

## Senate Bill 690 (Sen. John Carona / Rep. Sid Miller)



Self-storage facilities hold a lien against the contents of a rented unit to secure payment of the rent. S.B. 690 was the self-storage industry's attempt to amend statutory provisions relating to self-storage liens that they felt were outdated.

### Among the changes outlined in the bill:

- S.B. 690 expands the current statute to allow the use of verified mail or e-mail to ensure that more tenants are notified about the potential lien auction sale of their goods and given the opportunity to cure the debt.
- Federal law currently precludes self-storage companies from foreclosing on a delinquent tenant who is active in the military, but a company may not know their tenant's military status. S.B. 690 mandates that the required "notice of claim," notifying the tenant of the potential for the lien sale, contains language notifying the tenant of their rights due to their military status.
- SB 690 also makes conforming changes regarding seizure of motor boats and other vehicles, and exempts a self-service storage facility from statutory provisions governing miscellaneous liens and medical records privacy.

### Newspaper Concerns:

Currently, Section 59.044(b), Property Code, requires the self-storage company "to publish the notice of foreclosure at least once in each of two consecutive weeks in the print or electronic version of a newspaper of general circulation in the county in which the self-service storage facility is located." If there is not a newspaper of general circulation in the county, the company may instead post a copy of the notice at the self-service storage facility and at least five other conspicuous locations near the facility.

 As originally filed, SB 690 gave self storage companies could instead post the notice "for at least 10 consecutive days on an Internet website accessible at no cost to the general public." 

While self-storage companies characterized this change as "optional," the newspaper industry in Texas was rightly concerned that self-storage companies would universally opt to post on their own website. This raised a host of concerns, namely:

- Diminishment of the public's right to know;
- "Fox Guarding the Henhouse";
- No statutory guidance one what the Internet website would look like or how it would function (i.e. - would the notice be 5 "clicks" deep?);
- Concerns about the "digital divide," particularly among the elderly, minorities, and in rural Texas;
- The lessor would likely lose their last meaningful opportunity to learn they were delinquent and to remedy the problem.

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- the process.*

### **Legislative Outcome:**

Despite multiple meetings and discussions with the self-storage association, Texas newspapers were unable to reach a compromise. However, Sen. Carona was ultimately persuaded that the changes with regard to public notification were bad policy, and he stripped those provisions from the bill during committee deliberations. With an agreement from the Texas newspapers not to oppose the remaining provisions in the bill, the legislation passed both chambers of the Legislature and was signed by Governor Perry. The bill became effective on September 1, 2011.

### **Other Bills of Interest:**

Texas newspapers were tracking more than 70 bills related to public notice during the 82<sup>nd</sup> Legislature. Among the most significant:

- **HB 507 – Rep. Angie Chen Button:** Eliminated newspaper public notice requirement for contracting opportunities at the county, city, and school district level (Did not pass);
- **HB 1668 – Rep. Linda Harper-Brown:** Allowed school districts to meet any publication requirement by posting the material on the school internet website, in lieu of a newspaper of general circulation (Did not pass);
- **HB 1694 – Rep. Garnet Coleman / Sen. Royce West:** Reduced the required publication period for county purchasing bids from two weeks to one, if the county published the bid on its website (Bill passed without this provision);
- **HB 1833 – Rep. Mark Shelton:** Allowed school districts to publish notices of open meetings and tax increases on their district website, in lieu of a newspaper of general circulation (Did not pass).