

House Study Bill 186 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON CARLSON)

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 fees.

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

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

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

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

31 Sec. 6. NEW SECTION. 578B.6 Right to deny access due to
32 default.

33 If the occupant is in default, the operator shall have the
34 right to deny the occupant access to the leased space at the
35 self-service storage facility.

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

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

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

13 *a.* Send notice of default to the occupant by hand mail,
14 verified mail, or electronic mail pursuant to subsection 7.
15 The notice of default shall include all of the following:

16 (1) A statement of the operator's claim showing that the
17 amount due at the time of the notice and the date when the
18 amount became due.

19 (2) A demand for payment of the charges due within a
20 specified time, which shall not be less than ten days after the
21 date of the notice.

22 (3) A statement that unless the claim is paid within the
23 time stated, the contents of the occupant's leased space will
24 be sold or otherwise disposed of after a specified time.

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

28 *b.* At least seven days before the sale, advertise
29 the time, place, and terms of the sale in a commercially
30 reasonable manner. The manner of advertisement is deemed
31 commercially reasonable if it is likely to attract at least
32 three independent bidders to attend or view the sale in person
33 or online at the time and place advertised. The operator may
34 buy the occupant's personal property at any public sale held
35 pursuant to this section.

1 3. If the personal property subject to the operator's lien
2 is a vehicle, watercraft, or trailer, and rent or other charges
3 remain due and unpaid for thirty days, the operator may have
4 the vehicle, watercraft, or trailer towed from the self-service
5 storage facility. The operator shall not be liable for any
6 damages to the vehicle, watercraft, or trailer once the tower
7 takes possession of the property. Removal of any vehicle,
8 watercraft, or trailer from the self-service storage facility
9 shall not release the operator's lien.

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

14 5. In the event of a sale under this section, the operator
15 may satisfy the lien from the proceeds of the sale, but shall
16 hold the balance, if any, for a period of ninety days for
17 delivery on demand to the occupant. If the occupant does not
18 claim the balance within ninety days, the balance shall be paid
19 to the county treasurer in the county where the self-service
20 storage facility is located. The county treasurer shall hold
21 the funds for a period of two years. If a claim is not made by
22 the owner of the fund, then the fund shall become the property
23 of the county. There shall be no further recourse by any
24 person against the operator for an action pursuant to this
25 section.

26 6. A purchaser in good faith of any personal property sold
27 to satisfy the lien takes the property free of any rights of
28 persons against whom the lien was valid, despite noncompliance
29 by the operator with the requirements of this chapter. The
30 purchaser of a motor vehicle shall apply for a new title to
31 the vehicle by the procedures outlined in section 321.47. For
32 all other property which has a written title, the purchaser
33 shall follow the applicable procedures for the property for the
34 transfer of title by operation of law.

35 7. Notice to the occupant under subsection 2, paragraph

1 "a", shall be sent to the occupant's last-known address by hand
2 delivery, verified mail, or electronic mail. Notices sent
3 by hand delivery shall be deemed delivered when the occupant
4 has signed an acknowledgment of delivery. Notices sent by
5 verified mail shall be deemed delivered when deposited with the
6 United States postal service or private delivery service if the
7 notices are properly addressed with postage prepaid. Notices
8 sent by electronic mail shall be deemed delivered when an
9 electronic mail is sent to the last-known address provided by
10 the occupant. If the operator sends notice by electronic mail
11 and receives an automated message stating that the electronic
12 mail cannot be delivered, the operator shall send notice by
13 hand delivery or by verified mail to the occupant's last-known
14 address with postage prepaid.

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

17 a. To the occupant, shall be limited to the net proceeds
18 received from the sale of the occupant's personal property
19 less any proceeds paid to the holders of any lien or security
20 interest of record on the personal property being sold.

21 b. To the holders of any lien or security interest of record
22 on the personal property being sold, shall be limited to the
23 net proceeds received from the sale of the personal property
24 subject to the holder's lien or security interest.

