



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5910

Introduced 2/16/2012, by Rep. Patricia R. Bellock

#### SYNOPSIS AS INTRODUCED:

770 ILCS 50/3	from Ch. 82, par. 47c
770 ILCS 90/4 new	
770 ILCS 95/4	from Ch. 114, par. 804

Amends the Labor and Storage Lien (Small Amount) Act, the Sale of Unclaimed Property Act, and the Self-Service Storage Facility Act. Provides that notwithstanding any other provision of law, if a lien is held on a vehicle under one of the amended Acts and the name of the vehicle owner or other responsible party is unknown after reasonable inquiry or if a certified mailing mailed is returned as undeliverable, the lienholder seeking to enforce the lien may hold the sale without complying notice by publication requirements if the lienholder provides the Secretary of State with a signed statement that: (i) the lienholder has inspected the vehicle and in the lienholder's opinion, the vehicle is a junk vehicle; and (ii) if the lienholder purchases the vehicle at the public sale, the lienholder will apply for a junking certificate for the vehicle. Provides that a person seeking a junking certificate under the new provisions must demonstrate to the satisfaction of the Secretary of State that he or she is otherwise eligible for a junking certificate.

LRB097 18536 AJO 63767 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Labor and Storage Lien (Small Amount) Act is  
5 amended by changing Section 3 as follows:

6 (770 ILCS 50/3) (from Ch. 82, par. 47c)

7 Sec. 3. Notice.

8 (a) Such sale shall be held only after giving 30 days'  
9 notice of the time and place of such sale, by publication once  
10 in some newspaper of general circulation in the city, village,  
11 or incorporated town in which such lienor expended such labor,  
12 services, skill, or material or furnished such storage, or if  
13 there be none, or if the labor, service, skill or material was  
14 not expended in a city, village, or incorporated town, then in  
15 some newspaper of general circulation in the county in which  
16 such lienor expended such labor, service, skill, or material or  
17 furnished such storage, and also by certified mailing, 30 days  
18 before such sale, a copy of such notice addressed to the person  
19 requesting or consenting to such expenditure of labor,  
20 services, skill, or material or furnishing of storage, if his  
21 address is known, or if his address is unknown, to the last  
22 known address of such person. If no address is known or  
23 discoverable after reasonable inquiry, the sale may be made

1 without mailing such notice. The published notice required by  
2 this Section shall be in substantially the following form:

3 -----

4 NOTICE IS HEREBY GIVEN

5 That on (insert date), a sale will be held at (insert  
6 place), to sell the following articles to enforce a lien  
7 existing under the laws of the State of Illinois against such  
8 articles for labor, services, skill or material expended upon a  
9 storage furnished for such articles at the request of the  
10 following designated persons, unless such articles are  
11 redeemed within thirty days of the publication of this notice.

12 -----

Name of Person	Description of Article	Amount of lien
.....	.....	\$.....
.....	.....	\$.....

16 A separate notice need not be published for each lien to be  
17 enforced, but several may be combined in one publication.

18 (b) Notwithstanding any other provision of law, if a lien  
19 is held on a vehicle and the name of the vehicle owner or other  
20 responsible party is unknown after reasonable inquiry or if a  
21 certified mailing mailed under subsection (a) of this Section  
22 is returned as undeliverable, the lienholder seeking to enforce  
23 the lien under this Act may hold the sale without complying  
24 with the notice by publication requirements of subsection (a)  
25 of this Section if the lienholder provides the Secretary of  
26 State with a signed statement that:

1           (i) the lienholder has inspected the vehicle and in the  
2           lienholder's opinion, the vehicle is a junk vehicle as  
3           defined by Section 1-134.1 of this Code; and

4           (ii) if the lienholder purchases the vehicle at the  
5           public sale, the lienholder will apply for a junking  
6           certificate for the vehicle.

7           A person seeking a junking certificate under this  
8           subsection (b) must demonstrate to the satisfaction of the  
9           Secretary of State that he or she is otherwise eligible for a  
10           junking certificate.

