

HOUSE BILL NO. 332

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE TUCK

Introduced: 2/7/18

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to self-storage facilities for personal property, including vehicles and**
2 **watercraft; relating to the treatment of firearms, ammunition, and controlled substances**
3 **found in self-storage units; distinguishing self-storage facility liens from another type of**
4 **storage lien; and excluding self-storage liens from the treatment of certain unclaimed**
5 **property."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 28.11.025 is amended by adding a new subsection to read:

8 (d) This section does not apply to a vehicle in a self-storage facility under
9 AS 34.35.600 - 34.35.695.

10 * **Sec. 2.** AS 34.35 is amended by adding a new section to article 5 to read:

11 **Sec. 34.35.227. Application.** AS 34.35.220 and 34.35.225 do not apply to a
12 self-storage facility. In this section, "self-storage facility" has the meaning given in
13 AS 34.35.695.

* **Sec. 3.** AS 34.35 is amended by adding new sections to read:

Article 13A. Self-Storage Facilities.

Sec. 34.35.600. Self-storage facility liens. A person who owns a self-storage facility has a storage lien on the unit property for the failure of the unit renter to

(1) perform in a timely manner a duty imposed by a written rental agreement, including paying the rental charges and reasonable late fees; in this paragraph, a late fee is considered reasonable if it does not exceed the greater of \$20 or 20 percent of the monthly rental fee; and

(2) pay the expenses reasonably incurred by the facility owner in enforcing the storage lien under AS 34.35.600 - 34.35.695, including notice costs, publication costs, advertisement costs, personnel costs, administrative costs, legal costs, and auctioneer costs.

Sec. 34.35.605. Priority of storage lien. (a) Notwithstanding AS 28.10.371, if a vehicle is an item of the unit property, a storage lien is superior to a lien or encumbrance established under AS 28.10.371 - 28.10.401.

(b) A storage lien is superior to a security interest perfected under AS 45.29. A storage lien is superior to another lien or security lien, except a tax lien.

Sec. 34.35.610. Attachment of storage lien. A storage lien attaches on the date on which property is placed in a storage unit. A rental agreement must contain a statement in bold type notifying the unit renter of the existence of the storage lien and of the method by which the facility owner may enforce the storage lien under AS 34.35.600 - 34.35.695.

Sec. 34.35.615. Default. A facility owner may enforce a storage lien after a unit renter has been continuously in default for at least 10 days.

Sec. 34.35.620. Denial of access; moving unit property. After a default, a facility owner may

(1) deny the unit renter access to the storage unit; and

(2) move the unit renter's unit property to another place for storage; if the unit property includes a vehicle or watercraft, the facility owner may tow or otherwise remove the vehicle or watercraft from the storage facility, or have the vehicle or watercraft towed or otherwise removed from the storage facility.

1 **Sec. 34.35.625. Lien notice.** (a) To claim the lien under AS 34.35.600 -
2 34.35.695, after a default, a facility owner shall mail a lien notice to the unit renter.

3 (b) The lien notice must include

4 (1) an itemized statement of the facility owner's claim that identifies
5 the default by the unit renter, the amount due from the unit renter when the facility
6 owner provides the lien notice, and the date when the default occurred;

7 (2) a statement of how the unit renter can cure the default;

8 (3) a demand that the unit renter cure the default before the date stated
9 in the lien notice; the date for curing the default must be not less than 21 days after the
10 date the facility owner provides the lien notice;

11 (4) a statement that the unit property is subject to the facility owner's
12 lien;

13 (5) if the facility owner decides to deny the unit renter access to the
14 storage unit, a statement advising the unit renter that the unit renter may not access the
15 storage unit;

16 (6) if the facility owner has removed the unit renter's unit property
17 from the storage unit to another place, a statement advising the unit renter that the
18 facility owner has removed the unit renter's unit property from the storage unit to
19 another place;

20 (7) the name, street address, postal address, electronic address, and
21 telephone number of the facility owner and of any other person the unit renter may
22 contact to respond to the notice;

23 (8) a conspicuous statement that, unless the unit renter cures the
24 default within the time stated under (3) of this subsection, the facility owner will
25 dispose of the unit property under AS 34.35.600 - 34.35.695;

26 (9) a statement that the unit renter may redeem the unit property before
27 disposal by curing the default and paying the amount due;

28 (10) if a vehicle is part of the unit property, a statement that the vehicle
29 owner of record or lienholders of record may pay the amount due and take possession
30 of the vehicle; and

31 (11) if the facility owner discovers that the unit property contains

restricted property, a statement that the facility owner will notify a law enforcement agency about the restricted property and the law enforcement agency will take possession of the restricted property.