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

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

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

32 This chapter does not impair the powers of the parties to a
33 rental agreement to create rights, duties, or obligations that
34 do not arise from this chapter. This chapter does not impair
35 or impact the rights of parties to create liens by special

1 contract or agreement, nor does it affect or impair other liens
2 arising at common law or in equity, or by a statute of this
3 state. The rights provided to an operator by this chapter are
4 in addition to all other rights provided by law to a creditor
5 against a debtor.

6 Sec. 10. Section 321.20, subsection 1, unnumbered paragraph
7 1, Code 2019, is amended to read as follows:

8 Except as provided in [this chapter](#), an owner of a vehicle
9 subject to registration shall make application to the county
10 treasurer of the county of the owner's residence, or if a
11 nonresident, to the county treasurer of the county where the
12 primary users of the vehicle are located, or if a lessor of
13 the vehicle pursuant to [chapter 321F](#) which vehicle has a
14 gross vehicle weight of less than ten thousand pounds, to the
15 county treasurer of the county of the lessee's residence,
16 or if a firm, association, or corporation with vehicles in
17 multiple counties, the owner may make application to the county
18 treasurer of the county where the primary user of the vehicle
19 is located, for the registration and issuance of a certificate
20 of title for the vehicle upon the appropriate form furnished
21 by the department. However, upon the transfer of ownership,
22 the owner of a vehicle subject to the apportioned registration
23 provisions of [chapter 326](#) shall make application for issuance
24 of a certificate of title to either the department or the
25 appropriate county treasurer. The owner of a vehicle purchased
26 pursuant to section 578B.7 shall present documentation that
27 such sale was completed in compliance with that section. The
28 application shall be accompanied by a fee of twenty dollars,
29 and shall bear the owner's signature. A nonresident owner
30 of two or more vehicles subject to registration may make
31 application for registration and issuance of a certificate
32 of title for all vehicles subject to registration to the
33 county treasurer of the county where the primary user of any
34 of the vehicles is located. The owner of a mobile home or
35 manufactured home shall make application for a certificate

1 of title under **this section** from the county treasurer of the
2 county where the mobile home or manufactured home is located.
3 The application shall contain:

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

6 1. Notwithstanding other provisions of **this chapter**,
7 the owner of a commercial vehicle subject to the apportioned
8 registration provisions of **chapter 326** may make application
9 to the department or the appropriate county treasurer
10 for a certificate of title. The owner of a commercial
11 vehicle purchased pursuant to section 578B.7 shall present
12 documentation that such sale was completed in compliance
13 with that section. The application for certificate of title
14 shall be made within thirty days of purchase or transfer and
15 shall be accompanied by a twenty dollar title fee and the
16 appropriate fee for new registration. The department or the
17 county treasurer shall deliver the certificate of title to the
18 owner if there is no security interest. If there is a security
19 interest, the title, when issued, shall be delivered to the
20 first secured party. Delivery may be made using electronic
21 means.

22 Sec. 12. Section 321.23, subsection 1, paragraph a, Code
23 2019, is amended to read as follows:

24 a. If the vehicle to be registered is a specially
25 constructed vehicle, reconstructed vehicle, street rod, replica
26 vehicle, or foreign vehicle, such fact shall be stated in the
27 application. A fee of ten dollars shall be paid by the person
28 making the application upon issuance of a certificate of title
29 by the county treasurer. For a specially constructed vehicle,
30 reconstructed vehicle, street rod, or replica vehicle subject
31 to registration, the application shall be accompanied by a
32 statement from the department authorizing the motor vehicle
33 to be titled and registered in this state. The owner of a
34 specially constructed vehicle, reconstructed vehicle, street
35 rod, replica vehicle, or foreign vehicle purchased pursuant to

1 section 578B.7 shall present documentation that such sale was
2 completed in compliance with that section.

