

2015 DRAFTING REQUEST

Bill

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Real Estate - landlord/tenant
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Pre Topic:

No specific pre topic given

Topic:

Enforcing liens on personal property left in self-storage units; towing vehicles; sale of self-storage limited lines insurance

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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NOT
NEEDED

<END>

STATE OF WISCONSIN – LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

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LRB

2-18

Patricia from Sen Reinhardt's Office

would like a Senate Companion to AB818

(LRB-0432/7)



State of Wisconsin
2015 - 2016 LEGISLATURE

4790/1

LRB-0482/7

PJK&ARG:kjf&amn

2015 ASSEMBLY BILL 818

today?

Companion RM run
no changes

January 27, 2016 - Introduced by Representatives BARCA, OHNSTAD, ALLEN, KAHL, KOLSTE, KRUG, SINICKI and SUBECK, cosponsored by Senators RINGHAND and WIRCH. Referred to Committee on Consumer Protection.

1 AN ACT *to repeal* 704.90 (5) (b) 1. b., 704.90 (5) (b) 2. ag. and 704.90 (6) (a) 5. a.;

2 *to renumber* 349.13 (3m) (a) 1. and 704.90 (7); *to consolidate, renumber and*

3 *amend* 704.90 (6) (a) 5. (intro.) and b.; *to amend* 349.13 (3m) (d), 349.13 (3m)

4 (dr) 2., 349.13 (5) (b) 2., 704.90 (1) (e), 704.90 (4b) (a), 704.90 (5) (a), 704.90 (5)

5 (b) (intro.), 704.90 (5) (b) 1. (intro.), 704.90 (5) (b) 2. (intro.), 704.90 (5) (b) 2. d.,

6 704.90 (6) (a) 2., 704.90 (6) (a) 4., 704.90 (6) (a) 6., 704.90 (6) (a) 7. (intro.), 704.90

7 (6) (a) 7. c., 704.90 (6) (a) 8., 704.90 (6) (b) and 704.90 (7) (title); and *to create*

8 349.13 (3m) (a) 1g., 1n., 1r. and 3., 349.13 (3m) (bm), 628.02 (1) (b) 10., 632.976,

9 704.90 (1) (i), 704.90 (1) (j), 704.90 (5) (c), 704.90 (5r), 704.90 (6) (am) and 704.90

10 (7) (b) of the statutes; **relating to:** enforcing liens on personal property stored

11 in self-service storage facilities and units, towing a vehicle of a lessee in default,

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- 1 authorizing the sale of self-service storage limited lines insurance, and
2 providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes various changes to the law regulating the leasing of space for storage of personal property in self-service storage facilities (facility) and self-service storage units (unit), primarily to the requirements for the notice and sale of the personal property that is being stored in a facility or unit when the lessee defaults in the payment of rent; provides that a vehicle being stored in a facility or unit may be towed at the owner's expense if the lessee defaults in the payment of rent and sets out the default and notice requirements that apply; and authorizes, and establishes requirements for, the sale by a facility operator (operator) of self-service storage insurance covering personal property being stored in a unit or at a facility.

Disposal of property stored in self-service storage units and facilities

Current law regulates the leasing of space for storage of personal property in facilities and units, including requiring written rental agreements; creating liens, for rent and other charges, on personal property stored in the facility; limiting late rental fees; and establishing procedures for the disposition of personal property in the event that a person defaults in the payment of rent or leaves the personal property behind at the termination of the rental agreement. These procedures include requirements for providing notice and conducting the sale and, if the personal property is worth less than \$100, allow the operator to donate to a charitable organization, or dispose of, the personal property. This bill makes various changes to the laws regulating self-service storage, and the disposal, of personal property.

Currently, an operator may charge a late fee each month that a lessee does not pay the rent within five weekdays after the rent is due. The bill changes the time for when a late fee may be charged to five days, rather than weekdays, after the rent is due.

