

# An Act

ENROLLED SENATE  
BILL NO. 1273

By: Leewright of the Senate

and

Hall of the House

An Act relating to self-service storage facilities; amending 42 O.S. 2011, Sections 192, 194, 196 and 197, which relate to the Self-Service Storage Facility Lien Act; modifying and expanding definitions; limiting liability and value of damaged property; allowing for reasonable late fees; allowing for the towing of certain vehicles; specifying proper channels to send notice; allowing notice of sales to be published on website in certain circumstances; allowing for online sales of certain property subject to a lien; directing administration of excess proceeds; updating statutory references; and providing an effective date.

SUBJECT: Self-service storage facilities

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 42 O.S. 2011, Section 192, is amended to read as follows:

Section 192. As used in ~~this act~~ the Self-Service Storage Facility Lien Act, unless the context otherwise requires:

1. "Default" means the failure by the occupant to perform in a timely manner any obligation or duty set forth in this act or the rental agreement;

2. "Last-known address" means that address or electronic mail address provided by the occupant in the latest rental agreement or the address or electronic mail address provided by the occupant in a subsequent written notice of a change of address;

3. "Occupant" means a person, or his sublessee, successor, or assign, entitled to the use of the storage space at a self-service storage facility under a rental agreement, to the exclusion of others;

4. "Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility, his agent, or any other person authorized by him to manage the facility or to receive rent from an occupant under a rental agreement;

5. "Personal property" means movable property not affixed to land and includes, but is not limited to, goods, merchandise, and household items;

6. "Rental agreement" means any written agreement or lease which establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy at a self-service storage facility and which contains a notice stating that all articles stored under the terms of such agreement will be sold or otherwise disposed of if no payment has been received for a continuous thirty-day period; ~~and~~

7. "Self-service storage facility" means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such facility for the purpose of storing and removing personal property;

8. "Electronic mail" means an electronic message or an executable program or computer file that contains an image of a message that is transmitted between two or more computers or electronic terminals and includes electronic messages that are transmitted within or between computer networks;

9. "Sale" means a sale made after public notice and includes but is not limited to a sale at the self-service storage facility or a sale conducted online at a publicly accessible website; and

10. "Verified mail" means any method of mailing that is offered by the United States Postal Service or private delivery service that provides evidence of mailing.

SECTION 2. AMENDATORY 42 O.S. 2011, Section 194, is amended to read as follows:

Section 194. A. The duty of care an owner must exercise with respect to personal property located in a self-service storage facility is ordinary care only.

B. Each owner of a self-service storage facility shall provide a disclosure in the rental agreement, in conspicuous terms and in a conspicuous manner, that the occupant has a duty to safeguard the personal property located in a self-service storage facility from losses and that the owner has no legal obligation to provide insurance to protect the personal property from loss.

C. No owner of a self-service storage facility shall be liable for loss sustained by an occupant as a result of theft committed by a third party provided that ordinary care was exercised.

D. If the rental agreement contains a limit on the value of property stored in an occupant's space, such limit shall be deemed to be the maximum value of the stored property and the maximum liability of the owner for any claim for loss of or damage to stored property.

SECTION 3. AMENDATORY 42 O.S. 2011, Section 196, is amended to read as follows:

Section 196. A. Where a rental agreement, as defined in Section ~~2~~ 192 of this ~~act~~ title, is entered into between the owner and the occupant, the owner of a self-service storage facility and his heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at the self-service storage facility for rent, late fees, labor, or other charges, present or future, in relation to the personal property and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to ~~this act~~ the Self-Service Storage Facility Lien Act.

B. The lien attaches as of the date the personal property is brought to the self-service storage facility and continues so long as the owner retains possession and until the default is corrected, or a sale is conducted, or the property is otherwise disposed of to satisfy the lien.

C. A facility or unit owner may charge a tenant a reasonable late fee for each period that the tenant does not pay rent due under the rental agreement. The amount of the late fee and the conditions for imposing such a fee shall be stated in the rental agreement or in an addendum to the agreement. For purposes of this subsection, a late fee not to exceed the greater of Twenty Dollars (\$20.00) or twenty percent (20%) of unpaid rent is considered reasonable.

D. The rental agreement shall contain a provision directing the occupant to disclose any lienholders with an interest in property that is or will be stored in a self-service storage facility.

E. If the personal property is a vehicle, watercraft or trailer and rent and other charges remain unpaid for sixty (60) days, the facility owner may have the vehicle, watercraft or trailer towed from the self-service storage facility. If the vehicle, watercraft or trailer is towed from the self-service storage facility, the facility owner shall not be liable for the vehicle, watercraft or trailer or for any damages to the vehicle, watercraft or trailer once the towing company takes possession of the property.

SECTION 4. AMENDATORY 42 O.S. 2011, Section 197, is amended to read as follows:

Section 197. A. An owner's lien as provided for a claim which has become due may be satisfied as provided by this section. The possessory lien authorized by this section shall be prior to any previously perfected security interest in the personal property pursuant to Section 1-9-333 of Title 12A of the Oklahoma Statutes.

B. No enforcement action shall be taken by the owner until the occupant has been in default continuously for a period of thirty (30) days. As used in this subsection, "enforcement action" shall not include actions of the owner taken pursuant to Section ~~5~~ 195 of this ~~act~~ title.

