

# SENATE . . . . . No. 2297

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen  
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SENATE, Wednesday, July 23, 2014

The committee on Ethics and Rules, to whom was referred the Senate Bill relative to improving notice requirements for self-storage,- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2297).

For the committee,  
Stanley C. Rosenberg

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen  
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An Act relative to improving notice requirements for self-storage.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Chapter 105A of the General Laws is hereby amended by striking out  
2   section 1, as appearing in the 2012 Official Edition, and inserting in place thereof the following  
3   section:-

4           Section 1. As used in this chapter, the following words shall, unless the context clearly  
5   requires otherwise, have the following meanings:—

6           “Abandoned leased space”, (i) a leased space that the operator finds unlocked and empty  
7   or unlocked and containing personal property with a value less than \$300, in the operator’s  
8   opinion, or (ii) a leased space, which possession, all rights to and any personal property within  
9   has been affirmatively surrendered to the operator by the occupant.

10          “Default”, the failure to perform on time any obligation or duty set forth in the rental  
11   agreement.

12          “Electronic mail”, an electronic message or an executable program or computer file that  
13   contains an image of a message transmitted between 2 or more computers or electronic terminals

and includes electronic messages that are transmitted within or between computer networks from which an electronic delivery receipt is obtained.

"Electronic mail address", a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox, commonly referred to as the local part, and a reference to an internet domain, commonly referred to as the domain part, whether or not displayed, to which an electronic mail message can be sent or delivered.

"Last known address", the postal address or electronic mail address provided by the occupant in the rental agreement or the postal address or electronic mail address provided by the occupant in a subsequent written notice of a change of address. "Late fee", a reasonable fee or charge that is assessed by the operator for the failure of the occupant to pay rent when due.

"Leased space", the individual storage space at the self-service facility that is rented to an occupant pursuant to a rental agreement.

"Occupant", a person, a sublessee, successor or assign entitled to the use of a leased space at a self-service storage facility under a rental agreement.

"Operator", the owner, operator, lessor or sublessor of a self-service storage facility or an agent or any other person authorized to manage the facility; provided, that "operator" shall not mean a warehouseman, unless the operator issues a warehouse receipt, bill of lading or other document of title for the personal property stored.

"Personal property", movable property, not affixed to land, including but not limited to, goods, wares, merchandise, vehicles and household items and furnishings.

34 “Public warehouse”, any building, or part thereof, kept and maintained for the storage of  
35 goods, wares and merchandise as a business.

36 “Rental agreement”, any written agreement that establishes or modifies the terms,  
37 conditions or rules concerning the use and occupancy of a self-service storage facility.

38 “Self-service storage facility”, any real property used for renting or leasing individual  
39 storage spaces in which the occupants themselves customarily store and remove their own  
40 personal property on a “self-service” basis.

41 "Vehicle", a motor vehicle, motorcycle, watercraft, trailer, semi-trailer, recreational  
42 vehicle, all-terrain or off road vehicle or any other titled vehicle.

43 "Verified mail", any method of mailing that is offered by the United States Postal Service  
44 or private document delivery method that provides evidence of mailing.

45 SECTION 2. Section 3 of said chapter 105A, as so appearing, is hereby amended by  
46 striking out, in line 1, the word:- “and”.

47 SECTION 3. The third paragraph of said section 3 of said chapter 105A, as so appearing,  
48 is hereby amended by adding the following 2 clauses:- ; (d) if the rental agreement contains a  
49 limit on the value of property stored in the lessee's storage space, the limit is deemed to be the  
50 maximum value of the property stored in that space and the maximum liability of the operator for  
51 any claim; and (e) that a late fee may be charged by the operator for each month that the  
52 occupant does not pay rent when due.

53 SECTION 4. Said section 3 of said chapter 105A, as so appearing, is hereby further  
54 amended by adding the following paragraph:-

55           The rental agreement shall state the date on which rent is due and the date on which the  
56 late fee accrues. If the operator offers notice by electronic mail, the rental agreement shall, in  
57 bold typeface, contain an affirmative statement that the occupant may agree to receive notice by  
58 electronic mail only. If the occupant chooses to receive notices by electronic mail only, the  
59 occupant's assent shall be indicated in the rental agreement.

