

BILL ANALYSIS

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S.B. 1185
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When a lessee fails to pay rent, a self-service storage facility must notify the lessee in writing before pursuing a lien on the stored property. If the lessee does not respond, the facility may foreclose the lien and conduct a public auction to sell the stored property. Current law authorizes a self-service storage facility to conduct the public auction by traditional live format or online. These auction options apply regardless of the type of property.

S.B. 1185 is specific to vehicles, trailers, boats, and boat motors. Self-service storage facilities sometimes store such items and must sometimes auction them when a lessee fails to honor their lease agreement and respond to notice. This bill would preserve all required notice requirements to the property owner and provide a self-service storage facility with an alternate procedure to remove the vehicle and restore use of the unit. Under the bill, the self-service storage facility would be authorized to waive its lien rights and transfer the vehicle to a licensed vehicle storage facility. Vehicle storage facilities are defined in the Occupations Code as licensed privately owned businesses that store ten or more vehicles. The licensed vehicle storage facility could then exercise its existing statutory authority to sell the property after providing notice to the property owner as prescribed under current law.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 59.001, Property Code, by adding Subdivision (4-a) to define "vehicle storage facility" for purposes of this chapter (Self-Service Storage Facility Liens).

SECTION 2. Amends Section 59.043(a), Property Code, as follows:

(a) Requires the lessor's notice to the tenant of the claim to contain:

(1)–(3) makes no change to these subdivisions;

(4) a statement that if the tenant fails to satisfy the claim on or before the 14th day after the date the notice is delivered, the property is authorized to be, as applicable:

(A) sold at public auction under this subchapter; or

(B) towed to a vehicle storage facility and disposed of by the vehicle storage facility under Subchapter D (Practice by License Holder), Chapter 2303, Occupations Code; and

(5) makes no changes to this subdivision.

SECTION 3. Amends Chapter 59, Property Code, by adding Subchapter D, as follows:

SUBCHAPTER D. TOWING OF CERTAIN PROPERTY TO VEHICLE STORAGE

FACILITY

Sec. 59.051. APPLICABILITY. Provides that this subchapter applies only to:

- (1) a motor vehicle subject to Chapter 501 (Certificate of Title Act), Transportation Code;
- (2) a motorboat or vessel for which a certificate of title is required under Subchapter B (Identification of Vessels; Required Numbering), Chapter 31, Parks and Wildlife Code;
- (3) a trailer for which a title or registration is required under Chapter 501 or 502 (Registration of Vehicles), Transportation Code; or
- (4) a motor vehicle, motorboat, vessel, or trailer registered or titled outside this state.

Sec. 59.052. TRANSFER OF CERTAIN PROPERTY TO VEHICLE STORAGE FACILITY. Authorizes a lessor, notwithstanding Subchapter C (Enforcement of Lien), who takes possession of property to which this subchapter applies to enforce a lien under this chapter to transfer possession of the property and have the property towed to a vehicle storage facility for disposition by the vehicle storage facility under Subchapter D, Chapter 2303, Occupations Code, if:

- (1) the transfer of possession and towing is authorized under a written rental agreement between the lessor and tenant;
- (2) the lessor gives written notice of the lessor's claim to the tenant as required under Section 59.042(a) (relating to requiring a lessor who wishes to enforce a lien to deliver written notice of the claim to the tenant) in the manner prescribed by Section 59.043 (Contents and Delivery of Notice of Claim; Information Regarding Tenant's Military Service);
- (3) the tenant fails to satisfy the claim on or before the 14th day after the date the notice required under Section 59.042(a) is delivered in the manner prescribed by Section 59.043; and
- (4) the vehicle storage facility agrees in writing to accept possession of the property.

Sec. 59.053. LIEN EXTINGUISHED. Provides that a lessor's lien on property towed to a vehicle storage facility under Section 59.052 is extinguished when the property is towed from the self-service storage facility.

Sec. 59.054. OTHER RIGHTS AND REMEDIES NOT AFFECTED. Provides that, except as provided by Section 59.053, this subchapter does not affect any right or remedy of the lessor at law or in equity.

Sec. 59.055. LESSOR'S LIABILITY FOR PROPERTY. Provides that a lessor is not liable to a tenant for any damage to property that the lessor has towed under Section 59.052 that occurs during the tow or after the property is towed from the self-service storage facility.

SECTION 4. Amends Chapter 2303, Occupations Code, by adding Subchapter E, as follows:

SUBCHAPTER E. ACCEPTANCE AND DISPOSITION OF CERTAIN PROPERTY FROM SELF-SERVICE STORAGE FACILITY

Sec. 2303.201. DEFINITIONS. Defines "lessor" and "self-service storage facility" for purposes of this subchapter.

Sec. 2303.202. **APPLICABILITY.** Provides that this subchapter applies only to property described by Section 59.051, Property Code.

Sec. 2303.203. **ACCEPTANCE OF PROPERTY.** Requires a vehicle storage facility to accept property from a lessor who has transferred possession of the property from a self-service storage facility to the vehicle storage facility under Section 59.052, Property Code.

Sec. 2303.204. **DISPOSITION OF PROPERTY.** Authorizes a vehicle storage facility that accepts property under Section 2303.203 to dispose of the property in the manner provided by Subchapter D for a vehicle received by a facility as described by Section 2303.151.

SECTION 5. Effective date: September 1, 2019.