Currently, an operator must give two notices to the lessee that he or she is in default in the payment of rent or that rent has not been paid for personal property left behind after the termination of the rental agreement. The first notice must be sent by regular mail and must contain various types of information, including that the lessee has failed to pay rent for storage of the personal property and a general description of the personal property that is subject to the lien for payment of rent. The second notice must be sent by certified mail or first class mail with a certificate of mailing. This notice must contain a statement that there is a lien on the personal property being stored in the leased space and a general description of the property subject to the lien. The bill provides that the first notice must be sent by regular mail or electronic mail and that the second notice must be sent by electronic mail or any method of mailing offered by the U.S. Postal Service or other commercial mail delivery service that provides evidence of mailing. The notices may be sent by electronic mail only if there is confirmation of receipt. The bill also removes the

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requirement that the notices contain a general description of the personal property that is being stored and that is subject to the lien for payment of rent, but requires the operator to make available to the lessee, upon the lessee's request, either photographs or a video of the personal property.

Under current law, if the lessee does not redeem the property after notice by paying the rent and any other charges that the lessee owes, the operator may sell the property after advertising the sale once per week for two consecutive weeks in a newspaper of general circulation where the facility is located. The bill changes the advertising requirement to one publication in a newspaper of general circulation and removes the requirement that the advertisement contain a general description of the property to be sold. The bill also clarifies that in order for the lessee to redeem his or her personal property, he or she must make full payment of all rent and other charges owed.

Under current law, if the personal property is sold, it must be sold at a public sale with three or more bidders, offered for sale privately to at least three persons who deal with the type of property that is for sale, or sold in another manner that is commercially reasonable. The sale must take place at the facility or the unit of the facility where the property is located or at the nearest suitable place to the place where the personal property is stored. The bill expressly provides that a commercially reasonable manner of sale includes sale by means of the Internet, and provides that, in addition to the physical locations in current law, the sale of the property may be conducted at an Internet site that is reasonably expected to attract bidders. Additionally, the bill provides that an operator may postpone for up to 14 days a sale that is advertised to be held at a physical location if the weather is inclement on the day the sale was advertised to be held. The advertisement for the new date must indicate the original date, that the sale was postponed, and the reason for the postponement. At least five days before the sale, the operator must send notice to the lessee, by regular mail or, if receipt is confirmed, by electronic mail, stating that the sale was postponed and providing the new date, time, and place of the sale.

Under current law, if the operator sells the personal property, the sale proceeds must first be applied to satisfy the lien for the overdue rent and other charges and then any balance must be delivered to the Secretary of Revenue to be disposed of as unclaimed property. The bill changes this so that the proceeds first must be applied to satisfy the lien, then any balance must be returned to the lessee. If the operator is unable after due diligence to locate the lessee, however, the operator must deliver the balance to the Secretary of Revenue as under current law.

Towing vehicles stored in self-service storage units and facilities

Under current law, if a vehicle is parked without authorization on private property, the vehicle may be removed (towed) immediately, at the vehicle owner's expense and without the owner's permission, if: 1) a citation for illegal parking has been issued; or 2) the private property is posted with a clearly visible notice that it is private property and vehicles parked without authorization may be immediately towed. A vehicle illegally parked on private property may be towed only by a towing service at the request of the property owner or property owner's agent or of a traffic

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officer or parking enforcer. Before the vehicle is towed, the towing service must notify a local law enforcement agency of the make, model, vehicle identification number, and registration plate number of the vehicle and the location to which the vehicle will be towed. The vehicle owner must pay the reasonable charges for towing and, if applicable, storage of the vehicle, as well as any service fee, not exceeding \$35, imposed by the municipality where the vehicle was parked. However, the towing service may not collect any towing or storage charges if the towing service failed to notify law enforcement before towing the vehicle. The towing service may impound the vehicle until its charges are paid and, if the charges are not paid within 30 days or arrangements for installment payments are not made, the vehicle is considered abandoned and may be disposed of as are other abandoned vehicles.

