

2005 DRAFTING REQUEST

Bill

Received: **01/12/2005**

Received By: **mlief**

Wanted: **As time permits**

Identical to LRB:

For: **James Kreuser (608) 266-5504**

By/Representing: **lisa**

This file may be shown to any legislator: **NO**

Drafter: **mlief**

May Contact:

Addl. Drafters:

Subject: **Real Estate - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kreuser@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Self-storage late fees

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	mlief 01/21/2005	kfollett 01/21/2005	rschluet 01/21/2005	_____	lnorthro 01/21/2005		
/2	mlief 05/26/2005	kfollett 05/26/2005	pgreensl 05/26/2005	_____	lnorthro 05/26/2005	lemery 10/03/2005	

FE Sent For: *Wone*

<END>

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/?							
/1	mlief 01/21/2005	kfollett 01/21/2005	rschluet 01/21/2005	<u>5/26</u>	lnorthro 01/21/2005		

FE Sent For:

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5/26
5/26
p8
8/1/05
<END>

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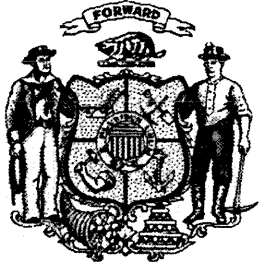
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/?	mlief	1/18/05 1/21/05					
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FE Sent For:

<END>



JIM KREUSER

State Representative • 64th Assembly District

Date: 07/11/05

TO: Robin Kite

FROM: Lisa Lundquist

RE: SSA Late Fee Legislation

- In response to your recent request.
 - I thought you might be interested in the enclosed material.
-

MADISON:


P.O. Box 8952
Madison, WI 53708-8952
(608) 266-5504
FAX: (608) 282-3664

KENOSHA:

3505 14th Place
Kenosha, WI 53144
(262) 553-5555

E-MAIL: Rep.Kreuser@legis.state.wi.us
Toll-Free 1-888-534-0064

A

Jim's just looking to get  being
drafted similar to the SSA
Model Late Fee Bill but I
enclosed some other info that
the constituent had given us.

Thank you!

- Lisa



THE SELF STORAGE LEGAL REVIEW

The Industry's only comprehensive source of legal information for owners and managers.

March/April 2004

Ohio Enacts Model Late Fee Bill

The Ohio Legislature has enacted a late fee law (HB 120) based upon the Self Storage Association's model late fee bill. Maine and Missouri have already enacted almost identical bills. California and Arizona have enacted similar late fee laws but with several modifications to the model legislation. Norm Kotoch, an Ohio self storage operator and SSA national director, was instrumental in having the bill introduced into the legislature and eventually passed. The bill adds section 5322.05 to the Ohio self storage lien law. The new section states:

Sec. 5322.05.

(A) Subject to division (B) of this section, a reasonable late fee may be imposed and collected by an owner for each service period that an occupant does not pay rent when due under a rental agreement, provided that the due date for the rental payment is not earlier than the day before the first day of the service period to which the rental payment applies. However, no late fee shall be imposed or collected if the occupant makes a rental payment in full by the third day after the due date under the rental agreement.

(B) No late fee may be collected pursuant to division (A) of this section unless the amount of that fee and the conditions for imposing that fee are stated in the rental agreement or an addendum to that agreement.

(C) For purposes of division (A) of this section, a late fee of twenty dollars for each late rental payment, or twenty per cent of the amount of each late rental payment, whichever is greater, is deemed reasonable and does not constitute a penalty. However, the contract may provide for a late fee in a

greater amount if that amount is reasonable. The owner has the burden of proof that the late fee in the greater amount is reasonable. (D) Any reasonable expense incurred in rent collection or lien enforcement by an owner may be charged to the occupant in addition to the late fees permitted by this section.