Sec. 34.35.630. Authority to dispose of unit property. If a unit renter does not cure a default and pay the amount due by the deadline stated in the lien notice, the facility owner may dispose of the unit property under AS 34.35.635 and 34.35.640.

Sec. 34.35.635. Disposal publication, advertising, and notices. (a) If the unit renter does not cure the default and pay the amount due by the deadline stated in the lien notice, and if the facility owner determines that it is commercially viable to dispose of all or part of the unit property by public sale, the facility owner shall proceed under (c) of this section.

(b) If the unit renter does not cure the default and pay the amount due by the deadline stated in the lien notice, and if the facility owner determines that it is not commercially viable to dispose of all or part of the unit property by public sale, the facility owner may privately sell, give away, donate, or throw away the unit property that is not commercially viable to dispose of by public sale.

(c) Before disposing of unit property under (a) of this section, a facility owner shall

(1) publish a notice of sale one time before the date of the sale in a newspaper of general circulation in the judicial district in which the storage facility is located, or advertise the sale one time a week for two weeks in a commercially reasonable manner that is likely to attract at least three bidders to the sale who are not related to the facility owner or to each other; and

(2) if the unit property is a vehicle and the facility owner can determine the name and address of the vehicle owner and any lienholder, mail notice of the disposal of the vehicle to the vehicle owner and to the lienholders, if any, listed on the vehicle title, at the address or addresses listed on the vehicle title.

(d) The publication, advertisement, and notice under (c) of this section must include

(1) a statement that the facility owner will sell the unit property to satisfy the facility owner's lien;

(2) the address of the storage facility, the number or other designation, if any, of the place where the unit property is located, and the name of the unit renter;

(3) the manner of the sale;

(4) the day, time, and location of the sale;

(5) the name, address, and contact telephone number of the facility owner; and

(6) if applicable, a description of the vehicle, including the vehicle identification number and, if available, the vehicle registration plate number.

(e) In this section, "unit property" does not include restricted property subject to AS 34.35.690.

Sec. 34.35.640. Sale of unit property. (a) A facility owner shall hold a sale of unit property

(1) at the storage facility or, if the storage facility is not a suitable place for the sale, at a suitable location that is the nearest suitable location to where the unit property is being held or stored; or

(2) on a publicly accessible Internet website.

(b) The facility owner shall hold the sale under (a) of this section not less than 21 days after the publication or advertisement under AS 34.35.635(c)(1).

(c) If, after the publication or advertisement under AS 34.35.635(c)(1) and notice under AS 34.35.635(c)(2), the facility owner does not or is not able to sell the unit property, the facility owner shall mail a notice to the unit renter of how the facility owner will dispose of the unit property.

(d) In this section, "unit property" does not include restricted property subject to AS 34.35.690.

Sec. 34.35.645. Redemption by unit renter, vehicle owner, or vehicle lienholder. (a) Before a disposal of unit property takes place under AS 34.35.635 and 34.35.640, and except as provided in AS 34.35.690, the unit renter may redeem the unit property by paying the amount due. If the unit renter redeems the unit property, the facility owner shall immediately return the unit property to the unit renter.

(b) If the vehicle owner of record and the lienholders, if any, listed on the vehicle title pay the amount due before the facility owner disposes of the vehicle under

1 AS 34.35.635 and 34.35.640, the facility owner shall transfer possession of the vehicle
2 to the vehicle owner or lienholder who pays the amount due. If the unit renter stored
3 the vehicle with other unit property in the storage unit, the vehicle owner or lienholder
4 is only required to pay that part of the amount due that is proportionate to the storage
5 area occupied by the vehicle.

6 (c) If the facility owner returns the unit property under (a) or (b) of this
7 section, the facility owner does not have any further liability with respect to the unit
8 property.

9 **Sec. 34.35.650. Good faith purchasers.** A person who purchases unit property
10 in good faith and without notice of a noncompliance with AS 34.35.600 - 34.35.695 at
11 a disposal under AS 34.35.600 - 34.35.695 takes the unit property free of any rights of
12 the unit renter, the facility owner, and any lienholders, even if the facility owner has
13 not complied with AS 34.35.600 - 34.35.695.