Under this bill, an operator may have a vehicle stored in a unit or facility towed, at the vehicle owner's expense, without the permission of the vehicle owner and without an illegal parking citation being issued, if: 1) the lessee failed to pay rent or other charges under a rental agreement for at least seven consecutive days after the due date; 2) the operator provided to the lessee two notices containing certain information related to the lessee's default and the second notice was sent after the lessee had failed to pay rent or other charges for more than 60 consecutive days after the due date under the rental agreement; and 3) the lessee failed to timely redeem the vehicle. Provisions of current law relating to the towing of illegally parked vehicles from private property also apply, including that the vehicle may be towed only by a towing service at the request of the operator or of a traffic officer or parking enforcer.

Self-service storage insurance

The bill authorizes, and establishes requirements for, the sale of self-service storage insurance (insurance) by an operator, or by an employee or representative of the operator, covering personal property stored in the unit or at the facility. The operator or employee or representative is not required to hold a certificate of authority as an insurer or a license as an insurance intermediary to offer or sell the insurance only if the operator complies with the statutory requirements; the insurer issuing the insurance supervises, or appoints a supervising entity to supervise, the administration of the sale of the insurance; the supervising entity, or insurer if no supervising entity is appointed, maintains a registry of operators and locations at which operators or employees or representatives may offer or sell the insurance, which registry must be made available to the commissioner of insurance (commissioner) upon request; and any operator who is an individual, or any employee or representative of the operator, who intends to offer or sell insurance must complete a training program, developed and administered by the insurer or supervising entity, that provides basic instruction about the insurance.

Under the bill, the insurance is issued to the operator as a group or master commercial policy, and an individual (customer) who leases a unit or space in a facility from the operator may purchase coverage under the insurance policy to protect his or her personal property stored in the unit or at the facility from loss or damage during the term of the rental agreement for the unit or facility space. The bill prohibits an operator or employee or representative from advertising or

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representing that he or she is an insurance intermediary if he or she does not hold such a license; provides that an operator may not base an employee's or representative's compensation primarily on the number of customers who purchase coverage; requires an operator to remit all moneys collected from customers to the insurer; and authorizes an insurer to compensate an operator for billing and collection services.

The bill requires an operator to separately itemize any charge for the insurance that is not included in the cost of leasing the unit or space, and, if the charge for the insurance is included in the leasing cost, that must be clearly and conspicuously disclosed. Additionally, at every location where the insurance is offered to customers, the operator must make available written materials that provide specific information, such as the identity of the insurer, the amount of the deductible, the terms of coverage, how to make a claim, that the coverage may duplicate coverage under the customer's homeowner's or renter's policy, and, if insurance is required as a condition of leasing the unit or space, that the customer may satisfy that requirement by presenting evidence of other comparable insurance coverage. The bill specifies what happens if the insurer changes the policy terms or the operator or insurer terminates the policy; under what circumstances an insurer may terminate a customer's coverage; and the penalties that the commissioner may impose if an operator or an employee or representative violates any of the new provisions.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

- 1 **SECTION 1.** 349.13 (3m) (a) 1. of the statutes is renumbered 349.13 (3m) (a) 1w.
- 2 **SECTION 2.** 349.13 (3m) (a) 1g., 1n., 1r. and 3. of the statutes are created to read:
- 3 349.13 **(3m)** (a) 1g. "Leased space" has the meaning given in s. 704.90 (1) (b).
- 4 1n. "Lessee" has the meaning given in s. 704.90 (1) (c).
- 5 1r. "Operator" has the meaning given in s. 704.90 (1) (d).
- 6 3. "Rental agreement" has the meaning given in s. 704.90 (1) (f).
- 7 **SECTION 3.** 349.13 (3m) (bm) of the statutes is created to read:
- 8 349.13 **(3m)** (bm) Notwithstanding par. (b), and subject to par. (dr) 1., an
- 9 operator may have a vehicle that is stored in a lessee's leased space removed, at the

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1 vehicle owner's expense, without the permission of the vehicle owner, regardless of
2 whether a citation is issued for illegal parking, if all of the following apply:

3 1. The lessee failed to pay rent or other charges under a rental agreement for
4 at least 7 consecutive days after the due date under the rental agreement.

5 2. The operator has provided the notices under s. 704.90 (5) (b).

6 3. Before the operator sent the 2nd notice under s. 704.90 (5) (b) 2., the lessee
7 had failed to pay rent or other charges under the rental agreement for more than 60
8 consecutive days after the due date under the rental agreement.

