

2009 DRAFTING REQUEST

Senate Substitute Amendment (SSA-AB707)

Received: **03/17/2010**

Received By: **rnelson2**

Wanted: **Soon**

Companion to LRB:

For: **Peter Barca (608) 266-5504**

By/Representing: **Mary Matthias**

May Contact:

Drafter: **rnelson2**

Subject: **Liens**

Addl. Drafters:

Extra Copies: **Mary Matthias, LC**

Submit via email: **YES**

Requester's email: **Rep.Barca@legis.wisconsin.gov**

Carbon copy (CC:) to: **mary.matthias@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Self service 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>
/?	rnelson2 03/18/2010	kfollett 03/19/2010		_____			
/1			rschluet 03/19/2010	_____	cduerst 03/19/2010	cduerst 03/19/2010	
/2	rnelson2 03/25/2010	kfollett 03/25/2010	phenry 03/25/2010	_____	cduerst 03/25/2010	cduerst 03/25/2010	
/3	rnelson2	kfollett	rschluet	_____	cduerst	cduerst	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	03/26/2010	03/26/2010	03/26/2010 _____		03/26/2010	03/26/2010	

FE Sent For:

<END>

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/1			rschluet 03/19/2010	_____	cduerst 03/19/2010	cduerst 03/19/2010	
/2	rnelson2 03/25/2010	kfollett 03/25/2010	pherry 03/25/2010	_____	cduerst 03/25/2010	cduerst 03/25/2010	

*13/kf
3/26*

3/26 PD

[Handwritten signature]

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/?	rnelson2 03/18/2010	kfollett 03/19/2010		_____			
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FE Sent For:

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Received: 03/17/2010

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Wanted: Soon

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For: Peter Barca (608) 266-5504

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Subject: Liens

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Extra Copies: Mary Matthias, LC

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Instructions:

See attached

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/?	rnelson2	11/5/09 3/19		_____	_____		

FE Sent For:

<END>

Nelson, Robert P.

From: Matthias, Mary
Sent: Tuesday, March 16, 2010 4:44 PM
To: Nelson, Robert P.
Cc: Shannon, Pam
Subject: AB 707-sub

Hi Bob-

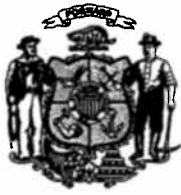
Rep. Barca would like a sub to AB 707 that does the following:

- ✓ 1. Incorporates AA 1 and AA 2.
- ✓ 2. Makes the provisions of AA 2 apply to PODS.
- ✓ 3. Corrects the glitch in AA 2—Rep. Krusick would like it changed to require the rental agreement to specify where the advertisement of sale will be published or posted under (6)(a)4, regardless of which method is used. Barca is OK with this.
- ✓ 4. Put sub. (12) back in, but specify that the right to action and right to attys fees applies only to the lessee. (Change "Any person" to "a lessee")

I think that's all.

thanks!

Mary Matthias
Senior Staff Attorney
Wisconsin Legislative Council Staff
Ph.(608)266-0932;Fax (608)266-3830



State of Wisconsin
2009-2010 LEGISLATURE

CORRECTIONS IN:

2009 ASSEMBLY BILL 707

Prepared by the Legislative Reference Bureau
(March 4, 2010)

- ✓
1. Page 5, line 1: delete "self-storage" and substitute "self-service storage".

(END)



ASSEMBLY AMENDMENT 2,
TO 2009 ASSEMBLY BILL 707

105 5-2

March 4, 2010 - Offered by Representatives Krusick and Strachota.

*** AUTHORS SUBJECT TO CHANGE ***

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 3, line 3: after "agreement," insert "The rental agreement shall include
3 a statement that if the lessee defaults on the payment of rent and the operator
4 decides to sell the personal property under sub. (6), the notice of that sale will be
5 posted on the Internet Web site of the Wisconsin Self Storage Association or on an
6 Internet Web site maintained by the operator of the self-service storage facility
7 where the abandoned personal property is located."

105
3-5

8 **2.** Page 5, line 2: after "places," insert "One of the public places where the
9 advertisement is posted shall be on the Internet Web site of the Wisconsin Self
10 Storage Association or on an Internet Web site maintained by the operator of the
11 self-service storage facility where the abandoned personal property is located."