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

5 1. If ownership of a vehicle is transferred by operation of
6 law upon inheritance, devise or bequest, dissolution decree,
7 order in bankruptcy, insolvency, replevin, foreclosure or
8 execution sale, abandoned vehicle sale, or when the engine of a
9 motor vehicle is replaced by another engine, or a vehicle is
10 sold or transferred to satisfy an artisan's lien as provided
11 in [chapter 577](#), a landlord's lien as provided in [chapter 570](#),
12 a self-service storage facility lien as provided in section
13 578B.7, a storage lien as provided in [chapter 579](#), a judgment
14 in an action for abandonment of a manufactured or mobile home
15 as provided in [chapter 555B](#), upon presentation of an affidavit
16 relating to the disposition of a valueless mobile, modular, or
17 manufactured home as provided in [chapter 555C](#), or repossession
18 is had upon default in performance of the terms of a security
19 agreement, the county treasurer in the transferee's county of
20 residence or, in the case of a mobile home or manufactured
21 home, the county treasurer of the county where the mobile home
22 or manufactured home is located, upon the surrender of the
23 prior certificate of title or the manufacturer's or importer's
24 certificate, or when that is not possible, upon presentation
25 of satisfactory proof to the county treasurer of ownership
26 and right of possession to the vehicle and upon payment of a
27 fee of twenty dollars and the presentation of an application
28 for registration and certificate of title, may issue to the
29 applicant a registration card for the vehicle and a certificate
30 of title to the vehicle. A person entitled to ownership of
31 a vehicle under a decree of dissolution shall surrender a
32 reproduction of a certified copy of the dissolution and upon
33 fulfilling the other requirements of [this chapter](#) is entitled
34 to a certificate of title and registration receipt issued in
35 the person's name.

1 facility" means real property designed and used for the purpose
2 of renting or leasing individual storage space to occupants
3 who are to have access to the space for the purpose of storing
4 personal property. If an operator issues a warehouse receipt,
5 bill of lading, or other document of title for the personal
6 property stored, the operator and occupant are subject to Code
7 chapter 554, article 7, and new Code chapter 578B does not
8 apply.

9 The bill provides that a leased space shall not be leased for
10 a residential purpose by an operator or used by an occupant for
11 a residential purpose. The bill provides that unless otherwise
12 provided in a rental agreement, upon reasonable request from
13 the operator, the occupant shall allow the operator to enter
14 the leased space for inspection and repair. However, during
15 an emergency, the operator may enter the leased space without
16 notice and consent from the occupant.

17 The bill provides that an operator shall have a lien on
18 an occupant's personal property for delinquent rent, late
19 fees, labor, or other charges incurred pursuant to the rental
20 agreement and for expenses incurred for preservation, sale, or
21 disposition of the personal property. The bill provides that
22 the operator's lien shall have priority over all other liens
23 and security interests except those perfected prior to the time
24 the personal property is brought to the self-service storage
25 facility. The bill provides that the lien attaches on the date
26 the personal property is brought to the self-service storage
27 facility. The bill provides that if the rental agreement
28 specifies a limit on the value of personal property that the
29 occupant may store in the leased space, such limit shall be
30 deemed to be the maximum value of the personal property in
31 the occupant's leased space. The bill provides that a rental
32 agreement under the bill may provide for a reasonable late fee
33 for failure to make timely payments. The bill provides that
34 \$20 or 20 percent of the monthly rental amount, whichever is
35 greater, shall be deemed reasonable and is not a penalty.

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

3 The bill provides a process for enforcement of a lien, which
4 allows an operator to sell an occupant's personal property if
5 an occupant has been in default for a period of at least 30
6 days and requires notices to be served on the occupant prior
7 to a commercially reasonable sale. Prior to the sale, the
8 occupant may satisfy the lien and redeem the personal property.
9 Additional details are provided in the bill.

10 The bill provides that the occupant has exclusive care,
11 custody, and control of personal property stored in leased
12 property until a lien sale, unless a rental agreement provides
13 otherwise.

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

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