

# **BIG CHANGES ARE COMING**

# **TO SELF STORAGE TENANT INSURANCE**

# **IN NEVADA**

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One of the most stressful situations self storage operators and their employees face is an angry tenant whose property has been damaged, destroyed, or stolen. Most self storage operators use leases that contractually limit their liability and require tenants to insure their stored property (those that don't, should). While this language may offer some protection to the facility, it does little to ease the tension when a tenant learns of damage or loss to their property. Worse, it does nothing to help that tenant get the property back. Homeowner's and renter's insurance policies may not help either, as they typically have deductibles and exclusions that make them ill-suited for property kept in self storage.

Many facilities have turned to offering third-party personal property insurance, but this has its own drawbacks. Under current law, unless the facility's employees are licensed to sell property and casualty insurance in Nevada, the employees are extremely limited as to what they can tell tenants about the policies. For example, Nevada law makes it illegal for anyone who is not licensed to sell insurance to discuss "any of the substantive benefits [or] terms or conditions of the [insurance] contract," to "exchange a contract of insurance...for money," or "attempt to sell insurance." Violations can result in fines of up to \$1,000 per violation as well as criminal charges. It does not make

financial sense for a facility to put its employees through the costly and cumbersome process of obtaining a license to sell property and casualty insurance. This means that facilities that do offer third-party insurance are prohibited from answering even basic questions regarding the policies.

Fortunately, this past legislative session, the Governor signed a bill passed by the Legislature that will make Nevada the 34<sup>th</sup> state to offer a third way between full insurance licensing and selling insurance without a license. This new bill will allow facilities to obtain a limited lines license to sell personal property storage insurance and for facility employees work under that license. This means employees of a licensed facility will be able to offer and sell available self storage insurance policies. Significantly, the bill allows facility employees to answer tenants' questions about the self storage insurance. However, owners should discuss with the insurance provider the types of questions that employees should refer to the insurance provider. It will also allow licensed facilities to bill for and collect premiums from tenants and receive compensation from insurers for performing sales, billing, and collection services. Even better, the law provides that an owner (as defined by statute) only needs to obtain one license for "all facilities at which the owner conducts business."

Facilities that wish to participate in this program will have to satisfy certain licensing requirements. This will likely include, at a minimum, filling out an application and paying a yet undetermined licensing fee. The law explicitly provides that licensees will not have to meet prelicensing education or continuing education requirements or pass a written examination. Licensees will, however, be required to put employees through a training program that

includes basic instruction about the program's statutory requirements and parameters. These include:

- Written disclosure requirements, such as:
  - disclosures that the policy could result in a duplication of coverage;
  - a description of the process for filing a claim;
  - information regarding the price, deductible, benefits, exclusions, conditions, and limitations of the insurance;
  - a statement that the tenant is not required to purchase insurance from the facility;
  - a statement that the licensee is not authorized to evaluate the adequacy of the tenant's existing insurance coverage; and
  - a statement that the tenant may cancel the insurance at any time and receive a refund of unearned premiums in accordance with applicable law;
- In addition to purchasing insurance from the licensee, the tenant may satisfy any requirements under the lease to obtain insurance by presenting evidence of other applicable coverage;
- Money collected from a tenant for personal property storage insurance is deemed held in trust by the licensee in a fiduciary capacity for the benefit of the insurer, and that the insurer is deemed to have received the premium upon payment of the premium to the licensee.

The new law only lays out a framework for the personal property storage insurance licensing regime. What the final program looks like will depend largely

on regulations issued by the Commissioner of Insurance. This law takes effect July 1, 2020, but owners looking to participate in this program should start preparing sooner. In addition to the as yet unknown licensing steps owners will have to take, owners will need to train employees, draft required disclosures, and revisit current policies before selling personal property storage insurance.

Additionally, many facilities will have to revise their leases to ensure they are consistent with this program. For example, many facilities' leases have maximum value limitations written into the leases. These will need to be revised to ensure that the purchase of a policy in excess of that limitation does not void the limitation. Make sure to contact legal counsel with any questions regarding policies, compliance, and your lease.

This is a great new program that many owners are sure to take advantage of. While it is too early to know exactly what the final program will look like, it is clear that it will give owners far more flexibility in offering peace of mind and protection to their tenants.