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5-2

12

(END)

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dated 3/23 an
State of Wisconsin
2009 - 2010 LEGISLATURE

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LRB-1808/6
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GEN. SUB AND
TO

2009 ASSEMBLY BILL 707

February 5, 2010 - Introduced by Representatives BARCA, CLARK, STEINBRINK, DANOU, ZIGMUNT, KERKMAN, ZEPNICK, RIPP, A. WILLIAMS and VAN ROY, cosponsored by Senators PLALE, TAYLOR, WIRCH and ELLIS. Referred to Committee on Jobs, the Economy and Small Business.

regen.

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

Analysis by the Legislative Reference Bureau

Current law regulates the operation of self-storage facilities, including requiring written rental agreements, creating liens on personal property stored in the facility, limiting late rental fees, and establishing the procedures when a person fails to pay the rental fee. One of those procedures requires the operator of a self-storage facility to send two notices to the person who has failed to pay the rental fee at the facility before the operator may sell the personal property left in the facility. The notices describe the methods that will be used to sell the personal property if the person does not pay the rental fee. Currently, the facility operator must send the first notice by regular mail and the second notice by certified mail to the person's last-known address. In addition, the facility operator must advertise the sale of the personal property once a week for two consecutive weeks by publication in a newspaper of general circulation where the facility is located.

If the personal property is worth less than \$100, the bill allows the facility operator, after providing proper notice, to donate the property to a nonprofit organization, dispose of the property in a solid waste facility, recycle the property, or remove the property from the facility in another reasonable manner.

ASSEMBLY BILL 707

This bill requires the facility operator to send the second notice of the failure to pay rent by certified mail or first class mail with a certificate of mailing to the person's last-known address. The bill allows the facility operator to advertise the sale of the personal property by publishing one notice in a newspaper of general circulation where the facility is located in addition to a posting in two public places. The Internet is included as a public place in the bill.

Currently, the notice of the sale must include a description of the personal property to be sold and the address of the self-service storage facility, the number of the space where the property is located, and the name of the lessee. This bill removes the requirement that the notice include the number of the space where the property is located.

Under current law, the sale of the personal property must be conducted in a commercially reasonable manner. This bill replaces that language with a requirement that the sale be a public sale with three or more bidders or that the personal property be offered for sale to at least three persons who deal with the type of property for sale, or that the sale be conducted in another manner that is commercially reasonable.

The bill requires a rental agreement that includes a provision that limits the value of property stored to print that provision in bold type or underlined type of the same size as the rest of the agreement. If such a provision is in the rental agreement, that limit is presumed to be the maximum value of the property stored.

Current law gives the Department of Agriculture, Trade and Consumer Protection (DATCP) authority to promulgate rules regarding self-storage facilities, investigate violations of the statutory provisions, and refer the matter to the Department of Justice (DOJ) or district attorney to bring a court action against a violator. Current law also allows a private person to bring a civil action for a violation of the statutory provisions, which allows the person to recover his or her damages, costs, disbursements, and attorney fees. This bill removes the statutory private right of action, effectively limiting an individual's right to only bringing an action based on common law, such as conversion, and limits the award to damages, costs, and statutory attorney fees.

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

SECTION # 704.90 (2m) of the statutes is amended to read:

704.90 (2m) ~~WRITTEN RENTAL AGREEMENT~~ 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

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2-1
change component

X renumbered 704.90(2a)(a) and

(a)

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ASSEMBLY BILL 707

1 that places a limit on the value of property that is stored in the leased space, that
2 provision shall be typed in bold type or underlined type of the same size as the
3 remainder of the agreement.

In 5 3-3 →

4 SECTION 2. 704.90 (3) (c) of the statutes is created to read: ✓

5 704.90 (3) (c) If the rental agreement contains a limit on the value of property
6 stored in the lessee's storage space, the limit shall be presumed to be the maximum
7 value of the property stored in that space.

8 SECTION 3. 704.90 (4g) of the statutes is amended to read:

9 704.90 (4g) ~~DEFAULT OR FAILURE TO PAY AFTER TERMINATION.~~ A lessee who defaults
10 or fails to pay rent for the storage of personal property abandoned after the
11 termination of the rental agreement is subject to the procedures and remedies in
12 subs. (4r) to (9) and (12).

In 5 3-12 →

13 SECTION 4. 704.90 (5) (a) of the statutes is amended to read: ✓

14 704.90 (5) (a) At any time prior to disposal under sub. (5m) or sale under sub.
15 (6), a lessee may redeem personal property by paying the operator any rent and other
16 charges due. Upon receipt of such payment, the operator shall return the personal
17 property, and thereafter the operator shall have no liability to any person with
18 respect to such personal property.