Section 2. *That existing section 5322.01 of the Revised Code is hereby repealed.*

The bill provides that a late fee that is the greater of \$20 or 20% of the monthly rent is reasonable and therefore can be lawfully assessed. Storage operators should pay careful attention to section 5322.05(D). This provision clarifies that collection and lien expenses are not late charges and may be added to the customer's outstanding lien balance. Reasonable charges for mailing late notices and lien letters, for advertising the sale, and for inventorying the space of a delinquent customer, are all recoverable costs. The late fee authorized by this bill is just that: a charge for not paying the rent on time. It should not be confused with the expenses an owner incurs for rent collection and preparing a space for sale.

Two Self Storage Bills Introduced in Kansas

The Kansas Legislature is considering a pair of bills (HB 2738 and HB 2739) that will make the self storage business a little easier. HB 2738 is the Self Storage Association's model late fee bill. It is almost identical to the Missouri, Maine, and Ohio bills that have already become law. HB 2739 is a lien law improvement bill. The most significant change this bill makes is that it permits storage operators to send the second statutory notice letter by certified or registered mail instead of restricted mail. The bill also clarifies the operator's right to dispose of property that has no commercial value and is left in

STATUTE TITLE

PASSED ORDINANCE:

32.16 SELF-SERVICE STORAGE FACILITIES. The definitions found in Sec. 704.90(1), Wis. Stats. shall apply. No operator of a self-storage facility may charge fees to a lessee, except as specifically provided under the rental agreement. A late fee shall not exceed the greater of fifteen percent (.15%) of the periodic rent payment or ten dollars (\$10.00) for the first late rent payment in any twelve month period and shall not exceed the greater of fifteen percent (.15%) of the periodic rent payment or twenty dollars (\$20.00) for the second or subsequent late rent payment in any twelve month period. A late fee may not be imposed until 5 calendar days after the unpaid rent is due. When a discount in the rental agreement, such as payment prior to or on the due date provided in the rental agreement, such discount shall be considered a late fee. Late fees do not include expenses necessary to the preservation, removal, storage, preparation for sale and sale of the personal property, as provided in Sec. 704.90(3), Wis. Stats.

WISCONSIN SELF STORAGE 2004 DUES STRUCTURE

Kreuzer FAX 602-282-3664

___ Possession Vested in Occupant: Unless the rental agreement specifically provides otherwise the exclusive care, custody and control of all personal property stored in a storage space at the self-service storage facility remains vested in the occupant until it is sold or otherwise disposed of. The owner of a self storage facility is a commercial landlord who rents space.

W. A. J.
Wilson

___ Value of Stored Property: If the rental agreement contains a limit on the value of property stored in occupant's storage space, such limit shall be presumed to be the maximum value of the property stored in that space.

___ Contractual liens: Nothing in sections _____ shall be construed as in any manner impairing or affecting the right of parties to create liens by special contract or agreement nor shall it in any manner impair or affect any other lien arising at common law, in equity, or by any statute of this state or any other lien not provided for in section _____

___ Application of this Act: This act shall apply to all rental agreements entered into, extended, or renewed after [DATE]. Nothing in this act shall be construed as in any manner impairing or affecting the right of parties to create additional rights, duties, and obligations in and by virtue of a rental agreement.

SSA Model Late Fee Bill

___ For the purposes of this section, "late fee" means a fee or charge assessed by an operator for an occupant's failure to pay rent when due. A late fee is not interest on a debt, nor is a late fee a reasonable expense which the operator may incur in the course of collecting unpaid rent in enforcing his or her lien rights pursuant to sec. ___ to ___ enforcing any other remedy provided by statute or contract.

___ Any late fee charged by the operator shall be stated in the rental agreement. No late fee shall be collected unless it is written in the rental agreement or an addendum to such agreement.

___ An operator may impose a reasonable late fee for each month an occupant does not pay rent when due.

___ A late fee of twenty dollars or twenty percent of the monthly rental amount, whichever is greater, for each late rental payment shall be deemed reasonable, and shall not constitute a penalty.

___ An operator may set a late fee other than that permitted in subsection 4 of this section if such fee is reasonable. The operator shall have the burden of proof that a higher late fee is reasonable.

