



H.B. 120

124th General Assembly
(As Introduced)

Reps. Grendell, Williams, D. Miller, Schaffer, Lendrum, Collier, Rhine, Distel

BILL 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.

CONTENT AND OPERATION

Background

Continuing law defines a "self-service storage" facility as any real property that is designed and used only for the purpose of renting or leasing individual storage space in the facility under the following conditions:

- (1) the occupants have access to the storage space only for the purpose of storing and removing personal property;
- (2) the owner does not issue a warehouse receipt, bill of lading, or other document of title for the personal property stored in the storage space;

(3) the property has 50 or more individual storage spaces.

A self-service storage facility does not include a garage used primarily for parking motor vehicles, food locker (cold-storage) establishments licensed by the Department of Agriculture, or bank vaults or safety deposit boxes. (Sec. 5322.01(A).)

Owners' rights when rent is not paid

Current law, unchanged by the bill, 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 bill 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)).¹ Under the bill, 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 bill 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 bill 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)).

¹ *It appears that the bill permits an owner to proceed with filing a lien against the occupant's personal property while imposing a late fee.*

Definition of a reasonable late fee

The bill 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).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-11-03	p. 219

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