

ASSEMBLY BILL NO. 182—ASSEMBLYMAN CARRILLO

MARCH 1, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing liens of owners of storage facilities. (BDR 9-965)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to liens; authorizing owners of storage facilities to impose a reasonable late fee if rent for a storage space is not paid when due; requiring a peace officer of a local law enforcement agency to remove a person residing in a storage facility within 24 hours after a request by the owner of the storage facility; authorizing the owner of a storage facility to deny an occupant access to his or her storage space if rent owed by the occupant remains unpaid for 5 days or more; revising various provisions governing liens of owners of storage facilities; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that if rent for a storage space at a storage facility is due
2 and unpaid, the owner of the storage facility has a lien on all personal property
3 located in the storage space for the rent, labor or other charges incurred by the
4 owner pursuant to a rental agreement and for those expenses reasonably incurred by
5 the owner to preserve, sell or otherwise dispose of the personal property.
6 (NRS 108.4753) Under existing law, the owner of the storage facility may sell this
7 personal property to satisfy the lien. (NRS 108.4763, 108.477) **Section 3** of this bill
8 authorizes the owner of a storage facility to impose a reasonable late fee for rent
9 which is not paid when due if the rental agreement sets forth the amount of the late
10 fee. Under **section 3**, a late fee is deemed to be reasonable if it is \$20 or 20 percent
11 of the monthly rental amount, for each month of a late rental payment, whichever is
12 greater, and a rental agreement may provide for a greater late fee if the owner
13 establishes that the amount of the late fee is reasonable. **Section 6** of this bill
14 provides that if a late fee is imposed on an occupant of a storage space, the late fee
15 is included in the owner’s lien.

16 Existing law prohibits a person from using a storage space at a storage facility
17 as a residence and requires the owner of a storage facility to evict a person who is



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18 residing in a storage space. (NRS 108.475) Under existing law, a sheriff or
19 constable of the county must remove the person from the storage space within 24
20 hours after receipt of an eviction order issued by a justice of the peace.
21 (NRS 40.670) **Sections 5 and 9** of this bill repeal the requirement that the owner
22 evict a person who is residing in a storage space at a storage facility and, instead,
23 require a peace officer of a local law enforcement agency to remove a person who
24 the peace officer has reasonable cause to believe is residing in a storage space at a
25 storage facility within 24 hours after the owner of the storage facility requests that
26 the local law enforcement agency remove the person.

27 Existing law provides that if any charges for rent or other items owed by the
28 occupant of a storage space at a storage facility remain unpaid for 14 days or more,
29 the owner of the storage facility may terminate the occupant's right to use the
30 storage space for which charges are owed after providing certain notice to the
31 occupant. (NRS 108.476) Existing law further provides that if the occupant fails to
32 pay the total amount due by the date specified in a notice of lien from the owner of
33 a storage facility, the owner may deny the occupant access to the storage space.
34 (NRS 108.4763) **Sections 7 and 8** of this bill remove the provisions of existing law
35 authorizing the owner of a storage facility to deny access to a storage space and,
36 instead, authorize the owner to deny access to a storage space for which an
37 occupant owes any charge for rent or other items if the charge remains unpaid for 5
38 days or more.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 108 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *“Last known address” means the postal and*
4 *electronic mail address, if any, provided by an occupant in the*
5 *most recent rental agreement between the owner and the*
6 *occupant, or the postal and electronic mail address, if any,*
7 *provided by the occupant in a written notice sent to the owner with*
8 *a change of the occupant’s address after the execution of the*
9 *rental agreement.*

10 **Sec. 3. 1.** *An owner may impose a reasonable late fee for*
11 *each month that an occupant does not pay rent for a storage space*
12 *when due if the amount of late fee is stated in the rental*
13 *agreement or an addendum to such an agreement.*

14 **2.** *Except as otherwise provided in this subsection, a late fee*
15 *of \$20 or 20 percent of the monthly rental amount, whichever is*
16 *greater, for each month of a late rental payment shall be deemed*
17 *to be a reasonable late fee and shall not constitute a penalty. The*
18 *amount of a late fee may be greater than the amount set forth in*
19 *this subsection if the owner establishes that the amount of the late*
20 *fee is reasonable.*

21 **3.** *A late fee imposed pursuant to this section is not interest*
22 *on a debt or a cost incurred by an owner in enforcing the owner’s*



1 *lien pursuant to NRS 108.4763 or enforcing any other remedy*
2 *provided by any statute or contract.*

3 *4. As used in this section, "late fee" means a fee or charge*
4 *assessed by an owner for an occupant's failure to pay rent for a*
5 *storage space when due.*

6 **Sec. 4.** NRS 108.473 is hereby amended to read as follows:

7 108.473 As used in NRS 108.473 to 108.4783, inclusive, *and*
8 *sections 2 and 3 of this act*, unless the context otherwise requires,
9 the words and terms defined in NRS 108.4731 to 108.4748,
10 inclusive, *and section 2 of this act* have the meanings ascribed to
11 them in those sections.