11           (Source: P.A. 87-206.)

12           Section 10. The Sale of Unclaimed Property Act is amended  
13           by adding Section 4 as follows:

14           (770 ILCS 90/4 new)

15           Sec. 4. Junk vehicles. Notwithstanding any other provision  
16           of law, if a lien is held on a vehicle under this Act and the  
17           name of the vehicle owner or other responsible party is unknown  
18           after reasonable inquiry or if a certified mailing mailed under  
19           this Act is returned as undeliverable, the lienholder seeking  
20           to enforce the lien under this Act may hold the sale without  
21           complying with the notice by publication requirements of this  
22           Act if the lienholder provides the Secretary of State with a  
23           signed statement that:

24           (i) the lienholder has inspected the vehicle and in the

1       lienholder's opinion, the vehicle is a junk vehicle as  
2       defined by Section 1-134.1 of this Code; and

3               (ii) if the lienholder purchases the vehicle at the  
4       public sale, the lienholder will apply for a junking  
5       certificate for the vehicle.

6       A person seeking a junking certificate under this Section  
7       must demonstrate to the satisfaction of the Secretary of State  
8       that he or she is otherwise eligible for a junking certificate.

9               Section 15. The Self-Service Storage Facility Act is  
10       amended by changing Section 4 as follows:

11               (770 ILCS 95/4) (from Ch. 114, par. 804)

12               Sec. 4. Enforcement of lien. An owner's lien as provided  
13       for in Section 3 of this Act for a claim which has become due  
14       may be satisfied as follows:

15               (A) The occupant shall be notified;

16               (B) The notice shall be delivered:

17                       (1) in person; or

18                       (2) by certified mail or by first-class mail with a  
19       certificate of mailing to the last known address of the  
20       occupant;

21               (C) The notice shall include:

22                       (1) An itemized statement of the owner's claim showing  
23       the sum due at the time of the notice and the date when the  
24       sum became due;

1           (2) The name of the facility, address, telephone  
2           number, date, time, location, and manner of the lien sale,  
3           and the occupant's name and unit number;

4           (3) A notice of denial of access to the personal property,  
5           if such denial is permitted under the terms of the rental  
6           agreement, which provides the name, street address, and  
7           telephone number of the owner, or his designated agent, whom  
8           the occupant may contact to respond to this notice;

9           (3.5) Except as otherwise provided by a rental agreement  
10          and until a lien sale, the exclusive care, custody, and control  
11          of all personal property stored in the leased self-service  
12          storage space remains vested in the occupant. No bailment or  
13          higher level of liability is created if the owner over-locks  
14          the occupant's lock, thereby denying the occupant access to the  
15          storage space. Rent and other charges related to the lien  
16          continue to accrue during the period of time when access is  
17          denied because of non-payment;

18          (4) A demand for payment within a specified time not less  
19          than 14 days after delivery of the notice;

20          (5) A conspicuous statement that unless the claim is paid  
21          within the time stated in the notice, the personal property  
22          will be advertised for sale or other disposition, and will be  
23          sold or otherwise disposed of at a specified time and place.

24          (D) Any notice made pursuant to this Section shall be  
25          presumed delivered when it is deposited with the United States  
26          Postal Service, and properly addressed with postage prepaid;

1           (E) After the expiration of the time given in the notice,  
2 an advertisement of the sale or other disposition shall be  
3 published once a week for two consecutive weeks in a newspaper  
4 of general circulation where the self-service storage facility  
5 is located. The advertisement shall include:

6           (1) The name of the facility, address, telephone number,  
7 date, time, location, and manner of lien sale and the  
8 occupant's name and unit number.

9           (2) (Blank).

10          (3) The sale or other disposition shall take place not  
11 sooner than 15 days after the first publication. If there is no  
12 newspaper of general circulation where the self-service  
13 storage facility is located, the advertisement shall be posted  
14 at least 10 days before the date of the sale or other  
15 disposition in not less than 6 conspicuous places in the  
16 neighborhood where the self-service storage facility is  
17 located.

