

**Representative Lawanna Shurtliff** proposes the following substitute bill:

**NOTIFICATION AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lawanna Shurtliff**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to certain notices provided by a self-service storage facility.

**Highlighted Provisions:**

This bill:

► modifies the method by which an owner of a self-service storage facility sends notice to an occupant before enforcing a lien against the occupant's property by requiring the owner to deliver the notice:

- by certified mail and by email; or
- in person, with a signed document that acknowledges receipt; and

► makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**38-8-3**, as last amended by Laws of Utah 2013, Chapter 163



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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **38-8-3** is amended to read:

**38-8-3. Enforcement of lien -- Notice requirements -- Sale procedure and effect.**

(1) An owner may enforce a lien described in Section **38-8-2** against an occupant if:

(a) the occupant is in default for a continuous 30-day period; and

(b) the owner provides written notice of the owner's intent to enforce the lien, in accordance with the requirements of this section, to:

(i) the occupant;

(ii) each lienholder disclosed by the occupant under Subsection **38-8-2(3)(b)**;

(iii) each person that has filed a valid financing statement with the Division of Corporations and Commercial Code; and

(iv) each person identified as a lienholder in the records of the Motor Vehicle Division.

(2) (a) An owner shall provide the written notice described in Subsection (1)(b):

~~[(a)]~~ (i) subject to Subsection (2)(b), in person; or

~~[(b)]~~ (ii) (A) by certified mail, to the person's last known address; ~~[(or)]~~ and

~~[(c) subject to Subsection (3);]~~ (B) by email, to the person's last known email address if any.

(b) An owner who provides the written notice described in Subsection (1)(b) in person shall obtain a certificate of receipt signed by the individual who received the written notice.

~~[(3) If an owner sends a notice described in Subsection (2) by email and does not receive a response, return receipt, or delivery confirmation from the email address to which the notice was sent within three business days after the day on which the notice was sent, the owner shall deliver the notice in person or by certified mail to the person's last known address.]~~

~~[(4)]~~ (3) A written notice described in Subsection (1)(b) shall include:

(a) 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;

(b) a brief description of the personal property subject to the lien that permits the person to identify the property, unless the property is locked, fastened, sealed, tied, or otherwise stored in a manner that prevents immediate identification of the property;

(c) if permitted by the terms of the rental agreement, a notice that the occupant may not

57 access the occupant's personal property until the occupant complies with the requirements  
58 described in Subsection [~~(9)~~] (8);

59 (d) the name, street address, and telephone number of the owner or the individual the  
60 occupant may contact to respond to the notification;

61 (e) a demand for payment within a specified time not less than 15 days after the day on  
62 which the notice is delivered; and

63 (f) a conspicuous statement that, unless the claim is paid within the time stated in the  
64 notice, the personal property will be advertised for sale and will be sold at a specified time and  
65 place.

66 [~~(5)~~] (4) A notice under this section shall be presumed delivered when it is deposited  
67 with the United States Postal Service and properly addressed with postage prepaid.

68 [~~(6)~~] (5) (a) After the expiration of the time given in the notice, the owner shall publish  
69 an advertisement of the sale of the personal property subject to the lien once in a newspaper of  
70 general circulation in the county where the self-service storage facility is located.

71 (b) An advertisement described in Subsection [~~(6)~~] (5)(a) shall include:

72 (i) the address of the self-service storage facility and the number, if any, of the space  
73 where the personal property is located;

74 (ii) the name of the occupant; and

75 (iii) the time, place, and manner of the sale, which shall take place not sooner than 15  
76 days after the day on which the sale is advertised under Subsection [~~(6)~~] (5)(a).

77 [~~(7)~~] (6) A sale of the personal property shall conform to the terms of the notice  
78 provided for in this section.

79 [~~(8)~~] (7) A sale of the personal property shall be held at the self-service storage facility,  
80 at the nearest suitable place to where the personal property is held or stored, or online.

81 [~~(9)~~] (8) Before a sale of personal property under this section, the occupant may pay the  
82 amount necessary to satisfy the lien and the reasonable expenses incurred under this section  
83 and thereby redeem the personal property; upon receipt of this payment, the owner shall return  
84 the personal property, and thereafter the owner shall have no liability to any person with respect  
85 to that personal property.

86 [~~(10)~~] (9) A purchaser in good faith of the personal property sold to satisfy a lien as  
87 provided for in this chapter takes the property free of any rights of persons against whom the

88 lien was valid and free of any rights of a secured creditor, despite noncompliance by the owner  
89 with the requirements of this section.

90 [~~(11)~~] (10) In the event of a sale under this section, the owner may satisfy the lien for  
91 the proceeds of the sale, subject to the rights of any prior lienholder; the lien rights of the prior  
92 lienholder are automatically transferred to the proceeds of the sale; if the sale is made in good  
93 faith and is conducted in a reasonable manner, the owner shall not be subject to any surcharge  
94 for a deficiency in the amount of a prior secured lien, but shall hold the balance, if any, for  
95 delivery to the occupant, lienholder, or other person in interest; if the occupant, lienholder, or  
96 other person in interest does not claim the balance of the proceeds within one year of the date  
97 of sale, it shall become the property of the Utah state treasurer as unclaimed property with no  
98 further claim against the owner.

99 [~~(12)~~] (11) If the requirements of this chapter are not satisfied, if the sale of the  
100 personal property is not in conformity with the notice of sale, or if there is a willful violation of  
101 this chapter, nothing in this section affects the rights and liabilities of the owner, occupant, or  
102 any other person.