

SENATE No. 864

The Commonwealth of Massachusetts

PRESENTED BY:

Sonia Chang-Diaz

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act modernizing post-eviction storage procedures.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>2/1/2019</i>

SENATE No. 864

By Ms. Chang-Diaz, a petition (accompanied by bill, Senate, No. 864) of Sonia Chang-Diaz and Elizabeth A. Malia for legislation to modernize post-eviction storage procedures. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act modernizing post-eviction storage procedures.

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. Section 3 of chapter 239 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by inserting after the word “address” in line 31 the following
3 words:- (7) a description of the notification process of the warehouser, which describes how the
4 warehouser must attempt to contact the defendant at all provided points of contact.

5 SECTION 2. Section 4 of chapter 239 of the General Laws, as so appearing, is hereby
6 amended by striking out subsection (a) and inserting in place thereof the following paragraph:-

7 (a) If an officer, serving an execution issued on a judgment for the plaintiff for possession
8 of land or tenements, removes personal property, belonging to a person other than the plaintiff,
9 from the land or tenements, he shall forthwith cause it to be stored for the benefit of the owners
10 thereof. Such property shall be stored with the licensed public warehouser identified in the notice
11 provided to the defendant pursuant to section 3, except that the officer shall store the property
12 with a warehouser or other storage facility of the defendant's choosing if the defendant notifies

13 the officer of his choice in writing at or before the time of removal of the property. The officer
14 shall gather the following information from the defendant to determine the best point of contact:
15 mailing address, email address, phone number, and emergency contact information. The officer
16 shall file with the court that issued the summary process judgment and provide to the defendant
17 in hand, or if the defendant is not present at the time of execution by receipted mail to the
18 defendant's provided points of contact, a receipt containing a description of the goods removed
19 or of the packages containing them, as well as name and signature of the officer. For the
20 purposes of this section, the term "warehouser or other storage facility" shall mean a public
21 warehouse licensed and bonded pursuant to section 1 of chapter 105, located in the
22 commonwealth and within a 20-mile radius of the land or tenements from which the personal
23 property is removed. For the purposes of this section, the term "provided points of contact" shall
24 mean the contact information gathered by the officer, and provided to the warehouser at or
25 before the receipt of the defendant's personal property, that must include the following items:
26 mailing address, email address, phone number, and one back-up contact person. If the defendant
27 was not present during court proceedings, or at the removal of their property from the plaintiff's
28 property to provide the aforementioned contact information, the provided points of contact shall
29 be their last and best known address, email address, and phone number if known by the plaintiff.

30 SECTION 3. Said section 4 of said chapter 239, as so appearing, is hereby further
31 amended by striking out subsection (d) and inserting in place thereof the following paragraph:-

32 (d) Upon receipt of personal property under this section, a public warehouser shall
33 forthwith, but no later than 7 days after the removal of the property from the land or tenements at
34 issue in the summary process action, issue a warehouse receipt that complies with the
35 requirements of section 7-202 of chapter 106. Such receipt shall contain as additional terms: (1) a

36 statement that the warehouse may sell any property unclaimed after six months and retain that
37 portion of the proceeds necessary to compensate the warehouse for lawful storage fees actually
38 accrued as of the date of the auction, except as provided in this section; (2) a list of the
39 warehouse's storage rates and a statement that such rates may be verified by contacting the
40 commissioner of public safety, as well as the address and telephone number of such agency; (3) a
41 conspicuous statement that the defendant should notify the warehouse in writing at the business
42 address listed in the notice of any change in the defendant's provided points of contact; (4) a
43 description of the applicable procedures for reclaiming the stored property, including, but not
44 limited to, a statement that the defendant is entitled to reclaim items of personal or sentimental
45 value but limited auction value once during the period of storage without payment of any fee and
46 that the defendant shall be entitled to purchase individual items at any auction held to enforce the
47 warehouse's lien created under this section and an identification of the publication in which any
48 such auction will be advertised pursuant to subsection (f) of section 7-210 of said chapter 106.
49 (5) a description of the notification process of the warehouse, which describes how the
50 warehouse must attempt to contact the defendant about the following actions: paying overdue
51 storage fees, proceeding to auction, and auction results, at all provided points of contact. A
52 duplicate copy of the warehouse receipt shall be kept on file at the place of storage and the
53 original shall be served by receipted mail or hand delivery to the defendant at their provided
54 points of contact. The warehouse shall keep separate the goods covered by each receipt so as to
55 permit at all times identification and delivery of those goods. A warehouse who fails to comply
56 with the requirements of this subsection shall be liable for damages caused by the omission to a
57 person injured thereby.

58 SECTION 4. Said section 4 of said chapter 239, as so appearing, is hereby further
59 amended by striking out subsection (e) and inserting in place thereof the following paragraph:-

60 (e) Any warehouser who accepts personal property pursuant to this section shall have a
61 lien thereon for charges for storage, insofar as such charges are imposed in accordance with this
62 section. The lien shall not be enforced by sale or disposal of the property until it has been kept in
63 storage for at least 6 months. Thereafter, the warehouser may enforce the lien in the manner
64 provided for in paragraph (2) of subsection (b) of section 7-210 of chapter 106, except as
65 otherwise provided in this section. In the event that the defendant has failed to pay the storage
66 fees for three consecutive months, the warehouser must make good-faith attempts to contact the
67 defendant at all provided points of contact. The attempts at contact must be documented and
68 made available to the defendant upon request. The defendant shall be entitled to postpone the
69 sale or disposal of his property for 3 months upon payment of one half of all storage fees
70 incurred plus costs reasonably incurred in preparation for their sale pursuant to law. The
71 warehouser may satisfy his lien from the proceeds of any sale or disposition under this section
72 but must hold the balance for delivery on the demand of any person to whom he would have
73 been bound to deliver the goods. A warehouser's failure to comply with any of the requirements
74 of this section shall result in the forfeiture of his lien.

75 SECTION 5. Section 7-210 of chapter 106 of the General Laws, as so appearing, is
76 hereby amended by inserting after paragraph (2) of subsection (b) the following paragraph:-

77 (2½) Warehouse's storing property post-eviction must also send notification of sale via
78 certified mail to confirm receipt, and also via email, if one was provided to the warehouse. If
79 receipt of the notification is not confirmed the warehouser must attempt to contact the interested

80 party at all of the points of contact provided at the time of the removal of their property from
81 their former residence.

82 SECTION 6. Chapter 105 of the General Laws, as so appearing, is hereby amended by
83 adding the following new section:-

84 Section 67. Warehousemen must record and regularly submit to the executive office on
85 public safety and security in a form and at an interval to be determined by the commissioner, but
86 no less frequently than annually, the following data: (i) the number of instances of post-eviction
87 storage (ii) value of the items stored (iii) the length of time that items are stored (iv) the
88 frequency that items stored go to auction (v) the amount recouped following the auction of the
89 items stored (vi) the amount maintained by the warehouseman following an auction.

90 The executive office on public safety and security shall, no less than annually, aggregate
91 data and make available to the public in electronic, machine-readable format. The commissioner
92 shall work in conjunction with the offices and agencies in custody of the data listed in this
93 section to facilitate the collection of the data and to ensure that data sharing mechanisms are in
94 compliance with all applicable laws relating to privacy protection.