

State of Wisconsin



2009 Assembly Bill 707

Date of enactment: **May 18, 2010**
Date of publication*: **June 1, 2010**

2009 WISCONSIN ACT 380

AN ACT to renumber and amend 704.90 (2m) and 704.90 (6) (a) 7.; **to amend** 704.90 (1) (b), 704.90 (1) (d), 704.90 (4r) (b), 704.90 (5) (a), 704.90 (5) (b) (intro.), 704.90 (5) (b) 2. (intro.), 704.90 (5) (b) 2. d., 704.90 (6) (title), 704.90 (6) (a) 4., 704.90 (6) (a) 5. b., 704.90 (6) (a) 8. and 704.90 (12); and **to create** 704.90 (1) (h), 704.90 (3) (c), 704.90 (5m) and 704.90 (6) (a) 7. a., b. and c. of the statutes; **relating to:** self-service storage facility or unit notices and procedures.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 704.90 (1) (b) of the statutes is amended to read:

704.90 (1) (b) "Leased space" means a self-service storage unit or a space located within a self-service storage facility that a lessee is entitled to use for the storage of personal property on a self-service basis pursuant to a rental agreement and that is not rented or provided to the lessee in conjunction with property for residential use by the lessee.

SECTION 2. 704.90 (1) (d) of the statutes is amended to read:

704.90 (1) (d) "Operator" means the owner, lessor or sublessor of a self-service storage facility or of a self-service storage unit, an agent of any of them or any other person who is authorized by the owner, lessor or sublessor to manage the self-service storage facility or unit or to receive rent from a lessee under a rental agreement.

SECTION 3. 704.90 (1) (h) of the statutes is created to read:

704.90 (1) (h) "Self-service storage unit" means a box, shipping container, or trailer that is leased by a tenant primarily for use as a storage space whether the box,

shipping container, or trailer is located at a facility owned or operated by the owner or at a location designated by the tenant.

SECTION 4. 704.90 (2m) of the statutes is renumbered 704.90 (2m) (a) and amended to read:

704.90 (2m) (a) Every rental agreement shall be in writing and shall contain a provision allowing the lessee to specify the name and last-known address of a person who, in addition to the lessee, the operator is required to notify under sub. (5) (b) 1. If the rental agreement contains a provision that places a limit on the value of property that is stored in the leased space, that provision shall be typed in bold type or underlined type of the same size as the remainder of the agreement.

SECTION 6. 704.90 (3) (c) of the statutes is created to read:

704.90 (3) (c) If the rental agreement contains a limit on the value of property stored in the lessee's storage space, the limit shall be presumed to be the maximum value of the property stored in that space.

SECTION 7. 704.90 (4r) (b) of the statutes is amended to read:

704.90 (4r) (b) After the termination, by expiration or otherwise, of a rental agreement for the use of a leased space by a lessee, an operator may remove personal prop-

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

erty remaining in the leased space and store the personal property at another site or within or outside the self-service storage facility or move the self-service storage unit to another site, or the operator may continue to store the personal property in the leased space, and the operator may deny the former lessee access to the personal property until the lessee redeems the personal property under sub. (5) (a). The operator may charge a reasonable rent for storage of the personal property, whether at another site or in the leased space. A former lessee who fails to pay the rent is subject to all procedures and remedies set forth in this section for default.

SECTION 8. 704.90 (5) (a) of the statutes is amended to read:

704.90 (5) (a) At any time prior to disposal under sub. (5m) or sale under sub. (6), a lessee may redeem personal property by paying the operator any rent and other charges due. Upon receipt of such payment, the operator shall return the personal property, and thereafter the operator shall have no liability to any person with respect to such personal property.

SECTION 9. 704.90 (5) (b) (intro.) of the statutes is amended to read:

704.90 (5) (b) (intro.) An operator may not dispose of personal property under sub. (5m) or sell personal property under sub. (6) unless the operator first delivers the following 2 notices:

SECTION 10. 704.90 (5) (b) 2. (intro.) of the statutes is amended to read:

704.90 (5) (b) 2. (intro.) A 2nd notice sent by certified mail or 1st class mail with a certificate of mailing to the last-known address of the lessee containing all of the following:

SECTION 11. 704.90 (5) (b) 2. d. of the statutes is amended to read:

704.90 (5) (b) 2. d. A statement that unless the rent and other charges are paid within the time period under subd. 2. c., the personal property may be disposed of if the fair market value of the property is less than \$100 or will be sold, a specification of the date, time and place of the sale and a statement that if the property is sold the operator shall apply the proceeds of the sale first to satisfy the lien and shall report and deliver any balance to the state treasurer as provided under ch. 177.

SECTION 12. 704.90 (5m) of the statutes is created to read:

704.90 (5m) DISPOSAL OF CERTAIN PROPERTY. If the fair market value of the personal property that was stored in the lessee's leased space is less than \$100, an operator may do any of the following:

(a) Donate the personal property to an organization described in section 501 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under s. 501 (a) of the Internal Revenue Code.

(b) Dispose of the personal property in a solid waste facility.

(c) Have the personal property recycled.

(d) Dispose of the personal property in another manner that is reasonable under the circumstances.

SECTION 13. 704.90 (6) (title) of the statutes is amended to read:

704.90 (6) (title) SALE, NOTICE ADVERTISEMENT OF SALE AND PROCEEDS OF SALE.

SECTION 14. 704.90 (6) (a) 4. of the statutes is amended to read:

704.90 (6) (a) 4. An advertisement of the sale is published once a week for 2 consecutive weeks in a newspaper of general circulation where the self-service storage facility or unit is located.

SECTION 15. 704.90 (6) (a) 5. b. of the statutes is amended to read:

704.90 (6) (a) 5. b. The address of the self-service storage facility, ~~the number, if any, of the space where the personal property is located~~ or of the operator of the self-service storage unit and the name of the lessee.

SECTION 16. 704.90 (6) (a) 7. of the statutes is renumbered 704.90 (6) (a) 7. (intro.) and amended to read:

704.90 (6) (a) 7. (intro.) The sale ~~is conducted in a commercially reasonable manner and conforms to the terms of the notices under sub. (5) (b) and to any of the following:~~

SECTION 17. 704.90 (6) (a) 7. a., b. and c. of the statutes are created to read:

704.90 (6) (a) 7. a. The personal property is offered either as a single parcel or multiple parcels at a public sale attended by 3 or more bidders.

b. The personal property has been offered to at least 3 persons who deal in the type of personal property offered for sale and is sold in a private transaction.

c. The personal property is sold in another manner that is commercially reasonable.

SECTION 18. 704.90 (6) (a) 8. of the statutes is amended to read:

704.90 (6) (a) 8. The sale is held at the self-service storage facility, at the self-service storage unit, or at the nearest suitable place to the place where the personal property is stored.

SECTION 19. 704.90 (12) of the statutes is amended to read:

704.90 (12) RIGHT TO ACTION FOR VIOLATION. In addition to the remedies otherwise provided by law, ~~any person~~ a lessee injured by a violation of this section or any rule promulgated under sub. (9) may bring a civil action to recover damages together with costs, disbursements and reasonable attorney fees, notwithstanding s. 814.04 (1), and any equitable relief as may be determined by the court.