___ The operator may recover all reasonable rent collection and lien enforcement expenses from the occupant in addition to any late fees incurred.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1673/1

MJL: King

2005 BILL

Due 1/27
To editing 1/20

Gen

1 AN ACT ...; relating to: self-service storage late fees.

a lessee

Analysis by the Legislative Reference Bureau

*

Current law regulates self-service storage facilities (facilities) and requires, among other things, that every rental agreement for a facility be in writing.

*

This bill allows the operator of a facility to charge a reasonable late fee for each month ~~an occupant~~ of the facility fails to pay rent when due if the amount of the late fee is contained in the rental agreement. A late fee of ~~twenty dollars~~ or twenty percent of the monthly rental amount, whichever is greater, is presumptively reasonable. An operator may charge a higher late fee but has the burden of proof that the higher late fee is reasonable.

\$20

20

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

2 SECTION 1. 704.90 (4b) of the statutes is created to read:

3 704.90 (4b) LATE FEE. (a) The operator may charge a reasonable late fee for

4 each month ~~an occupant~~ ^{a lessee} does not pay rent when due if the amount of the late fee is

5 contained in the rental agreement.

BILL

SECTION 1

~~20~~ 20

1 (b) A late fee of ~~twenty~~ ²⁰ dollars or ~~twenty~~ ²⁰ percent of the monthly rental amount,
2 whichever is greater, is presumed reasonable. An operator may charge a higher late
3 fee but has the burden of proof that the higher late fee is reasonable.

4 (END)



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1673/1

MJL:kjf:rs

2005 BILL

To ed. 5/24

R M run

Due 6/2

Regen

1 AN ACT to create 704.90 (4b) of the statutes; relating to: self-service storage
2 late fees.

by five week days after the rent is

Analysis by the Legislative Reference Bureau

Current law regulates self-service storage facilities (facilities) and requires, among other things, that every rental agreement for a facility be in writing. This bill allows the operator of a facility to charge a reasonable late fee for each month a lessee of the facility fails to pay rent when due if the amount of the late fee is contained in the rental agreement. A late fee of \$20 or 20 percent of the monthly rental amount, whichever is greater, is presumptively reasonable. An operator may charge a higher late fee but has the burden of proof that the higher late fee is reasonable.

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3 SECTION 1. 704.90 (4b) of the statutes is created to read:

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5 each month a lessee does not pay rent, when due if the amount of the late fee is
6 contained in the rental agreement.

by 5 week days after the rent is

Lief, Madelon

From: Lundquist, Lisa
Sent: Thursday, May 26, 2005 10:13 AM
To: Lief, Madelon
Subject: RE: LRB 1673/1- Self Storage Late fee

Yes, a re-draft- sorry, I'm still getting myself familiar with this process. Jim liked five working days for a grace period- he thought that would be pretty average.

Thank you,

Lisa

From: Lief, Madelon
Sent: Thursday, May 26, 2005 10:07 AM
To: Lundquist, Lisa
Subject: RE: LRB 1673/1- Self Storage Late fee

I assume you mean that you want to redraft the bill (because it hasn't yet been introduced)? Yes, we can do whatever you like. The policy choice is really yours. I don't see any legal problem with imposing a grace period. Just let me know what you want that period to be.

-----Original Message-----

From: Lundquist, Lisa
Sent: Wednesday, May 25, 2005 2:44 PM
To: Lief, Madelon
Subject: LRB 1673/1- Self Storage Late fee

Madelon,

Jim was wondering if it is possible to amend the LRB1673/1 to include a grace period for late payments? Something along the lines of- a late fee may not be imposed until after five working days after the unpaid rent is due... Let me know what you think.

Thank you,

Lisa
Office of Rep. Kreuser
266-5504

Emery, Lynn

From: Lundquist, Lisa
Sent: Monday, October 03, 2005 10:47 AM
To: LRB.Legal
Subject: Draft review: LRB 05-1673/2 Topic: Self-storage late fees

It has been requested by <Lundquist, Lisa> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-1673/2 Topic: Self-storage late fees