60           SECTION 5. Section 4 of said chapter 105A, as so appearing, is hereby amended by  
61 inserting after the word "mail", in line 6, the following words:- or electronic mail.

62           SECTION 6. Said section 4 of said chapter 105A, as so appearing, is hereby further  
63 amended by striking out clause (2) and inserting in place thereof the following clause:-

64           (2) No sooner than 14 days after default, the occupant and all other persons known to  
65 claim an interest in the personal property shall be notified by electronic mail or verified mail,  
66 sent to the last known address of any person to be notified, or by hand delivery of said  
67 notification. If the operator sends notice of a pending sale of property to the occupant's last  
68 known e-mail address and does not receive a response, return receipt or delivery confirmation  
69 from the same e-mail address, then the operator shall send notice of the sale to the occupant by  
70 verified mail to the occupant's last known postal address before proceeding with the sale.

71           SECTION 7. Said section 4 of said chapter 105A, as so appearing, is hereby further  
72 amended by striking out clause (4) and inserting in place thereof the following clause:-

73           (4) After the expiration of the time given in the notification, an advertisement of the sale  
74 shall be published once a week for 2 consecutive weeks (i) in a newspaper of general circulation,  
75 (ii) a periodical that circulates weekly or more frequently in the county where the self-service  
76 storage facility is located (iii) or by advertising the sale in any other commercially reasonable

manner; provided, that the manner of advertisement shall be deemed commercially reasonable if at least 3 independent bidders attend the sale at the time and place advertised. The advertisement shall include a description of the property, if known, the name of the person on whose account the property is being held and the time and place of the sale. The sale shall take place at least 15 days after the first publication or public posting of the advertisement in a commercially reasonable manner.

SECTION 8. Said section 4 of said chapter 105A, as so appearing, is hereby further amended by inserting after the word “place”, in line 40, the following words:- or on a publicly accessible website.

SECTION 9. Said section 4 of said chapter 105A, as so appearing, is hereby amended by adding the following clause:- (13) If the personal property upon which the lien is claimed is a vehicle and rent and other charges related to the property remain unpaid or unsatisfied for 60 days following the maturity of the obligation to pay rent, then the holder of the lien may have the vehicle towed by an insured tower. If the vehicle is towed under this clause, the holder of the lien shall not be liable for the vehicle or any damages to the vehicle once the tower takes possession of the vehicle. The tower shall comply with section 39A of chapter 255.

SECTION 10. Section 5 of said chapter 105A, as so appearing, is hereby amended by adding the following 3 sentences:- The operator may impose a reasonable late fee on the occupant for each month the occupant does not pay rent when due. For purposes of this section, a reasonable late fee may be computed as the greater of \$20 per month or 20 per cent of the amount of monthly rent. Any late fee imposed by the operator pursuant to this section shall be in addition to any other remedy provided by law or contract.

99           SECTION 11. Section 6 of said chapter 105A, as so appearing, is hereby amended by  
100 striking out, in line 2, the words “certified mail” and inserting in place thereof the following  
101 words:- “verified mail or electronic mail”.

102           SECTION 12. Said section 6 of said chapter 105A, as so appearing, is hereby further  
103 amended by striking out, in line 6, the word “certified” and inserting in place thereof the  
104 following word:- electronic.

105           SECTION 13. The third paragraph of said section 6 of said chapter 105A, as so  
106 appearing, is hereby amended by adding the following sentence:- In the case of electronic mail,  
107 notices shall be deemed delivered when an electronic delivery receipt is obtained.

108           SECTION 13. Said chapter 105A is hereby further amended by adding the following  
109 section:-

110           Section 9. In the case of an abandoned leased space, the operator shall have the right to  
111 take possession of the leased space after 14 days and dispose of any personal property in the  
112 leased space by any means so long as the operator has attempted to contact the occupant on 2  
113 separate days, at least 3 days apart, or, if unsuccessful, has attempted to contact the secondary or  
114 emergency contact, if 1 was provided, to discern whether the leased space is an abandoned lease  
115 space. This section shall not relieve the operator of any responsibility in the event of a default  
116 under section 4.