

had agreed with its employees to provide, until the employer gives its employees notice of its failure or inability to provide the agreed health benefit plan. The notice shall be in writing and delivered in person to the employees or mailed to the employees' last known addresses.

5. The employer is also solely liable for benefits, including extended benefits, which would have been payable had the health benefit plan been in force and the employee covered under the health benefit plan during a period of time for which the employer has collected contributions through payroll, withholding, or otherwise, but has failed to enroll the employee, unless the employer has given the employee actual notice that the employee's enrollment in the plan will not become effective until a later date or until the employee's application for enrollment has been approved.

6. Expenses incurred by an employee for which an employer is liable under this section may be assigned to and are recoverable as wages by the labor commissioner under chapter 91A.

Sec. 2. Section 91A.2, subsection 4, Code 1983, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. d. Expenses incurred and recoverable under a health benefit plan as defined in and as provided in chapter 91B.

Approved April 20, 1984

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## CHAPTER 1130

### LIENS FOR SELF-SERVICE STORAGE FACILITIES

S.F. 163

**AN ACT** creating a possessory lien on personal property in a self-service storage facility and establishing a method for enforcing the lien.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. 578A.1 **SHORT TITLE.** This Act shall be known as the "Iowa Self-Service Storage Facility Lien Act".

Sec. 2. NEW SECTION. 578A.2 **DEFINITIONS.** As used in this chapter, unless the context clearly requires otherwise:

1. "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 owner issues a warehouse receipt, bill of lading, or other document of title for the personal property stored, the owner and the occupant are subject to chapter 554, article 7 and this chapter does not apply.

2. "Owner" means the owner, operator, lessor, or sub-lessor of a self-service storage facility, the agent, or any other person authorized by the owner to manage the facility, or to receive rent from an occupant under a rental agreement.

3. "Occupant" means a person, in privity with the owner, entitled to the use to the exclusion

of others of the storage space at a self-service storage facility pursuant to privity with the owner.

4. "Rental agreement" means an agreement or lease, written or oral between the owner and occupant, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of a self-service storage facility.

5. "Personal property" means movable property not affixed to land, and includes, but is not limited to goods, merchandise, and household items.

6. "Last known address" means that address provided by the occupant in the latest rental agreement, or the address provided by the occupant by certified mail in a subsequent written notice of a change of address.

7. "Possessory lien" means a lien on a personal property that is valid only while the property is in the possession of the person asserting the lien or an agent of the person.

Sec. 3. NEW SECTION. 578A.3 LIEN. The owner of a self-service storage facility and the heirs, executors, administrators, successors, and assigns have a possessory lien upon all personal property located at a self-service storage facility for rent, labor, or other reasonable charges, in relation to the storage of the personal property, and for expenses necessary for its preservation, or expenses reasonably incurred in its sale or other disposition pursuant to this chapter. The lien provided for in this section shall not have priority over a lien or security interest perfected prior to the time the personal property is placed within or upon the self-storage facility. The lien attaches as of the date the personal property is brought to the self-service storage facility.

Sec. 4. NEW SECTION. 578A.4 ENFORCEMENT OF LIEN. An owner's lien for a claim which has become due may be satisfied as follows:

1. The occupant shall be notified by delivering in person with acceptance to be signed by the occupant or by mailing by certified mail to the last known address of the occupant, a notice which shall include:

a. An itemized statement of the owner's claim showing the amount due at the time of the notice and the date when the amount became due.

b. A brief and general description of the personal property subject to the lien. The description shall be reasonably adequate to permit the person notified to identify it, 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 its contents shall be described as such without describing its contents.

c. A statement that the occupant is denied access to the personal property, if a denial is permitted under the rental agreement. The statement shall provide the name, street address, and telephone number of the owner, or the owner's designated agent, whom the occupant may contact to respond to this notice.

d. A demand for payment within a specified time not less than fourteen days after delivery of the notice.

e. A conspicuous statement that unless the claim is paid within the time stated in the notice, the personal property will be advertised for sale or other disposition, and will be sold or otherwise disposed of at a specified time and place.

2. A notice mailed by certified mail pursuant to subsection 1 is made and completed when the notice is enclosed in a sealed envelope with the proper postage on the envelope, addressed to the occupant or successor at the last known mailing address, and deposited in a mail receptacle provided by the United States postal service.

3. After the expiration of the time given in the notice, an advertisement of the sale or other disposition shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county where the self-service storage facility is located. The advertisement shall include:

a. A brief and general description of the personal property reasonably adequate to permit its identification as provided for in subsection 1, paragraph b.

b. The address of the self-service storage facility, the number, if any, of the space where the personal property is located, and the name of the occupant.

c. The time, place, and manner of the sale or other disposition. The sale or other disposition shall take place not sooner than fifteen days after the first publication. If there is no newspaper of general circulation where the self-service storage facility is located, the advertisement shall be posted at least ten days before the date of the sale or other disposition in at least six conspicuous places in the neighborhood where the self-service storage facility is located.

4. A sale or other disposition of the personal property shall conform to the terms of the notification provided for in this section.

5. A sale or other disposition of the personal property shall be held at the self-service storage facility, or at the nearest suitable place to where the personal property is held or stored.

6. Before a sale or other disposition of personal property is made pursuant to this section, the occupant may pay the amount necessary to satisfy the lien, and the reasonable expenses incurred under this section, and redeem the personal property. Upon receipt of such payment, the owner shall return the personal property.

7. A purchaser in good faith of the personal property sold to satisfy the lien takes the property free of any rights of persons against whom the lien was valid, despite noncompliance by the owner with the requirements of this section. The purchaser shall apply for a new title to a 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 operations of law.

8. In the event of a sale under this section, the owner may satisfy the lien from the proceeds of the sale, but shall hold the balance in a segregated escrow account 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 moneys shall be paid to the county treasurer in the county where the facility is located. The county treasurer shall hold the money for a period of two years. If a claim is not made by the owner for the funds, then the funds shall become the property of the county. There shall be no further recourse by any person against the owner for an action pursuant to this section.

Sec. 5. NEW SECTION. 578A.5 SUPPLEMENTAL NATURE OF ACT. This chapter does not impair or affect the right 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.

Sec. 6. NEW SECTION. 578A.6 RESIDENCE. An occupant shall not use a self-service storage facility for residential purposes. A self-service storage facility is not a warehouse as defined in chapter 554.

Approved April 23, 1984