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

20 704.90 (5) (b) (intro.) An operator may not dispose of personal property under
21 sub. (5m) or sell personal property under sub. (6) unless the operator first delivers
22 the following 2 notices:

23 SECTION 6. 704.90 (5) (b) 2. (intro.) of the statutes is amended to read: ✓

ASSEMBLY BILL 707

SECTION 6

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

4 **SECTION 7.** 704.90 (5) (b) 2. d. of the statutes is amended to read:

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

11 **SECTION 8.** 704.90 (5m) of the statutes ~~is~~ created to read:

12 704.90 (5m) DISPOSAL OF CERTAIN PROPERTY. If the fair market value of personal
13 property that was stored in the lessee's leased space is less than \$100, an operator
14 may do any of the following:

15 (a) Donate the personal property to an organization described in section 501
16 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under s.
17 501 (a) of the Internal Revenue Code.

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

19 (c) Have the personal property recycled.

20 (d) Remove the personal property in another manner that is reasonable under
21 the circumstances.

22 **SECTION 9.** 704.90 (6) (a) 4. of the statutes is amended to read:

23 704.90 (6) (a) 4. An advertisement of the sale is published once a week for 2
24 consecutive weeks in a newspaper of general circulation where the self-service
25 storage facility ^{or unit} ~~is located~~, or is published once in a newspaper of general circulation

ASSEMBLY BILL 707

1 where the self-storage facility^{services or unit} is located and is posted in 2 public places to give notice
 2 to the persons affected. In this subdivision, the Internet is considered a public place ^{INS 5.2}

SECTION 10. 704.90 (6) (a) 5. b. of the statutes is amended to read:

4 704.90 (6) (a) 5. b. The address of the self-service storage facility, the number,
 5 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 11. 704.90 (6) (a) 7. of the statutes is renumbered 704.90 (6) (a) 7.

(intro.) and amended to read:

8 704.90 (6) (a) 7. (intro.) The sale is ~~conducted in a commercially reasonable~~
 9 ~~manner~~ and conforms to the terms of the notices under sub. (5) (b)- and to any of the
 10 following:

SECTION 12. 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 13. 704.90 (12) of the statutes is repealed.

(END)

INS 5-17

INS 5-18

storage unit



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa1740/1
RPN:nwn:jf

ASSEMBLY AMENDMENT 1,
TO 2009 ASSEMBLY BILL 707

Thaw

March 4, 2010 - Offered by Representatives Barca and Clark.

*** AUTHORS SUBJECT TO CHANGE ***

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 ~~1c~~ 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.

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

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7-1

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 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 ~~3h~~ 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".

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".

23 [✓] 7. Page 5, line 5: after "located" insert "or of the operator of the self-service
24 storage unit".

ins
2-1

ins
3-12

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0346/?ins
RPN:.....

1 Ins. 3-3:

2 SECTION 1. 704.90 (2m) (b) of the statutes is [✓]created to read:

3 704.90 (2m) (b) The rental agreement shall include a notification that if the
4 lessee defaults on the payment of rent and the operator decides to sell the personal
5 property under sub. (6),[✓] the notice of that sale will be provided in one of the following
6 ways:

7 1. By publication once a week for 2 consecutive weeks in a newspaper of general
8 circulation where the self-service storage facility or unit is located.

9 2. By publication once in a newspaper of general circulation where the
10 self-service storage facility or unit is located and posting in 2 public places, one of
11 which shall be on the Internet Web site of the Wisconsin Self Storage Association or
12 on an Internet Web site maintained by the operator of the self-service storage facility
13 or unit where the abandoned personal property is located.

14

15 Ins. 5-2:

16 . If the operator decides to publish the notice of sale by publication once in a
17 newspaper and posting in 2 public places, one of the public places where the
18 advertisement shall be posted is on the Internet Web site of the Wisconsin Self[✓]
19 Storage Association or on an Internet Web site maintained by the operator of the
20 self-service storage facility or unit where the abandoned personal property is located

21

22 Ins 5-18:

23 SECTION 2. 704.90 (12) of the statutes is [✓]amended to read:

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

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

Nelson, Robert P.