12 **Sec. 5.** NRS 108.475 is hereby amended to read as follows:

13 108.475 1. ~~It is unlawful to use a~~ *It is unlawful to use a*
14 *storage space at a facility for a residence. The owner of such a*
15 *facility shall ~~request that a local law enforcement agency~~*
16 *remove any person who uses a storage space at the facility as a*
17 *residence . ~~in the manner provided for in NRS 40.760.~~ Not later*
18 *than 24 hours after receiving a request from the owner, a peace*
19 *officer of the local law enforcement agency must remove the*
20 *person if the peace officer has reasonable cause to believe the*
21 *person is using the storage space for a residence. The peace*
22 *officer shall not remove the person's personal property from the*
23 *facility.*

24 2. A facility shall not be deemed to be a warehouse or a public
25 utility.

26 3. If an owner of a facility issues a warehouse receipt, bill of
27 lading or other document of title for the personal property stored in
28 a storage space at the facility, the owner and *the* occupant are
29 subject to the provisions of NRS 104.7101 to 104.7603, inclusive,
30 and the provisions of NRS 108.473 to 108.4783, inclusive, *and*
31 *sections 2 and 3 of this act* do not apply.

32 **Sec. 6.** NRS 108.4753 is hereby amended to read as follows:

33 108.4753 1. The owner of a facility and the owner's heirs,
34 assignees or successors have a possessory lien, from the date the
35 rent for a storage space at the facility is due and unpaid, on all
36 personal property, including protected property, located in the
37 storage space for the rent, *late fees imposed pursuant to section 3*
38 *of this act*, labor or other charges incurred by the owner pursuant to
39 a rental agreement and for those expenses reasonably incurred by
40 the owner to preserve, sell or otherwise dispose of the personal
41 property.

42 2. Any lien created by a document of title for a motor vehicle
43 or boat has priority over a lien attaching to that motor vehicle or
44 boat pursuant to NRS 108.473 to 108.4783, inclusive.



1 **Sec. 7.** NRS 108.476 is hereby amended to read as follows:

2 108.476 1. *If any charges for rent or other items owed by*
3 *the occupant remain unpaid for 5 days or more, the owner may*
4 *deny the occupant access to the storage space at the facility for*
5 *which charges are owed.*

6 2. If any charges for rent or other items owed by the occupant
7 remain unpaid for 14 days or more, the owner may terminate the
8 occupant's right to use the storage space at the facility, for which
9 charges are owed, not less than 14 days after sending a notice by
10 verified mail ~~and~~ or, if available, by electronic mail to the
11 occupant at his or her last known address and to the alternative
12 address provided by the occupant in the rental agreement. The
13 notice must contain:

14 (a) An itemized statement of the amount owed by the occupant
15 at the time of the notice and the date when the amount became due;

16 (b) The name, address and telephone number of the owner or the
17 owner's agent;

18 (c) A statement that the occupant's right to use the storage space
19 will terminate on a specific date unless the occupant pays the
20 amount owed to the owner; and

21 (d) A statement that upon the termination of the occupant's right
22 to occupy the storage space and after the date specified in the notice,
23 an owner's lien pursuant to NRS 108.4753, will be imposed.

24 ~~2. For the purposes of this section, "last known address"~~
25 ~~means the postal and electronic mail address, if any, provided by the~~
26 ~~occupant in the most recent rental agreement between the owner and~~
27 ~~occupant, or the postal and electronic mail address, if any, provided~~
28 ~~by the occupant in a written notice sent to the owner with a change~~
29 ~~of the occupant's address after the execution of the rental~~
30 ~~agreement.]~~

31 **Sec. 8.** NRS 108.4763 is hereby amended to read as follows:

32 108.4763 1. After the notice of the lien is mailed by the
33 owner, if the occupant fails to pay the total amount due by the date
34 specified in the notice, the owner may:

35 (a) ~~Deny the occupant access to the storage space.~~

36 ~~(b)~~ Enter the storage space and remove the personal property
37 within it to a safe place.

38 ~~(c)~~ (b) Dispose of, but may not sell, any protected property
39 contained in the storage space in accordance with the provisions of
40 subsection 5 if the owner has actual knowledge of such protected
41 property. If the owner disposes of the protected property in
42 accordance with the provisions of subsection 5, the owner is not
43 liable to the occupant or any other person who claims an interest in
44 the protected property.



