

2009 DRAFTING REQUEST

Assembly Amendment (AA-AB707)

Received: 03/03/2010

Received By: rnelson2

Wanted: Today

Identical to LRB:

For: Thomas Nelson (608) 266-2418

By/Representing: Ben

This file may be shown to any legislator: NO

Drafter: rnelson2

May Contact:

Addl. Drafters:

Subject: Liens

Extra Copies:

Submit via email: YES

Requester's email: Rep.Nelson@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

PODS as self-storage facilities

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	rnelson2 03/03/2010	nmatzke 03/03/2010	jfrantze 03/03/2010	_____	cduerst 03/03/2010	cduerst 03/03/2010	

FE Sent For:

<END>

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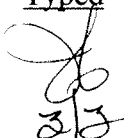
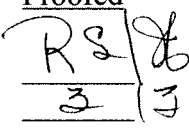
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/1	rnelson2	1 nwn 3/3	 3/3	 3/3			

FE Sent For:

<END>

Nelson, Robert P.

From: Nerad, Ben
Sent: Wednesday, March 03, 2010 1:09 PM
To: Nelson, Robert P.
Subject: FW: Potential Change to section 704.90 to extend the definition of Self-storage facilities
Attachments: Michigan Lien Law.pdf; Florida Lien Law.pdf; California Lien Law.pdf

I own the PODS franchise in Southeastern Wisconsin, including Milwaukee and Madison. PODS is a containerized moving and storage business that delivers Portable Storage Containers to residential and commercial customers (see www.pods.com). Like other self-storage businesses, we occasionally have customers that fail to pay their contractual obligation for the use of our containers, and we seek to mitigate our losses by auctioning the contents of the containers, just as self-storage facilities do within the state. While this process is cumbersome and generally an expense to us, we do believe that the auction process is considerably less expensive and more efficient for us and our customers, than Judicial Enforcement. Recently, it has come to our attention that the definition of "self-storage facilities" may not clearly refer to our business model. Below is the current definition:

704.90(1)(g) (g) "Self-service storage facility" means real property containing leased spaces but does not include a warehouse or other facility if the operator of the warehouse or facility issues a warehouse receipt, bill of lading or other document of title for personal property stored in the leased spaces.

Although we do have warehouses where we store our leased containers, and we do not issue warehouse receipts, we are not certain that the intent of the 704.90(1)(g) was to cover our situation. Since our business model is relatively new, we believe that it is in our best interest and in the best interest of the public that this definition be expanded as the states of California, Michigan and Florida have done to include "self-contained storage units". Attached are the copies of the current statutes from California, Michigan and Florida for your review. I have spoken with the Wisconsin Self-Storage Association about this matter, and they do not oppose our efforts to extend this definition in the statutes.

03/03/2010

Michigan Lien Law

SELF-SERVICE STORAGE FACILITY ACT (EXCERPT)

Act 148 of 1985

570.521 Short title.

Sec. 1.

This act shall be known and may be cited as the "self-service storage facility act".

570.522 Definitions.

Sec. 2.

As used in this act:

(a) "Last known address" means the address provided by the tenant in the latest rental agreement or in a subsequent written notice of change of address by hand delivery or first-class mail.

(b) "Rental agreement" means an agreement or lease that establishes or modifies terms, conditions, rules, or any other provision concerning the use and occupancy of a self-service storage facility or use of a self-container storage unit.

(c) "Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility or self-contained storage unit or his or her agent or any other person authorized by him or her to manage the facility or to receive rent from a tenant under a rental agreement.

(d) "Self-service storage facility" or "facility" means any real property designed or used for the purpose of renting or leasing individual storage space to tenants who are to have access to that space for the purpose of storing and removing personal property.

(e) "Self-contained storage unit" means a unit not less than 500 cubic feet in size, including, but not limited to, a trailer, box, or other shipping container, that is leased by a tenant primarily for use as storage space whether the unit is located at a facility owned or operated by the owner or at another location designated by the tenant.

(f) "Tenant" means a person or the person's sublessee, successor, or assign entitled to the use of storage space to the exclusion of others at a self-service storage facility or in a self-contained storage unit under a rental agreement.

570.523 Right to deny access; occupant other than tenant.

Sec. 3.

Florida Lien Law

PART III SELF-SERVICE STORAGE SPACE

83.801 Short title.

83.803 Definitions.

83.805 Lien.

83.8055 Withholding access to personal property upon nonpayment of rent.

83.806 Enforcement of lien.

83.808 Contractual liens.

83.809 Application of act.

83.801 Short title. --Sections 83.801-83.809 shall be known and may be cited as the "Self-storage Facility Act."

History. --s. 1, ch. 79-404; s. 1, ch. 82-151.

