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COMMENTARY

Brewster Bevis: Do not water down the transparency provided by the publishing and posting of public notices

BY BREWSTER BEVIS
Special to The Tampa Tribune
Published: January 13, 2016

During the 2016 Florida legislative session, lawmakers will be asked by the self-storage industry to end the current system of publishing a public notice in a local, trusted newspaper before the seizure of property or an auction is going to occur.

Associated Industries of Florida (AIF) is opposed to this move, because we represent the interest of Florida's businesses — 90 percent of which are small businesses — which, if this measure were to pass, would be negatively affected by this move to diminish public notice.

Businesses across the state utilize self-storage facilities to store their inventory or equipment. This property will be auctioned off with notice that will be virtually unnoticed if language in Senate Bill 720 and House Bill 559 passes.

This proposed legislation will allow a self-storage facility to advertise on any publicly accessible Internet website, in lieu of the well-recognized use of traditional public notice.

Translation: Under this proposed language, the facility could only provide notice on its own website if it chooses. This will be like trying to find a needle in a haystack.

There are a myriad of instances where a small business renting a self-storage unit may not get proper notice under this proposal. For example, the self-storage unit itself could make a billing error leading it to sell business assets. Or a small business owner, for reasons outside of their control, such as a sudden illness or severe accident that puts them in a hospital, could be left in a position where they are not receiving notice that their assets are in danger of being seized and sold, simply because they are not home.

The move to allow posting public notices only to a website irreversibly harms Floridians' access to critical information and significantly narrows notice. Not everyone has unfettered access to the Internet.

Florida's Supreme Court recognizes that Floridians count on the newspaper to gain access to critical information, particularly when the courts have no oversight over the disposition of personal property; as is the case when property is auctioned off from storage units.

There is no doubt among our members that if this important protection is removed by passage of this legislation, the property rights of the owners and lien holders of property being auctioned at storage facilities will suffer irreparable injury, as there is virtually no recourse against the facility owners.

In 2012, the Florida Legislature wisely passed legislation requiring Florida's newspapers to publish public notices and to also post the notices on their own website, as well as Florida publicnotices.com — an independent website operated by the Florida Press Association.

These efforts created the broadest possible dissemination of this vital information, ensuring Florida has the best way to provide the broadest transparency through publishing and posting of public notices.

The bottom line is that AIF does not believe narrowing public notice provides sufficient notice to our state's businesses before their assets are sold.

We ask Florida lawmakers to not turn back the clock on past efforts to broaden public notice — preserve public notice in its current form and protect Floridians' access to critical information.

Brewster Bevis is senior vice president of state and federal affairs for Associated Industries of Florida.

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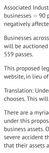
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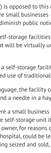
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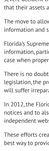
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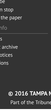
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