1 ~~(d)~~ (c) If the personal property upon which the lien is claimed
2 is a motor vehicle, boat or personal watercraft, and rent and other
3 charges related to such property remain unpaid or unsatisfied for 60
4 days, have the property towed by any tow car operator subject to the
5 jurisdiction of the Nevada Transportation Authority. If a motor
6 vehicle, boat or personal watercraft is towed pursuant to this
7 paragraph, the owner is not liable for any damages to such property
8 once the tow car operator takes possession of the motor vehicle,
9 boat or personal watercraft.

10 2. The owner shall send to the occupant a notice of a sale to
11 satisfy the lien by verified *mail or, if available, by electronic* mail at
12 the last known address of the occupant and at the alternative address
13 provided by the occupant in the rental agreement at least 14 days
14 before the sale. ~~The~~ *If the notice is sent by electronic mail and no*
15 *confirmation of receipt is received, the* owner shall also send such
16 notice to the occupant by ~~electronic~~ *verified* mail at the last known
17 ~~electronic mail~~ address of the occupant . ~~, if any.~~ The notice must
18 contain:

19 (a) A statement that the occupant may no longer use the storage
20 space and no longer has access to the occupant's personal property
21 stored therein;

22 (b) A statement that the personal property of the occupant is
23 subject to a lien and the amount of the lien;

24 (c) A statement that the personal property will be sold or
25 disposed of to satisfy the lien on a date specified in the notice,
26 unless the total amount of the lien is paid or the occupant executes
27 and returns by verified mail, the declaration in opposition to the
28 sale; and

29 (d) A statement of the provisions of subsection 3.

30 3. Proceeds of the sale over the amount of the lien and the costs
31 of the sale must be retained by the owner and may be reclaimed by
32 the occupant or the occupant's authorized representative at any time
33 up to 1 year from the date of the sale.

34 4. The notice of the sale must also contain a blank copy of a
35 declaration in opposition to the sale to be executed by the occupant
36 if the occupant wishes to do so.

37 5. The owner may dispose of protected property contained in
38 the storage space by taking the following actions, in the following
39 order of priority, until the protected property is disposed of:

40 (a) Contacting the occupant and returning the protected property
41 to the occupant.

42 (b) Contacting the secondary contact listed by the occupant in
43 the rental agreement and returning the protected property to the
44 secondary contact.



1 (c) Contacting any appropriate state or federal authorities,
2 including, without limitation, any appropriate governmental agency,
3 board or commission listed by the occupant in the rental agreement
4 pursuant to NRS 108.4755, ascertaining whether such authorities
5 will accept the protected property and, if such authorities will accept
6 the protected property, ensuring that the protected property is
7 delivered to such authorities.

8 (d) Destroying the protected property in an appropriate manner
9 which is authorized by law and which ensures that any confidential
10 information contained in the protected property is completely
11 obliterated and may not be examined or accessed by the public.

12 **Sec. 9.** NRS 40.760 is hereby repealed.

TEXT OF REPEALED SECTION

40.760 Summary eviction of person using space in facility for storage as residence.

1. When a person is using a storage space at a facility as a residence, the owner or the owner's agent shall serve or have served a notice in writing which directs the person to cease using the storage space as a residence no later than 24 hours after receiving the notice. The notice must advise the person that:

(a) NRS 108.475 requires the owner to ask the court to have the person evicted if the person has not ceased using the storage space as a residence within 24 hours; and

(b) The person may continue to use the storage space to store the person's personal property in accordance with the rental agreement.

2. If the person does not cease using the storage space as a residence within 24 hours after receiving the notice to do so, the owner of the facility or the owner's agent shall apply by affidavit for summary eviction to the justice of the peace of the township wherein the facility is located. The affidavit must contain:

(a) The date the rental agreement became effective.

(b) A statement that the person is using the storage space as a residence.

(c) The date and time the person was served with written notice to cease using the storage space as a residence.

(d) A statement that the person has not ceased using the facility as a residence within 24 hours after receiving the notice.

3. Upon receipt of such an affidavit the justice of the peace shall issue an order directing the sheriff or constable of the county to remove the person within 24 hours after receipt of the order. The



sheriff or constable shall not remove the person's personal property from the facility.

4. For the purposes of this section:

(a) "Facility" means real property divided into individual storage spaces. The term does not include a garage or storage area in a private residence.

(b) "Storage space" means a space used for storing personal property, which is rented or leased to an individual occupant who has access to the space.

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