14 **Sec. 34.35.655. Vehicle title.** If a vehicle is sold at a public sale under
15 AS 34.35.640 and is titled under AS 28.10, the Department of Administration shall
16 transfer title to the vehicle to the purchaser who purchased the vehicle and who
17 requests the transfer.

18 **Sec. 34.35.660. Proceeds of disposal.** (a) A facility owner shall satisfy the
19 amount due on the storage lien from the proceeds of a sale under AS 34.35.635 -
20 34.35.695.

21 (b) The facility owner shall apply the disposal proceeds, in the following
22 order, to

23 (1) the payment of the cost of the auctioneer if an auctioneer conducted
24 the sale;

25 (2) the amount due from the unit renter, including all late fees;

26 (3) payment of the liens of secured lienholders of the unit property that
27 was a vehicle; and

28 (4) payment of the liens of secured lienholders of the unit property that
29 was not a vehicle.

30 (c) If the disposal proceeds are not sufficient to pay secured lienholders
31 completely, the facility owner is not liable for the unpaid balance, including late fees,

1 owed to the secured lienholders.

2 (d) If disposal proceeds remain after application of (b) of this section, the
3 facility owner shall mail a notice to the unit renter that there are excess disposal
4 proceeds. The facility owner shall hold the excess disposal proceeds for one year after
5 the date of the sale, and the unit renter may claim the excess sale proceeds within the
6 one-year period. If the unit renter does not claim the excess proceeds within the one-
7 year period, the excess sale proceeds belong to the facility owner.

8 (e) In the notice under (d) of this section, the facility owner shall state that
9 there are excess disposal proceeds from the sale, that the facility owner will hold the
10 excess disposal proceeds for one year from the date the facility owner sends the notice,
11 that the unit renter may claim the excess sale proceeds within the one-year period, and
12 that if the unit renter does not claim the excess sale proceeds within the one-year
13 period, the excess sale proceeds belong to the facility owner.

14 **Sec. 34.35.665. Limit on value of property stored.** If a rental agreement
15 specifies a limit on the value of property that a unit renter may store in the storage
16 unit, the limit specified in the rental agreement is considered to be the maximum value
17 of the unit renter's unit property stored in the rented unit.

18 **Sec. 34.35.670. Mailing requirements.** (a) When a facility owner is required
19 to mail a notice under AS 34.35.600 - 34.35.695, the facility owner shall

20 (1) call the unit renter and mail the notice to the unit renter's postal
21 address and electronic mail address provided to the facility owner by the unit renter in

22 (A) the latest rental agreement; or

23 (B) a written notice of a change of mailing address or
24 electronic mail address provided after the latest rental agreement; and

25 (2) for mailing to a postal address, use a

26 (A) method of mailing that is offered by the United States
27 Postal Service and provides evidence of mailing; or

28 (B) private delivery service.

29 (b) In this section, "electronic mail" means the transmission of information by
30 use of a computer or through other electronic means.

31 **Sec. 34.35.675. Release of lien.** (a) Notwithstanding AS 34.35.900(a), if a unit

1 renter requests in writing that a facility owner deliver to the unit renter an
 2 acknowledgment of satisfaction suitable for recording when a lien under AS 34.35.600
 3 - 34.35.695 is satisfied by payment of the amount owed, the facility owner shall
 4 deliver the acknowledgment of satisfaction to the unit renter not later than 15 days
 5 after the request.

6 (b) If a facility owner fails, without just cause, for a period of 30 days after
 7 receiving the written request under (a) of this section to execute and deliver to the unit
 8 renter an acknowledgment of satisfaction as required under (a) of this section, the
 9 facility owner is liable to the unit renter for the damages suffered by the unit renter
 10 because of the failure.

11 **Sec. 34.35.680. Records.** The facility owner shall keep for one year from the
 12 date of the lien notice under AS 34.35.625 a written record of when and how the
 13 facility owner disposed of the unit property. The facility owner shall allow the former
 14 unit renter to review the record on request.

15 **Sec. 34.35.685. Exemption.** The provisions of AS 34.35.600 - 34.35.695 do
 16 not apply to real property that is designed only for parking a vehicle.