From: Matthias, Mary
Sent: Thursday, March 25, 2010 8:37 AM
To: Nelson, Robert P.
Cc: Egerer, Matt
Subject: RE: AB 707 sub-request

50346
(2nd) (a) P 2, Line 15

Bob-

I think similar changes should be made on pg. 2, as follows:

Pg 2, line 20- change "notification" to "statement" ✓ (2a) (d) (intro)
Pg 2, line change "the notice" to "an advertisement" ✓ " "
L 22

Concern is about
language in 704.90 (6),
not (5)

Mary Matthias
Senior Staff Attorney
Wisconsin Legislative Council Staff
Ph.(608)266-0932;Fax (608)266-3830

From: Matthias, Mary
Sent: Thursday, March 25, 2010 8:31 AM
To: Nelson, Robert P.
Cc: Egerer, Matt
Subject: AB 707 sub-request

Bob-

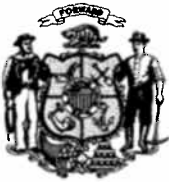
Could you make a minor change to the AB 707 sub?

(6) (a) 4. ✓

On pg 5, line 10, could you change "notice" to "advertisement"? This would really help because there has been a lot of confusion about whether the notice is a "legal notice" and claims have been made that it would be a violation of due process to post on the internet rather than a newspaper. Plus, I think it is more accurate to refer to it as advertisement since that is how it's referred to in the rest of the statute.

thanks--

Mary Matthias
Senior Staff Attorney
Wisconsin Legislative Council Staff
Ph.(608)266-0932;Fax (608)266-3830



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

vegen

1 **AN ACT** *to renumber and amend* 704.90 (2m) and 704.90 (6) (a) 7.; *to amend*
2 704.90 (1) (b), 704.90 (1) (d), 704.90 (4r) (b), 704.90 (5) (a), 704.90 (5) (b) (intro.),
3 704.90 (5) (b) 2. (intro.), 704.90 (5) (b) 2. d., 704.90 (6) (a) 4., 704.90 (6) (a) 5. b.,
4 704.90 (6) (a) 8. and 704.90 (12); and *to create* 704.90 (1) (h), 704.90 (2m) (b),
5 704.90 (3) (c), 704.90 (5m) and 704.90 (6) (a) 7. a., b. and c. of the statutes;
6 **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.

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

2 704.90 (1) (d) "Operator" means the owner, lessor or sublessor of a self-service
3 storage facility or of a self-service storage unit, an agent of any of them or any other
4 person who is authorized by the owner, lessor or sublessor to manage the self-service
5 storage facility or unit or to receive rent from a lessee under a rental agreement.

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

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

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

13 704.90 (2m) (a) Every rental agreement shall be in writing and shall contain
14 a provision allowing the lessee to specify the name and last-known address of a
15 person who, in addition to the lessee, the operator is required to notify under sub. (5)
16 (b) 1. If the rental agreement contains a provision that places a limit on the value
17 of property that is stored in the leased space, that provision shall be typed in bold type
18 or underlined type of the same size as the remainder of the agreement.

19 SECTION 5. 704.90 (2m) (b) of the statutes is created to read:

20 704.90 (2m) (b) The rental agreement shall include a ~~notification~~ ^{statement} that if the
21 lessee defaults on the payment of rent and the operator decides to sell the personal
22 property under sub. (6), ~~the notice~~ ^{an advertisement} of that sale will be provided in one of the following
23 ways:

24 1. By publication once a week for 2 consecutive weeks in a newspaper of general
25 circulation where the self-service storage facility or unit is located.

1 2. By publication once in a newspaper of general circulation where the
2 self-service storage facility or unit is located and posting in 2 public places, one of
3 which shall be on the Internet Web site of the Wisconsin Self Storage Association or
4 on an Internet Web site maintained by the operator of the self-service storage facility
5 or unit where the abandoned personal property is located.

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

7 704.90 (3) (c) If the rental agreement contains a limit on the value of property
8 stored in the lessee's storage space, the limit shall be presumed to be the maximum
9 value of the property stored in that space.

10 **SECTION 7.** 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.

21 **SECTION 8.** 704.90 (5) (a) of the statutes[✓] is amended to read:

22 704.90 (5) (a) At any time prior to disposal under sub. (5m) or sale under sub.
23 (6), a lessee may redeem personal property by paying the operator any rent and other
24 charges due. Upon receipt of such payment, the operator shall return the personal

1 property, and thereafter the operator shall have no liability to any person with
2 respect to such personal property.