18          (F) Any sale or other disposition of the personal property  
19 shall conform to the terms of the notification as provided for  
20 in this Section;

21          (G) Any sale or other disposition of the personal property  
22 shall be held at the self-service storage facility, or at the  
23 nearest suitable place to where the personal property is held  
24 or stored;

25          (G-5) If the property upon which the lien is claimed is a  
26 motor vehicle or watercraft and rent or other charges related

1 to the property remain unpaid or unsatisfied for 60 days, the  
2 owner may have the property towed from the self-service storage  
3 facility. If a motor vehicle or watercraft is towed, the owner  
4 shall not be liable for any damage to the motor vehicle or  
5 watercraft, once the tower takes possession of the property.  
6 After the motor vehicle or watercraft is towed, the owner may  
7 pursue other collection options against the delinquent  
8 occupant for any outstanding debt. If the owner chooses to sell  
9 a motor vehicle, aircraft, mobile home, moped, motorcycle,  
10 snowmobile, trailer, or watercraft, the owner shall contact the  
11 Secretary of State and any other governmental agency as  
12 reasonably necessary to determine the name and address of the  
13 title holder or lienholder of the item, and the owner shall  
14 notify every identified title holder or lienholder of the time  
15 and place of the proposed sale. The owner is required to notify  
16 the holder of a security interest only if the security interest  
17 is filed under the name of the person signing the rental  
18 agreement or an occupant. An owner who fails to make the lien  
19 searches required by this Section is liable only to valid  
20 lienholders injured by that failure as provided in Section 3;

21 (H) Before any sale or other disposition of personal  
22 property pursuant to this Section, the occupant may pay the  
23 amount necessary to satisfy the lien, and the reasonable  
24 expenses incurred under this Section, and thereby redeem the  
25 personal property. Upon receipt of such payment, the owner  
26 shall return the personal property, and thereafter the owner



1 shall have no liability to any person with respect to such  
2 personal property;

3 (I) A purchaser in good faith of the personal property sold  
4 to satisfy a lien, as provided for in Section 3 of this Act,  
5 takes the property free of any rights of persons against whom  
6 the lien was valid, despite noncompliance by the owner with the  
7 requirements of this Section;

8 (J) In the event of a sale under this Section, the owner  
9 may satisfy his lien from the proceeds of the sale, but shall  
10 hold the balance, if any, for delivery on demand to the  
11 occupant. If the occupant does not claim the balance of the  
12 proceeds within one year of the date of sale, it shall become  
13 the property of the owner without further recourse by the  
14 occupant.

15 (K) The lien on any personal property created by this Act  
16 shall be terminated as to any such personal property which is  
17 sold or otherwise disposed of pursuant to this Act and any such  
18 personal property which is removed from the self-service  
19 storage facility.

20 (L) If 3 or more bidders who are unrelated to the owner are  
21 in attendance at a sale held under this Section, the sale and  
22 its proceeds are deemed to be commercially reasonable.

23 (M) Notwithstanding any other provision of law, if a lien  
24 is held on a vehicle under this Act and the name of the vehicle  
25 owner or other responsible party is unknown after reasonable  
26 inquiry or if a certified mailing mailed under this Act is

1 returned as undeliverable, the lienholder seeking to enforce  
2 the lien under this Act may hold the sale without complying  
3 with the notice by publication requirements of this Act if the  
4 lienholder provides the Secretary of State with a signed  
5 statement that:

6 (i) the lienholder has inspected the vehicle and in the  
7 lienholder's opinion, the vehicle is a junk vehicle as  
8 defined by Section 1-134.1 of this Code; and

9 (ii) if the lienholder purchases the vehicle at the  
10 public sale, the lienholder will apply for a junking  
11 certificate for the vehicle.

12 A person seeking a junking certificate under this Section  
13 must demonstrate to the satisfaction of the Secretary of State  
14 that he or she is otherwise eligible for a junking certificate.

15 (Source: P.A. 97-599, eff. 8-26-11.)