

**2021 SENATE INDUSTRY, BUSINESS AND LABOR**

**SB 2330**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Fort Union Room, State Capitol

SB 2330  
2/8/2021

relating to self-service storage facility liens
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**Chair Klein** opened the hearing at 11:15 a.m. All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

### Discussion Topics:

- Abandoned units
- Property theft

**Senator Burckhard** introduced the bill and testified in favor [11:15].

**Rudy Martinson, Self-Storage Association** testified in favor [11:18].

**Joe Doherty, Self-Storage Association** testified in favor and submitted testimony #5830 [11:18].

**Ben Hendricks, Five Star Storage** testified in favor and submitted testimony #5849 [11:26].

**Pat Ward, owner of storage units in Mandan** testified in favor.

**Jeff Olson, Dakota Credit Union Association** testified in favor [11:41].

**Chair Klein** ended the hearing at 11:43 a.m.

*Isabella Grotberg, Committee Clerk*

Good morning, Chairman Klein and members of the committee. My name is Joe Doherty, and I serve as Chief Legal & Legislative Officer for the Self Storage Association. It is my pleasure to testify in support of SB2330.

SB2330 would modernize the state's self storage lien law. The law was initially passed in 1997 and has not been updated since then. SB2330 would bring the state's self storage lien law in line with the many states that would modernized their lien laws over the last 15 years.

By way of brief background, 49 states have self storage lien laws. In case you are wondering, Alaska is the only state without a self storage lien law. Self storage lien laws were adopted to provide a statutory process for handling when a tenant fails to rent. The statutory process replaced a process that had been solely governed by the parties' contract. The statutory process provides protections and certainty to both self storage operators and consumers.

In practice, self storage operators work closely with their tenants to avoid non-payment in the first instance and to resolve non-payment issues without having to enforce the operator's lien. Enforcing the lien and selling the tenant's property to recover some of the tenant's debt are an uncommonly used, but necessary last resort. Ultimately, the operator's goal is to make the space available to a paying tenant.

The statutory lien process generally follows the same steps across the country. The parties have a written rental agreement that provides certain critical information, such as the amount of the rent and the operator's lien on the tenant's property if the tenant fails to pay rent. If the tenant fails to pay rent, the operator sends a mandated notice to the tenant. Among other things, this notice explains the tenant's space will be advertised for sale and sold to enforce the lien if the parties are unable to resolve the non-payment.

If the non-payment remains unresolved, the operator then advertises the time, place, and manner of the sale in an effort to attract bidders to the sale. If the tenant still does not pay, the operator holds a sale of the stored property. Importantly, section 35-33-06 of the Century Code allows the tenant to pay off the outstanding debt and reclaim the property up until the time of the sale.

Consistent with changes that have been adopted in up to 45 states, SB2330 would modernize the self storage lien law in several key ways. First, instead of requiring notices to be sent by certified mail, SB2330 allow notices to be sent by verified mail (what the post office calls U.S. mail with certificate of mailing) or email if the tenant provides an email address. Unlike certified mail, U.S. mail with certificate of mailing automatically forwards to the tenant's new address if it's on file with the post office. And, email addresses are likely to remain consistent even if a tenant's physical address changes. Verified mail and email are permissible methods of notice in 45 and 42 states, respectively.

SB2330 would also allow operators to have stored vehicles towed instead of selling them. Once towed, the towing company would have to follow the requirements of the Century Code for selling a vehicle. Although some operators have experience with selling vehicles, in the 38 states where towing is allowed, many prefer that option.

I would like to highlight two additional changes before concluding my testimony. First, the bill would establish a late fee safe harbor, which provides certainty to operators while also protecting tenants from unreasonable late fees. Thirty-two states have adopted this late fee safe harbor. Second, the bill would expand the methods of notifying potential bidders of the sale. Nowadays, most bidders learn about sales through the self storage companies and online auction websites. Operators have a strong incentive to bring more bidders to the sale because more bidders result in higher bids, with the winning bid applied to reduce (and, in rare cases, eliminate) the tenant's debt.

I welcome your questions on these or other aspects of the bill, and thank you for accepting my testimony in support of SB2330.

Good morning, Chairman Klein and members of the committee. My name is Ben Hendricks. Along with the father Chuck and brother Jake, I own and operate Five Star Storage and Five Star Development. Since 2004, we have owned, operated, and managed self storage facilities in North Dakota and Minnesota. Our businesses in North Dakota are located in Bismarck, Dickinson, Fargo, Grand Forks, and West Fargo.