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

4 704.90 (5) (b) (intro.) An operator may not dispose of personal property under
5 sub. (5m) or sell personal property under sub. (6) unless the operator first delivers
6 the following 2 notices:

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

8 704.90 (5) (b) 2. (intro.) A 2nd notice sent by certified mail or 1st class mail with
9 a certificate of mailing to the last-known address of the lessee containing all of the
10 following:

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

12 704.90 (5) (b) 2. d. A statement that unless the rent and other charges are paid
13 within the time period under subd. 2. c., the personal property may be disposed of if
14 the property is worth less than \$100 or will be sold, a specification of the date, time
15 and place of the sale and a statement that if the property is sold the operator shall
16 apply the proceeds of the sale first to satisfy the lien and shall report and deliver any
17 balance to the state treasurer as provided under ch. 177.

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

19 704.90 (5m) DISPOSAL OF CERTAIN PROPERTY. If the fair market value of personal
20 property that was stored in the lessee's leased space is less than \$100, an operator
21 may do any of the following:

22 (a) Donate the personal property to an organization described in section 501
23 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under s.
24 501 (a) of the Internal Revenue Code.

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

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5-34

(c) Have the personal property recycled.

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

SECTION 13. 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, or is published once in a newspaper of general circulation where the self-service storage facility or unit is located and is posted in 2 public places to give notice to the persons affected. In this subdivision, the Internet is considered a public place. If the operator decides to publish the notice of sale by publication once in a newspaper and posting in 2 public places, one of the public places where the advertisement shall be posted is on the Internet Web site of the Wisconsin Self Storage Association or on an Internet Web site maintained by the operator of the self-service storage facility or unit where the abandoned personal property is located.

SECTION 14. 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 15. 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 16. 704.90 (6) (a) 7. a., b. and c. of the statutes are created to read:

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Section #. 704.90 (6) (title) of the statutes is amended to read:

Advertisement (s)

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

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

Nelson, Robert P.

From: Matthias, Mary
Sent: Thursday, March 25, 2010 4:31 PM
To: Nelson, Robert P.
Subject: FW: AB 707 Sub

Bob-are you going to make these changes?

I am trying to write a memo describing the sub to have ready before I leave town tomorrow.

thanks.

Mary Matthias

Senior Staff Attorney
Wisconsin Legislative Council Staff
Ph.(608)266-0932;Fax (608)266-3830

From: Egerer, Matt
Sent: Thursday, March 25, 2010 3:46 PM
To: Nelson, Robert P.; Matthias, Mary
Subject: AB 707 Sub

Apologies for late additions, however the association was hoping to include the below two additional provisions in the sub as well.

Matt Egerer
Office of Representative Peter Barca
608.266.5504

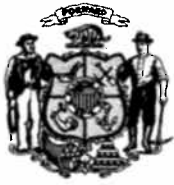
Date: Thu, 25 Mar 2010 14:37:01 -0500
From: kurt@selfstoragemadison.com
To: SALES@BARTHSTORAGE.COM
CC: ckaslow@msn.com; tdietz@selfstorage.org; doug@WamLLC.net; kmshields@att.net;
ken@sunsetinvestors.com; kkdpro@yahoo.com; kbarth@wi.rr.com; transpomini@hotmail.com;
ocss@sbcglobal.net; mscanlon@selfstorage.org; Matt.Egerer@legis.wisconsin.gov
Subject: Re: FW: Sub Amendment WSSA LIEN LAW - Kurt's Comments

1. Under 704.90 (5)(b)2.d.

✓ To emphasis that the \$100 disposal option refers to fair market value, the following: *"may be disposed of if the property is worth..."* should be changed to *"may be disposed of if the FAIR MARKET VALUE OF THE property is (worth)..."*

2. Under 704.90 (5m)(d) Disposal of Certain Property

✓ *"Remove the personal property in another manner..."* should read *"DISPOSE OF the personal property in another manner..."*



3/26
State of Wisconsin
2009 - 2010 LEGISLATURE

LRBs0346/2
RPN:kjf&nwn:ph

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

(pp 4 & 5)

Regen

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

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

8 **SECTION 1.** 704.90 (1) (b) of the statutes is amended to read:
9 704.90 (1) (b) "Leased space" means a self-service storage unit or a space
10 located within a self-service storage facility that a lessee is entitled to use for the
11 storage of personal property on a self-service basis pursuant to a rental agreement

1 and that is not rented or provided to the lessee in conjunction with property for
2 residential use by the lessee.

