~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 24, 2010

**H. 3988**

Introduced by Rep. Funderburk

S. Printed 3/24/10--H.

Read the first time April 29, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3988) to amend Section 39‑20‑45, Code of Laws of South Carolina, 1976, relating to enforcement of a lien in connection with a self‑service storage facility, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 39‑20‑45, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ENFORCEMENT OF A LIEN IN CONNECTION WITH A SELF‑SERVICE STORAGE FACILITY, SO AS TO PROVIDE FOR ANOTHER PROCEDURE FOR ENFORCEMENT OF A LIEN AGAINST A TITLED VEHICLE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 39‑20‑45 of the 1976 Code, as added by Act 460 of 1986, is amended to read:

“Section 39‑20‑45. (A) If occupant has been in default continuously for fifty days, owner may enforce its lien, ~~provided~~ if the owner ~~shall comply~~ complies with~~, during the fifty‑day default period,~~ the following procedure~~.~~ during the fifty‑day default period; except that if an item subject to the rental agreement is a titled vehicle, the item is subject to the requirements of Section 29‑15‑10 and the magistrate’s sale pursuant to that section. For purposes of this section, ‘titled vehicle’ means a motor vehicle, trailer, mobile home, watercraft, or other item titled pursuant to the law of the state of initial titling:

(1) The owner shall notify the occupant ~~must be notified~~ in writing by delivery by certified mail, return receipt requested, to the last known address of occupant. The owner also shall notify other parties with superior liens or security interests as defined in this rental agreement. The notice is presumed delivered when notice of delivery, failure to accept delivery, or the impossibility of delivery is received by owner.

(2) Owner’s notice to occupant ~~shall~~ must include an itemized statement of the owner’s claim showing the sum due~~,~~ at the time of the notice~~,~~ and the date ~~when~~ the sum became due. It ~~shall~~ must describe briefly and generally ~~describe~~ the personal property subject to the lien. The description must be reasonably adequate to permit the person notified to identify it, except that ~~any~~ a container ~~included~~ including, but not limited to, a trunk, valise, or box that is locked, fastened, sealed, or tied in a manner ~~which~~ that deters immediate access to its contents may be described as such without describing its contents. The inventory of ~~any~~ property taken under the provisions of this section must be done by the owner or the owner’s agent with at least one other person present. Owner’s notice ~~shall~~ must notify occupant of denial of access to the personal property and provide the name, street address, and telephone number of the owner or its designated agent, whom the occupant may contact to respond to this notice.

(3) Owner’s notice ~~shall~~ must demand payment within a specified time, not less than fourteen days after delivery of the notice. It ~~shall~~ must state that, unless the claim is paid within the time stated in the notice, the personal property will be advertised for public sale to the highest bidder, and ~~will be~~ sold at public sale to the highest bidder at a specified time and place.

(B) After the expiration of the fifty‑day default period, the owner shall publish an advertisement of the public sale to the highest bidder once a week for two consecutive weeks in a newspaper of general circulation where the self‑service storage facility is located. The advertisement ~~shall~~ must include: a brief and general description of the personal property, reasonably adequate to permit its identification; the address of the self‑service storage facility and the number, if any, of the space where the personal property is located, and the name of the occupant; and the time, place, and manner of the public sale. The public sale to the highest bidder ~~shall~~ must 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 must be posted at least fifteen days before the date of the public sale and in ~~not less~~ no fewer than six conspicuous places in the neighborhood where the self‑service storage facility is located.

(C) If no one purchases the property at the public sale and if the owner has complied with the ~~foregoing procedures~~ subsections (A) and (B), the owner may otherwise dispose of the property and shall notify the occupant of the action taken. ~~Any~~ A sale or disposition of the personal property must be held at the self‑service storage facility or at the ~~nearest~~ suitable place nearest to where the personal property is held or stored.

(D) Before any sale or other disposition of personal property pursuant to this agreement, the occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred~~, and by that~~. That action ~~redeem~~ redeems the personal property and after that the owner ~~shall have~~ has no liability to any person with respect to the personal property.

(E) A purchaser in good faith of the personal property sold to satisfy owner’s lien takes the property subject to ~~any~~ other liens or security interests ~~which~~ that are perfected and recorded or liens by ~~any~~ a lienholder with an interest in the property of ~~whom~~ which

the owner has knowledge either through the disclosure provision of the rental agreement or through other written notice.

(F) ~~In the event of a sale, the~~ The owner may satisfy his lien from the proceeds of the sale. The owner shall hold the balance of the proceeds, if any, for the occupant or ~~any~~ a notified, secured interest holder. If not claimed within two years of the date of sale, the balance of the proceeds must be disposed of in accordance with Chapter 18 ~~of~~, Title 27. ~~In no event may the~~ The owner’s liability does not exceed the proceeds of the sale.”

SECTION 2. This act takes effect upon approval by the Governor and applies to all enforcements initiated and agreements entered into after that date.

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