I also serve as the President of North Dakota Self Storage Association. Our association represents members across the state and strongly supports SB2330. The bill would allow us to modernize our operations, while preserving and expanding important consumer protections.

Thank you for your time today. I welcome your questions.

# 2021 SENATE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Fort Union Room, State Capitol

SB 2330  
2/9/2021

relating to self-service storage facility liens
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**Chair Klein** opened the meeting at 10:04. All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

### Discussion Topics:

- Towing services

**Senator Burckhard** moved to adopt Amendment 21.1018.01001 [10:04].

**Senator Vedaa** seconded the motion [10:04].

[10:04]

Senators	Vote
Senator Jerry Klein	Y
Senator Doug Larsen	Y
Senator Randy A. Burckhard	Y
Senator Curt Kreun	Y
Senator Richard Marcellais	Y
Senator Shawn Vedaa	Y

Motion passed: 6-0-0

**Senator Burckhard** moved a DO PASS AS AMENDED [10:05].

**Senator Kreun** seconded the motion [10:05].

[10:05]

Senators	Vote
Senator Jerry Klein	Y
Senator Doug Larsen	Y
Senator Randy A. Burckhard	Y
Senator Curt Kreun	Y
Senator Richard Marcellais	Y
Senator Shawn Vedaa	Y

Motion passed: 6-0-0

**Senator Burckhard** will carry the bill [10:06].

**Chair Klein** ended the hearing at 10:07 a.m.

*Isabella Grotberg, Committee Clerk*

February 8, 2021

Sal  
2/9

PROPOSED AMENDMENTS TO SENATE BILL NO. 2330

Page 5, line 10, after "property" insert "by a commercial towing service as defined in section  
23.1-15-01"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2330: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2330 was placed on the Sixth order on the calendar.

Page 5, line 10, after "property" insert "by a commercial towing service as defined in section 23.1-15-01"

Renumber accordingly

**2021 HOUSE INDUSTRY, BUSINESS AND LABOR**

**SB 2330**



# 2021 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2330  
3/10/2021

### Self-service storage facility liens.

(9:00) Chairman Lefor called the hearing to order.

Representatives	Attendance	Representatives	Attendance
Chairman Lefor	P	Rep Ostlie	P
Vice Chairman Keiser	P	Rep D Ruby	P
Rep Hagert	P	Rep Schauer	P
Rep Kasper	P	Rep Stemen	P
Rep Louser	P	Rep Thomas	P
Rep Nehring	P	Rep Adams	P
Rep O'Brien	P	Rep P Anderson	P

### Discussion Topics:

- Protections for both self-storage operators & consumers
- Statutory lien process
- Written rental agreements

Sen Burckhard~District 5-Minot. Introduced the bill. Attachment # 8527.

Ruddy Martinson~Representing Self Storage Association. Introduced the next two speakers.

Joe Doherty~Chief Legal & Legislative Officer-Self Storage Association. Attachment # 8312.

Ben Hendricks~Chief Operating Officer-Five State Storage. Attachment # 8313.

Chairman Lefor closes the hearing.

Rep Louser moved a Do Pass.

Rep Stemen second.

<b>Representatives</b>	<b>Vote</b>
Chairman Lefor	Y
Vice Chairman Keiser	Y
Rep Hagert	Y
Rep Jim Kasper	Y
Rep Scott Louser	Y
Rep Nehring	Y
Rep O'Brien	A
Rep Ostlie	Y
Rep Ruby	Y
Rep Schauer	Y
Rep Stemen	Y
Rep Thomas	Y
Rep Adams	Y
Rep P Anderson	Y

Vote roll call taken Motion carried 13-0-1 & Rep Schauer is the carrier.

(9:30) End time.

*Ellen LeTang, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2330, as engrossed: Industry, Business and Labor Committee (Rep. Lefor, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2330 was placed on the Fourteenth order on the calendar.

SB2330

3/10/2021

# 8527

Carried by Senator Burckhard ~~2/15/2021~~

<sup>Chairman</sup> Mr. [REDACTED], SB2330 is an attempt to modernize our lien laws regarding self-storage units. The law was initially passed in 1997 and has not been updated since then.

SB2330 would bring the state's self storage lien laws in line with the many states that have modernized their lien laws over the last 15 years.

<sup>Chairman</sup> Mr. [REDACTED], the law updates the notification provisions for those who default on a storage unit lease, as well as the notification provisions for disposal of property left in an abandoned unit.

Mr. President by way of background, 49 states have self storage lien laws. Self storage lien laws were adopted to provide a statutory process for handling when a tenant fails to pay his rent. The statutory process provides protections and certainty to both self storage operators and consumers.

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