9 4. The lessee has failed to redeem the vehicle under s. 704.90 (5) (a) within the
10 time specified in the notice under s. 704.90 (5) (b) 2. c.

11 **SECTION 4.** 349.13 (3m) (d) of the statutes is amended to read:

12 349.13 **(3m)** (d) 1. Subject to par. (dr), a vehicle may be removed from private
13 property under par. (b) or (c) only by a towing service at the request of the property
14 owner or property owner's agent, a traffic officer, or a parking enforcer. Subject to
15 par. (dr), a vehicle may be removed from leased space under par. (bm) only by a towing
16 service at the request of the operator, a traffic officer, or a parking enforcer.

17 2. Before any vehicle is removed under par. (b) ~~or to~~ (c) by a towing service, the
18 towing service shall notify a local law enforcement agency of the make, model, vehicle
19 identification number, and registration plate number of the vehicle and the location
20 to which the vehicle will be removed.

21 3. Subject to par. (dr) 2., if a vehicle is removed under par. (b) ~~or to~~ (c) by a towing
22 service, the vehicle owner shall pay the reasonable charges for removal and, if
23 applicable, storage of the vehicle, as well as any service fee imposed under par. (dm).
24 Subject to par. (dr) 2., if the vehicle was removed at the request of the property owner
25 or property owner's agent or at the request of an operator, these reasonable charges

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1 shall be paid directly to the towing service, and the towing service may impound the
2 vehicle until these charges are paid. If these charges have not been paid in full within
3 30 days of the vehicle's removal and the vehicle owner has not entered into a written
4 agreement with the towing service to pay these reasonable charges in installment
5 payments, the vehicle shall be deemed abandoned and may be disposed of as are
6 other abandoned vehicles.

7 **SECTION 5.** 349.13 (3m) (dr) 2. of the statutes is amended to read:

8 349.13 (3m) (dr) 2. A towing service may not collect any charges for the removal
9 or storage of an illegally parked vehicle under this subsection, or a vehicle removed
10 under par. (bm), if the towing service has not complied with par. (d) 2. with respect
11 to the vehicle.

12 **SECTION 6.** 349.13 (5) (b) 2. of the statutes is amended to read:

13 349.13 (5) (b) 2. A person who has custody of a vehicle removed or stored under
14 subs. (3) to (4) or otherwise at the request of a law enforcement officer, traffic officer,
15 parking enforcer, property owner, or property owner's agent, or operator, as defined
16 in s. 704.90 (1) (d), shall release the personal property within the vehicle to the owner
17 of the vehicle during regular office hours upon presentation by the owner of proper
18 identification.

19 **SECTION 7.** 628.02 (1) (b) 10. of the statutes is created to read:

20 628.02 (1) (b) 10. An operator, as defined in s. 704.90 (1) (d), or an employee or
21 authorized representative of an operator, selling or offering self-service storage
22 insurance under s. 632.976.

23 **SECTION 8.** 632.976 of the statutes is created to read:

24 **632.976 Self-service storage insurance. (1) DEFINITIONS.** In this section:

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1 (a) “Customer” means a person who leases a self-service storage unit or space
2 at a self-service storage facility under the terms of a rental agreement.

3 (b) “Enrolled customer” means a customer who elects coverage under a
4 self-service storage insurance policy issued to an operator.

5 (c) “Leased space” has the meaning given in s. 704.90 (1) (b).

6 (d) “Operator” has the meaning given in s. 704.90 (1) (d).

7 (e) “Personal property” has the meaning given in s. 704.90 (1) (e).

8 (f) “Rental agreement” has the meaning given in s. 704.90 (1) (f).

9 (g) “Self-service storage facility” has the meaning given in s. 704.90 (1) (g).

10 (h) “Self-service storage insurance” means insurance that provides coverage
11 for the loss of, or damage to, personal property contained in a leased space during the
12 term of a rental agreement. “Self-service storage insurance” does not include any
13 of the following:

14 1. Homeowner’s insurance.

15 2. Renter’s insurance.