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

4 704.90 (1) (d) "Operator" means the owner, lessor or sublessor of a self-service
5 storage facility or of a self-service storage unit, an agent of any of them or any other
6 person who is authorized by the owner, lessor or sublessor to manage the self-service
7 storage facility or unit or to receive rent from a lessee under a rental agreement.

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

9 704.90 (1) (h) "Self-service storage unit" means a box, shipping container, or
10 trailer that is leased by a tenant primarily for use as a storage space whether the box,
11 shipping container, or trailer is located at a facility owned or operated by the owner
12 or at a location designated by the tenant.

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

15 704.90 (2m) (a) Every rental agreement shall be in writing and shall contain
16 a provision allowing the lessee to specify the name and last-known address of a
17 person who, in addition to the lessee, the operator is required to notify under sub. (5)
18 (b) 1. If the rental agreement contains a provision that places a limit on the value
19 of property that is stored in the leased space, that provision shall be typed in bold type
20 or underlined type of the same size as the remainder of the agreement.

21 **SECTION 5.** 704.90 (2m) (b) of the statutes is created to read:

22 704.90 (2m) (b) The rental agreement shall include a statement that if the
23 lessee defaults on the payment of rent and the operator decides to sell the personal
24 property under sub. (6), an advertisement of that sale will be provided in one of the
25 following ways:

1 1. By publication once a week for 2 consecutive weeks in a newspaper of general
2 circulation where the self-service storage facility or unit is located.

3 2. By publication once in a newspaper of general circulation where the
4 self-service storage facility or unit is located and posting in 2 public places, one of
5 which shall be on the Internet Web site of the Wisconsin Self Storage Association or
6 on an Internet Web site maintained by the operator of the self-service storage facility
7 or unit where the abandoned personal property is located.

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

9 704.90 (3) (c) If the rental agreement contains a limit on the value of property
10 stored in the lessee's storage space, the limit shall be presumed to be the maximum
11 value of the property stored in that space.

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

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

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

24 704.90 (5) (a) At any time prior to disposal under sub. (5m) or sale under sub.
25 (6), a lessee may redeem personal property by paying the operator any rent and other

1 charges due. Upon receipt of such payment, the operator shall return the personal
2 property, and thereafter the operator shall have no liability to any person with
3 respect to such personal property.

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

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

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

9 704.90 (5) (b) 2. (intro.) A 2nd notice sent by certified mail or 1st class mail with
10 a certificate of mailing to the last-known address of the lessee containing all of the
11 following:

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

13 704.90 (5) (b) 2. d. A statement that unless the rent and other charges are paid
14 within the time period under subd. 2. c., the personal property may be disposed of if
15 the property is worth less than \$100 or will be sold, a specification of the date, time
16 and place of the sale and a statement that if the property is sold the operator shall
17 apply the proceeds of the sale first to satisfy the lien and shall report and deliver any
18 balance to the state treasurer as provided under ch. 177.

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

20 704.90 (5m) DISPOSAL OF CERTAIN PROPERTY. If the fair market value of ^{the} personal
21 property that was stored in the lessee's leased space is less than \$100, an operator
22 may do any of the following:

23 (a) Donate the personal property to an organization described in section 501
24 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under s.
25 501 (a) of the Internal Revenue Code.

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

2 (c) Have the personal property recycled.

3 (d) ~~Remove~~ ^{Dispose of} the personal property in another manner that is reasonable under
4 the circumstances.

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

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

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

8 704.90 (6) (a) 4. An advertisement of the sale is published once a week for 2
9 consecutive weeks in a newspaper of general circulation where the self-service
10 storage facility or unit is located, or is published once in a newspaper of general
11 circulation where the self-service storage facility or unit is located and is posted in
12 2 public places to give notice to the persons affected. In this subdivision, the Internet
13 is considered a public place. If the operator decides to publish an advertisement of
14 the sale by publication once in a newspaper and posting in 2 public places, one of the
15 public places where the advertisement shall be posted is on the Internet Web site of
16 the Wisconsin Self Storage Association or on an Internet Web site maintained by the
17 operator of the self-service storage facility or unit where the abandoned personal
18 property is located.

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

20 704.90 (6) (a) 5. b. The address of the self-service storage facility, ~~the number,~~
21 ~~if any, of the space where the personal property is located~~ or of the operator of the
22 self-service storage unit and the name of the lessee.

23 **SECTION 16.** 704.90 (6) (a) 7. of the statutes is renumbered 704.90 (6) (a) 7.

24 (intro.) and amended to read:

