unless a rental agreement provides
35 otherwise.

H.F. 670

1 The bill does not affect the ability of the parties to a
2 rental agreement to create rights, duties, and obligations
3 that do not arise from the bill. Furthermore, the bill does
4 not impair or impact the right of parties to create liens by
5 special contract or agreement, nor does the bill affect or
6 impair other liens arising at common law or in equity, or by a
7 statute of this state. Additionally, the bill provides that
8 the rights provided to the operator are in addition to the
9 rights provided to a creditor against a debtor by law.

10 The bill amends sections in Code chapter 321 (motor vehicles
11 and laws of the road) and Code chapter 462A (water navigation
12 regulations) to provide that the owner of a vehicle purchased
13 pursuant to new Code section 578B.7 shall present documentation
14 that such sale was completed in compliance with that Code
15 section which provided the process for lien enforcement.