16 3. Private passenger motor vehicle insurance.

17 4. Insurance that provides coverage similar to the coverage provided by any
18 insurance described in subds. 1. to 3.

19 (i) “Self-service storage insurance program” means the coverage options made
20 available to customers of an operator who elect to enroll for coverage under a policy
21 of self-service storage insurance.

22 (j) “Self-service storage unit” has the meaning given in s. 704.90 (1) (h).

23 (k) “Supervising entity” means a business entity that is a licensed insurer or
24 licensed intermediary and that is appointed by an insurer to supervise the

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1 administration of a self-service storage insurance program offered by an operator to
2 its customers.

3 (2) **AUTHORITY.** (a) *Requirements.* An operator or an employee or authorized
4 representative of an operator may sell or offer self-service storage insurance to
5 customers without holding a certificate of authority under s. 601.04 or a license as
6 an intermediary only if all of the following apply:

7 1. The operator complies with the requirements of this section.

8 2. The insurer issuing the self-service storage insurance either directly
9 supervises, or appoints a supervising entity to supervise, the administration of the
10 sale of self-service storage insurance, including development of a training program,
11 as described under sub. (4), for operators and employees and authorized
12 representatives of the operators.

13 3. The supervising entity, or insurer issuing the self-service storage insurance
14 if there is no supervising entity, maintains a registry of operators and locations, as
15 described in par. (c), at which an operator or an employee or authorized
16 representative of the operator is authorized to sell or offer self-service storage
17 insurance in this state. Upon request by the commissioner after providing 10 days'
18 notice, the supervising entity or insurer maintaining the registry shall make the
19 registry available for inspection and examination by the commissioner.

20 4. Any operator who is an individual, or any employee or authorized
21 representative of an operator, who intends to sell or offer self-service storage
22 insurance to customers shall complete a training program described under sub. (4).

23 (b) *Prohibited representations.* No operator and no employee or authorized
24 representative of an operator may advertise, represent, or otherwise hold himself or

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1 herself out as a licensed insurance intermediary if the operator or employee or
2 authorized representative does not hold a license as an intermediary in this state.

3 (c) *Scope.* Compliance by an operator with this section authorizes the operator
4 or any employee or authorized representative of the operator to sell or offer coverage
5 under a policy of self-service storage insurance to a customer at any location at which
6 the operator leases self-service storage units or space in self-service storage
7 facilities.

8 (d) *Applicability of existing law.* An operator selling or offering self-service
9 storage insurance is subject to ss. 601.41, 601.42, 601.61, 601.63, and 601.64, except
10 that any forfeitures or penalties shall be in the amounts specified in sub. (3).

11 **(3) PENALTIES.** If an operator or an employee or authorized representative of
12 an operator violates any provision of this section, the commissioner may do any of
13 the following:

14 (a) After notice and hearing conducted in accordance with s. 601.62, impose
15 forfeitures not to exceed \$500 per violation.

16 (b) Order, under s. 601.41 (4), any of the following:

17 1. Suspension of the selling or offering of self-service storage insurance at the
18 location under sub. (2) (c) where the violation occurred.

19 2. Suspension of the selling or offering of self-service storage insurance by an
20 employee or authorized representative of an operator.

21 3. Suspension or revocation of the selling or offering of self-service storage
22 insurance by an operator in this state.

23 **(4) TRAINING.** The insurer or supervising entity shall develop and administer
24 a training program, as required under sub. (2) (a) 4., that complies with all of the
25 following:

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1 (a) The insurer or supervising entity shall deliver training to operators who are
2 individuals, and to employees and authorized representatives of operators, who are
3 directly engaged in selling or offering self-service storage insurance.

4 (b) The insurer or supervising entity may provide the training in electronic
5 form. If the training is in electronic form, the insurer or supervising entity shall
6 implement a supplemental education program regarding self-service storage
7 insurance that is conducted and overseen by licensed employees of the insurer or
8 supervising entity.

9 (c) The insurer or supervising entity shall provide to every operator who is an
10 individual and who sells or offers self-service storage insurance, and to every
11 employee and authorized representative of an operator that sells or offers
12 self-service storage insurance, basic instruction about the self-service storage
13 insurance offered to customers and the disclosures required under sub. (6).