C. After the occupant has been in default continuously for a period of thirty (30) days, the owner may begin enforcement action if the occupant has been notified in writing. Said notice shall be delivered in person or sent by ~~certified~~ verified mail return receipt requested to the last-known address of the occupant or, if mutually agreed between the owner and occupant in the rental agreement or in an addendum to the rental agreement, by electronic mail. Any lienholder with an interest in the property to be sold or otherwise disposed of, of whom the owner has actual knowledge, shall be included in the notice process ~~as provided in this section~~ via verified mail. If the occupant provides his or her electronic mail address for purposes of receiving notices pursuant to this subsection, the rental agreement or addendum to the rental agreement must provide space for the occupant to give the name and electronic mail address of another person to whom the notice may be sent. Failure of an occupant to give the name and electronic mail address of another person shall not affect an owner's rights or remedies under this title or under any other provision of law. The other person, if any, does not have any rights to access the occupant's space or to the personal property stored in the occupant's space unless expressly stated otherwise in the rental agreement or addendum to the rental agreement.

D. The notice shall include:

1. An itemized statement of the owner's claim showing the sum due at the time of the notice and the date when the sum became due;

2. A brief and general description of the personal property subject to the lien. The description shall be reasonably adequate to permit the person notified to identify such property, except that any container including, but not limited to, a trunk, valise, or box that is locked, fastened, sealed, or tied in a manner which deters immediate access to its contents may be described as such without describing its contents;

3. A notification of denial of access to the personal property, if such denial is permitted under the terms of the rental agreement, which notification shall provide the name, street address, and telephone number of the owner or his designated agent whom the occupant may contact to respond to such notification;

4. A demand for payment within a specified time not less than fifteen (15) days after delivery of the notice; and

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

E. Any notice made pursuant to this section by verified mail shall be presumed delivered when it is deposited with the United States Postal Service or a private delivery service and properly addressed with postage prepaid. Any electronic mail notice made pursuant to this section shall be presumed delivered when it is sent and properly addressed and does not return as unavailable. If an electronic mail is returned as unavailable, notice shall be given by verified mail.

F. After the expiration of the time given in the notice, an advertisement of the sale or other disposition shall be published ~~once a week for two (2) consecutive weeks~~ in a newspaper of general circulation in the county where the self-service storage facility is located.

G. The advertisement prescribed by subsection F of this section shall include:

1. A brief and general description of the personal property reasonably adequate to permit its identification as provided in paragraph 2 of subsection D of this section, the address of the self-service storage facility and the number, if any, of the space where the personal property is located, and the name of the occupant and his last-known address; or

2. The time, place, and manner of the sale or other disposition. The sale or other disposition shall take place not sooner than fifteen (15) days after the ~~first~~ publication; ~~or.~~ .

~~3.~~ If there is no newspaper of general circulation in the county where the self-service storage facility is located, the advertisement shall be posted at least ten (10) days before the date of the sale or other disposition in not less than six conspicuous places in the neighborhood where the self-service storage facility

is located and published one time in a legal newspaper in an adjoining county of this state, which newspaper has general circulation in the county or political subdivision in which such notice is required.

H. Any sale or other disposition of the personal property shall conform to the terms of the notification as provided for in this section.

I. Any sale or other disposition of the personal property shall be held online, at the self-service storage facility or at the nearest suitable place to where the personal property is held or stored.

J. Before any sale or other disposition of personal property pursuant to this section, the occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section and thereby redeem the personal property. Upon receipt of such payment, the owner shall return the personal property, and thereafter the owner shall have no liability to any person with respect to such personal property.

K. A purchaser in good faith of the personal property sold to satisfy a lien as provided in this act takes the property free of any rights of persons against whom the lien was valid and free of any rights of a secured creditor, despite noncompliance by the owner with the requirements of this section.

L. In the event of a sale under this section, the owner may satisfy his lien from the proceeds of the sale.

M. If the proceeds from sale of the property are less than the amount required to pay the obligation secured by the lien, the owner may pursue a deficiency against the tenant. If the proceeds from sale of the property are more than the amount required to pay the obligation secured by the owner's lien, the owner shall hold the excess proceeds for a period of ninety (90) days from the date of the sale. During this period, any persons, including the tenant, claiming an interest in the excess proceeds from the sale of the property shall present adequate proof of their claim to the owner. After the expiration of the ninety-day period, the owner shall make such distribution of the excess proceeds as is required based upon

the claims presented. If after making distribution of the proceeds as prescribed by this subsection there are any remaining proceeds, ~~the proceeds shall become the property of the owner without further recourse by the occupant, any lienholder or other person in interest~~ the excess proceeds shall be presumed abandoned and administered in accordance with the Uniform Unclaimed Property Act.

N. If the requirements of ~~this act~~ the Self-Service Storage Facility Lien Act are not satisfied, if the sale of the personal property is not in conformity with the notice of sale, or if there is a willful violation of this act, nothing in this section affects the rights and liabilities of the owner, the occupant, or any other person.

O. Any purchaser of personal property sold pursuant to this section for which a certificate of title has been issued by the Oklahoma Tax Commission shall obtain a certificate of title to be issued in the purchaser's name in the same manner as provided by law for the issuance of a certificate of title for property requiring a certificate of title sold pursuant to the provisions of Sections 91 through 102 of ~~Title 42 of the Oklahoma Statutes~~ this title.

SECTION 5. This act shall become effective November 1, 2018.



Passed the Senate the 24th day of April, 2018.

\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the 10th day of April, 2018.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_