83.803 Definitions. --As used in ss. 83.801-83.809:

(1) "Self-service storage facility" means any real property designed and used for the purpose of renting or leasing individual storage space to tenants who are to have access to such space for the purpose of storing and removing personal property. No individual storage space may be used for residential purposes. A self-service storage facility is not a "warehouse" as that term is used in chapter 677. If an owner issues any warehouse receipt, bill of lading, or other document of title for the personal property stored, the owner and the tenant shall be subject to the provisions of chapter 677, and the provisions of this act shall not apply.

(2) "Self-contained storage unit" means any unit not less than 200 cubic feet in size, including, but not limited to, a trailer, box, or other shipping container, which is leased by a tenant primarily for use as storage space whether the unit is located at a facility owned or operated by the owner or at another location designated by the tenant.



3/3
State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa1740/1
RPN:f:....
nwn

Today

**ASSEMBLY AMENDMENT ,
TO 2009 ASSEMBLY BILL 707**

D-N

1 At the locations indicated, amend the bill[✓] as follows:

2 **1.** Page 1, line 5: after "facility" insert "or unit"[✓].

3 **2.** Page 2, line 1:[✓] before that line insert:

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

5 704.90 (1) (b) "Leased space" means a self-service storage unit or a space
6 located within a self-service storage facility that a lessee is entitled to use for the
7 storage of personal property on a self-service basis pursuant to a rental agreement
8 and that is not rented or provided to the lessee in conjunction with property for
9 residential use by the lessee.[✓]

History: 1987 a. 23; 1991 a. 39; 1995 a. 27; 2005 a. 461.

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

11 704.90 (1) (d) "Operator" means the owner, lessor or sublessor of a self-service
12 storage facility or of a self-service storage unit, an agent of any of them or any other

1 person who is authorized by the owner, lessor or sublessor to manage the self-service
2 storage facility or unit or to receive rent from a lessee under a rental agreement.✓

3 History: 1987 a. 23; 1991 a. 39; 1995 a. 27; 2005 a. 461.

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

4 704.90 (1) (h)✓ “Self-service storage unit” means a box, shipping container, or
5 trailer that is leased by a tenant primarily for use as a storage space whether the box,
6 shipping container, or trailer is located at a facility owned or operated by the owner
7 or at a location designated by the tenant.”.✓

8 3. Page 2, line 1: delete “SECTION 1” and substitute “SECTION 1m”.✓

9 4. Page 3, line 12: after that line insert:✓

10 “SECTION 3m. 704.90 (4r) (b) of the statutes is amended to read:

11 704.90 (4r) (b) After the termination, by expiration or otherwise, of a rental
12 agreement for the use of a leased space by a lessee, an operator may remove personal
13 property remaining in the leased space and store the personal property at another
14 site or within or outside the self-service storage facility or move the self-service
15 storage unit to another site, or the operator may continue to store the personal
16 property in the leased space, and the operator may deny the former lessee access to
17 the personal property until the lessee redeems the personal property under sub. (5)
18 (a). The operator may charge a reasonable rent for storage of the personal property,
19 whether at another site or in the leased space. A former lessee who fails to pay the
20 rent is subject to all procedures and remedies set forth in this section for default.”.✓

History: 1987 a. 23; 1991 a. 39; 1995 a. 27; 2005 a. 461.

21 5. Page 4, line 25: after “facility” insert “or self-service storage unit”.✓

22 6. Page 5, line 1: after “facility” insert “or self-service storage unit”.✓

1 7. Page 5, line 5: after "located" insert "or of the ^{operator} ~~owner~~ of the self-service
2 storage unit".

3 8. Page 5, line 17: after that line insert:

4 "SECTION 12m. 704.90 (6) (a) 8. of the statutes is amended to read:

5 704.90 (6) (a) 8. The sale is held at the self-service storage facility, at the
6 self-service storage unit, or at the nearest suitable place to the place where the
7 personal property is stored."

8 History: 1987 a. 23; 1991 a. 39; 1995 a. 27; 2005 a. 461.

(END)

LRBa1740/1dn
RPN: nwn:

D-N Date

I was unable to add these units to the definition of self-service storage facilities because of the wording of some of the related statutes.

RPN
~

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1740/1dn
RPN:nwn:jf

March 3, 2010

I was unable to add these units to the definition of self-service storage facilities because of the wording of some of the related statutes.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.wisconsin.gov