14 **(5) COMPENSATION.** (a) An operator may not compensate an employee or
15 authorized representative based primarily on the number of customers enrolled in
16 self-service storage insurance coverage but the operator may compensate an
17 employee or authorized representative, in a manner that is incidental to his or her
18 overall compensation, for activities related to the sale or offering of self-service
19 storage insurance.

20 (b) 1. An operator may bill and collect the charges for self-service storage
21 insurance coverage.

22 2. The operator shall separately itemize on the enrolled customer's bill any
23 charge to the enrolled customer for coverage that is not included in the cost
24 associated with the lease of the leased space.

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1 3. If the self-service storage insurance coverage is included with the lease of
2 the leased space, the vendor shall clearly and conspicuously disclose to the enrolled
3 customer that the coverage is included with the lease of the leased space.

4 4. An operator that bills and collects charges from an enrolled customer is not
5 required to maintain those moneys in a segregated account if the insurer authorizes
6 the operator to hold those moneys in a manner other than a segregated account and
7 if the operator remits the moneys to the insurer or supervising entity within 60 days
8 after receiving those moneys. The operator shall consider all moneys received by
9 that operator from an enrolled customer for the sale of self-service storage insurance
10 to be held in trust by that operator in a fiduciary capacity for the benefit of the
11 insurer.

12 5. The insurer or supervising entity may compensate the operator for billing
13 and collection services.

14 **(6) DISCLOSURES.** At every location where self-service storage insurance is
15 offered to customers, an operator shall make available to prospective customers
16 brochures or other written materials that contain all of the following:

17 (a) A disclosure that self-service storage insurance may provide a duplication
18 of coverage already provided by a customer's homeowner's insurance policy, renter's
19 insurance policy, or other source of insurance coverage.

20 (b) If self-service storage insurance is required as a condition of leasing leased
21 space, a statement that a customer may satisfy that requirement by presenting
22 evidence of other comparable insurance coverage.

23 (c) A summary of the material terms of the self-service storage insurance
24 coverage including all of the following:

25 1. The identity of the insurer.

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1 2. The identity of the supervising entity, if any.

2 3. The amount of any applicable deductible and how to pay that deductible.

3 4. The benefits of coverage.

4 5. The key terms and conditions of coverage.

5 (d) A summary of the process for filing a claim.

6 (e) A statement that the enrolled customer may cancel enrollment for coverage
7 under a self-service storage insurance policy at any time and that upon cancellation
8 the person paying the premium receives a refund of any applicable unearned
9 premium.

10 **(7) PERMITTED OFFERING.** An operator may offer self-service storage insurance
11 on a month-to-month or other periodic basis as a group or master commercial policy
12 that is issued to an operator for its enrolled customers.

13 **(8) TERMINATION OF INSURANCE; CHANGES TO POLICY.** (a) Except as provided in
14 par. (c), an insurer may terminate or otherwise change the terms and conditions of
15 a policy of self-service storage insurance only after providing the policyholder and
16 all enrolled customers at least 30 days' notice before terminating the coverage or
17 making the change.

18 (b) If the insurer changes the terms and conditions in accordance with par. (a),
19 the insurer shall provide the operator policyholder with a revised policy or
20 endorsement and shall provide to each enrolled customer a revised certificate,
21 endorsement, updated brochure, or other evidence indicating that a change in the
22 terms and conditions has occurred and a summary of the material changes.

23 (c) 1. An insurer may terminate the enrollment of an enrolled customer under
24 a self-service storage insurance policy after providing 15 days' notice if the insurer
25 discovers that the enrolled customer committed fraud or made a material

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1 misrepresentation in obtaining coverage or in the presentation of a claim under the
2 policy.

3 2. An insurer may immediately terminate the enrollment of an enrolled
4 customer under a self-service storage insurance policy for any of the following
5 reasons:

6 a. The enrolled customer fails to pay the premium for the self-service storage
7 insurance policy.

8 b. The enrolled customer's rental agreement with the operator terminates and
9 is not renewed.

