SENATE FILE 528
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1200)

(As Amended and Passed by the Senate March 28, 2019)
_____ and [= New Language by the Senate
* = Language Stricken by the Senate

A BILL FOR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. "*Verified mail*" means any method of mailing offered by the United States postal service or private delivery service that provides evidence of the mailing.

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

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

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

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

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

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

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

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

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

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

5. The operator and occupant may agree to use electronic mail to satisfy all notice requirements under this chapter. The parties, if consenting to use electronic mail for notice, must consent to use electronic mail for all notices. If the

parties agree, the rental agreement shall contain a section outlining the rights and duties for each party regarding the use of electronic mail.

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

If the occupant is in default, the operator shall have the right to deny the occupant access to the leased space at the self-service storage facility if such right is set forth in the rental agreement.

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

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

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

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

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

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

(3) A demand for payment of the charges due within a

specified time, which shall not be less than fourteen days after the date of the notice.

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

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

b. Notify all persons whom the operator has actual knowledge who claim a security interest in the personal property. An operator shall conduct a search to determine whether there is a security interest in property subject to sale if the property is registered under chapter 321 or 462A. At least seven days before the sale, the operator shall also advertise the time, place, and terms of the sale in a commercially reasonable manner. The manner of advertisement is deemed commercially reasonable if it is likely to attract at least three independent bidders to attend or view the sale in person or online at the time and place advertised. The operator may buy the occupant's personal property at any public sale held pursuant to this section.

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

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

5. In the event of a sale under this section, the operator

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

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

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

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

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

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

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

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

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

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

Sec. 10. NEW SECTION. **578B.10 Disclosure of flood zone.**

The operator shall disclose in the rental agreement whether the self-service storage facility is located in a "special flood hazard area" as defined by the federal emergency management agency in 44 C.F.R. pt. 61, Appendix A(3).

Sec. 11. NEW SECTION. **578B.11 Fire, flood, or other catastrophic event damage or destruction.**

If the self-service storage facility is damaged or destroyed by a fire, flood, or other catastrophic event to the extent

that the leased space is rendered unusable, the operator shall make a good faith effort to notify the occupant of the event and the occupant may terminate the rental agreement by giving the required notice in the rental agreement. If the occupant terminates the rental agreement under this section, the occupant shall remove all contents of the leased space as soon as is reasonably practicable. Any prepaid rent is due to the occupant upon removal of the occupant's property from the leased space.

Sec. 12. Section 321.20, subsection 1, unnumbered paragraph 1, Code 2019, is amended to read as follows:

Except as provided in this chapter, an owner of a vehicle subject to registration shall make application to the county treasurer of the county of the owner's residence, or if a nonresident, to the county treasurer of the county where the primary users of the vehicle are located, or if a lessor of the vehicle pursuant to chapter 321F which vehicle has a gross vehicle weight of less than ten thousand pounds, to the county treasurer of the county of the lessee's residence, or if a firm, association, or corporation with vehicles in multiple counties, the owner may make application to the county treasurer of the county where the primary user of the vehicle is located, for the registration and issuance of a certificate of title for the vehicle upon the appropriate form furnished by the department. However, upon the transfer of ownership, the owner of a vehicle subject to the apportioned registration provisions of chapter 326 shall make application for issuance of a certificate of title to either the department or the appropriate county treasurer. The owner of a vehicle purchased pursuant to section 578B.7 shall present documentation that such sale was completed in compliance with that section. The application shall be accompanied by a fee of twenty dollars, and shall bear the owner's signature. A nonresident owner of two or more vehicles subject to registration may make application for registration and issuance of a certificate

of title for all vehicles subject to registration to the county treasurer of the county where the primary user of any of the vehicles is located. The owner of a mobile home or manufactured home shall make application for a certificate of title under this section from the county treasurer of the county where the mobile home or manufactured home is located. The application shall contain:

Sec. 13. Section 321.20A, subsection 1, Code 2019, is amended to read as follows:

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

Sec. 14. Section 321.23, subsection 1, paragraph a, Code 2019, is amended to read as follows:

a. If the vehicle to be registered is a specially constructed vehicle, reconstructed vehicle, street rod, replica vehicle, or foreign vehicle, such fact shall be stated in the application. A fee of ten dollars shall be paid by the person making the application upon issuance of a certificate of title by the county treasurer. For a specially constructed vehicle, reconstructed vehicle, street rod, or replica vehicle subject to registration, the application shall be accompanied by a

statement from the department authorizing the motor vehicle to be titled and registered in this state. The owner of a specially constructed vehicle, reconstructed vehicle, street rod, replica vehicle, or foreign vehicle purchased pursuant to section 578B.7 shall present documentation that such sale was completed in compliance with that section.

Sec. 15. Section 321.47, subsection 1, Code 2019, is amended to read as follows:

1. If ownership of a vehicle is transferred by operation of law upon inheritance, devise or bequest, dissolution decree, order in bankruptcy, insolvency, replevin, foreclosure or execution sale, abandoned vehicle sale, or when the engine of a motor vehicle is replaced by another engine, or a vehicle is sold or transferred to satisfy an artisan's lien as provided in chapter 577, a landlord's lien as provided in chapter 570, a self-service storage facility lien as provided in section 578B.7, a storage lien as provided in chapter 579, a judgment in an action for abandonment of a manufactured or mobile home as provided in chapter 555B, upon presentation of an affidavit relating to the disposition of a valueless mobile, modular, or manufactured home as provided in chapter 555C, or repossession is had upon default in performance of the terms of a security agreement, the county treasurer in the transferee's county of residence or, in the case of a mobile home or manufactured home, the county treasurer of the county where the mobile home or manufactured home is located, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof to the county treasurer of ownership and right of possession to the vehicle and upon payment of a fee of twenty dollars and the presentation of an application for registration and certificate of title, may issue to the applicant a registration card for the vehicle and a certificate of title to the vehicle. A person entitled to ownership of a vehicle under a decree of dissolution shall surrender a

reproduction of a certified copy of the dissolution and upon fulfilling the other requirements of this chapter is entitled to a certificate of title and registration receipt issued in the person's name.

Sec. 16. Section 462A.77, Code 2019, is amended by adding the following new subsection:

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

Sec. 17. Section 462A.82, subsection 1, Code 2019, is amended to read as follows:

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

Sec. 18. REPEAL. Chapter 578A, Code 2019, is repealed.