



Julie A. Cameron

*Final Analysis*  
Legislative Service Commission

## **H.B. 120**

125th General Assembly  
(As Passed by the General Assembly)

**Reps. Grendell, Buehrer, Seitz, Williams, Fessler, Jolivette, Hartnett, Allen, Miller, Distel, McGregor, Calvert, Cates, Daniels, DePiero, Domenick, C. Evans, D. Evans, Flowers, Hughes, Latta, Niehaus, Raga, Raussen, Reidelbach, Schneider, Setzer, J. Stewart**

**Sens. Nein, Mumper, Schuler**

**Effective date: \***

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### **ACT SUMMARY**

- Permits the owner of a self-service storage facility to charge a reasonable late fee for each service period that an occupant does not pay rent in full by the third day after the due date.
- Defines a reasonable late fee as \$20 for each late rental payment, or 20% of the amount of each late rental payment, whichever is greater; or, a reasonable amount specified in the written rental agreement.
- Requires the amount of any late fee and the conditions for imposing the late fee to be stated in a written rental agreement between the owner and the occupant.
- Permits an owner to charge an occupant for any reasonable expense incurred by the owner in rent collection or lien enforcement in addition to the late fee.

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*\* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

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## **CONTENT AND OPERATION**

### **Owners' rights when rent is not paid**

Law unchanged by the act, gives an owner of a self-service storage facility the right to file a lien against an occupant on the occupant's personal property stored at the facility if an occupant fails to pay rent when due. The lien amount may include rent, labor, or other charges in relation to the personal property that are specified in the rental agreement that have become due, expenses necessary for the preservation of the personal property, or expenses reasonably incurred in the sale or other disposition of the personal property pursuant to the law. After giving proper notice to the occupant and persons who have filed security agreements in the name of the occupant for the occupant's personal property, the owner may sell the personal property at auction. (Secs. 5322.02 and 5322.03.)

### **Late fee**

The act adds a provision that enables an owner to impose a reasonable late fee for each service period that an occupant does not pay rent in full by the third day after the due date. For the late fee to be valid, the due date for the rental payment must not be earlier than the day before the first day of the service period to which the rental payment applies (sec. 5322.05(A)). Under the act, a late fee does not include interest on a debt, reasonable expenses incurred in the collection of unpaid rent, or costs associated with the enforcement of any other remedy provided by statute or contract (sec. 5322.01(F)). The act also provides that a late fee may not be collected unless the amount of the fee and the conditions for imposing a fee are stated in a written rental agreement or an addendum to that agreement (sec. 5322.05(B)).

The act specifies that any reasonable expense incurred in rent collection or lien enforcement may be charged to the occupant in addition to the permitted late fees (sec. 5322.05(D)).

### **Definition of a reasonable late fee**

The act provides that a late fee of \$20 for each late rental payment, or 20% of the amount of each late rental payment, whichever is greater, is deemed reasonable and does not constitute a penalty. The contract may provide for a late fee in a greater amount if that amount is reasonable, but the owner has the burden of proof in showing that the greater amount is reasonable. (Sec. 5322.05(C).) Nothing in the act prevents an owner from charging less than these amounts.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-11-03	p. 219
Reported, H. Commerce & Labor	06-11-03	p. 583
Passed House (87-11)	06-25-03	p. 967
Reported, S. Insurance, Commerce & Labor	12-09-03	p. 1245
Passed Senate (23-11)	01-07-04	p. 1346

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