17 **Sec. 34.35.690. Restricted property.** (a) After a default by a unit renter and
 18 access by the facility owner to the storage unit, if a facility owner discovers that the
 19 unit property of the defaulting unit renter includes restricted property, the facility
 20 owner shall notify a law enforcement agency about the restricted property, and the law
 21 enforcement agency shall take possession of the restricted property.

22 (b) If a facility owner discovers the restricted property after the facility owner
 23 mails the lien notice under AS 34.35.625, the facility owner shall make the
 24 notification and transfer of restricted property under (a) of this section and then mail a
 25 notice to the unit renter stating that the facility owner has notified a law enforcement
 26 agency about the restricted property and that the law enforcement agency has taken
 27 possession of the restricted property. If the restricted property includes a firearm or
 28 ammunition, the notice must also

29 (1) include a statement that the unit renter has one year from the date
 30 the law enforcement agency takes possession of the firearm or ammunition to file a
 31 claim with the law enforcement agency to obtain the return of the firearm or

ammunition;

(2) provide the date that the law enforcement agency took possession of the firearm or ammunition; and

(3) provide the name and address of the law enforcement agency that has possession of the firearm or ammunition.

(c) Within one year after the law enforcement agency takes possession of a firearm or ammunition under (a) of this section, a unit renter may file a claim for the item with the law enforcement agency, and, notwithstanding AS 18.65.340, the law enforcement agency shall return the item to the unit renter unless the unit renter's possession would violate a state or federal law that regulates the possession of the item. If the unit renter fails to file a claim for the firearm or the ammunition within one year from the date the law enforcement agency takes possession of the firearm or ammunition, the law enforcement agency shall dispose of the firearm or ammunition as a surplus firearm as provided in AS 18.65.340.

(d) A facility owner who gives notice and transfers restricted property under this section is not liable to the unit renter or to the owner of the restricted property for

(1) the value of the restricted property; or

(2) damages suffered by the unit renter or property owner as a result of the notice and transfer.

Sec. 34.35.693. Additional rights and obligations. The provisions of AS 34.35.600 - 34.35.695 do not prevent a rental agreement from containing other rights, duties, and obligations that do not conflict with or arise from AS 34.35.600 - 34.35.695. The rights provided to a facility owner by AS 34.35.600 - 34.35.695 are in addition to other rights provided by law to a creditor against a debtor.

Sec. 34.35.695. Definitions. In AS 34.35.600 - 34.35.695,

(1) "amount due" means the amount of the storage lien calculated under AS 34.35.600;

(2) "default" means a default under AS 34.35.615;

(3) "facility owner" means

(A) the owner, operator, lessor, or sublessor of a self-storage facility;

(B) the agent of a person described in (A) of this paragraph; or

(C) a person authorized by a person described in (A) of this paragraph to manage a self-storage facility or to receive rent from a unit renter under a rental agreement;

(4) "law enforcement agency" has the meaning given in AS 12.36.090;

(5) "lien notice" means the notice sent by a facility owner to a unit renter under AS 34.35.625;

(6) "rental agreement" means a written agreement that establishes or modifies the terms under which a person may store unit property in a storage unit;

(7) "restricted property" means a firearm, ammunition for a firearm, or a controlled substance; in this paragraph,

(A) "controlled substance" has the meaning given in AS 11.71.900;

(B) "firearm" has the meaning given in AS 11.81.900(b);

(8) "self-storage facility" means real property that is designed for and used as a rental space where a person may directly store and retrieve property;

(9) "storage lien" means the lien authorized under AS 34.35.600;

(10) "storage unit" means the individual storage space at a self-storage facility that is rented to a person under a rental agreement;

(11) "unit property" means the property, including goods, wares, merchandise, household items, vehicles, watercraft, and other items, stored in a storage unit;

(12) "unit renter" means a person who is entitled to the use of a rented space in a self-storage facility under a rental agreement, or the sublessee, successor, or assignee of a facility owner;

(13) "vehicle" has the meaning given in AS 28.90.990;

(14) "watercraft" means a boat required to be registered under AS 05.25.055.

* **Sec. 4.** AS 34.45 is amended by adding a new section to article 1 to read:

Sec. 34.45.095. Application. AS 34.45.010 - 34.45.085 do not apply to a self-storage facility. In this section, "self-storage facility" has the meaning given in

1 AS 34.35.695.