10 3. An insurer may terminate the enrollment of an enrolled customer under a
11 self-service storage insurance policy if the enrolled customer exhausts any
12 aggregate limit of liability under the terms of the self-service storage insurance
13 policy and the insurer sends notice of termination to the enrolled customer within
14 30 days after exhaustion of the limit. If the insurer does not send the notice within
15 30 days after exhaustion of the limit, the insurer shall continue the coverage,
16 notwithstanding the exhaustion of the aggregate limit of liability, until the insurer
17 sends notice of termination to the enrolled customer.

18 (d) If a self-service storage insurance policy is terminated by an operator
19 policyholder, the operator shall mail or deliver, at least 30 days before the
20 termination, written notice to each enrolled customer advising the customer of the
21 termination of the self-service storage insurance policy and the effective date of
22 termination.

23 (e) Any notice or correspondence with respect to coverage under a policy of
24 self-service storage insurance that is required under this section or otherwise
25 required by law shall be in writing and may be mailed to the operator at the mailing

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1 address of the operator and to an enrolled customer at his or her last known mailing
2 address on file with the insurer or delivered by electronic means to the operator or
3 enrolled customer. If the notice or correspondence is mailed, the insurer or operator,
4 whichever mails the notice or correspondence, shall maintain proof of mailing in a
5 form authorized or accepted by the U.S. postal service or other commercial mail
6 delivery service. If delivery of the notice or correspondence is by electronic means,
7 the insurer shall use the electronic mail address specified by the operator for that
8 purpose and the insurer or operator shall use the last known electronic mail address
9 provided by each enrolled customer. An enrolled customer who provides an
10 electronic mail address to the insurer or operator consents to receive notices and
11 correspondence by electronic means. If delivery is by electronic means, the insurer
12 or operator, whichever delivers the notice or correspondence, shall maintain proof of
13 delivery.

14 (f) A supervising entity may send any notice or correspondence required by this
15 section or otherwise required by law. An insurer or operator is not required to provide
16 the notice or correspondence if it is provided by a supervising entity in a manner that
17 complies with this section.

18 **SECTION 9.** 704.90 (1) (e) of the statutes is amended to read:

19 704.90 (1) (e) “Personal property” means movable property not affixed to land,
20 including goods, wares, merchandise, ~~motor~~ vehicles, watercraft, household items,
21 and furnishings.

22 **SECTION 10.** 704.90 (1) (i) of the statutes is created to read:

23 704.90 (1) (i) “Vehicle” has the meaning given in s. 340.01 (74).

24 **SECTION 11.** 704.90 (1) (j) of the statutes is created to read:

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1 704.90 (1) (j) “Verified mail” means any method of mailing that is offered by the
2 U.S. postal service or other commercial mail delivery service and that provides
3 evidence of mailing.

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

5 704.90 (4b) (a) The operator may charge a reasonable late fee for each month
6 a lessee does not pay rent by 5 weekdays days after the rent is due if the amount of
7 the late fee is contained in the rental agreement.

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

9 704.90 (5) (a) At any time prior to disposal under sub. (5m), removal under sub.
10 (5r), or sale under sub. (6), a lessee may redeem personal property by paying the
11 operator any the full amount of rent and all other charges, if any, that are due. Upon
12 receipt of such payment, the operator shall return the personal property, and
13 thereafter the operator shall have no liability to any person with respect to such
14 personal property.

15 **SECTION 14.** 704.90 (5) (b) (intro.) of the statutes is amended to read:

16 704.90 (5) (b) (intro.) An operator may not dispose of personal property under
17 sub. (5m), have a vehicle removed under sub. (5r), or sell personal property under
18 sub. (6) unless the operator first delivers the following 2 notices:

19 **SECTION 15.** 704.90 (5) (b) 1. (intro.) of the statutes is amended to read:

20 704.90 (5) (b) 1. (intro.) ~~A~~ Subject to sub. (7) (b), a first notice sent by either
21 regular mail or electronic mail to the last-known address or electronic mail address
22 of the lessee and the last-known address or electronic mail address of the person, if
23 any, specified in the rental agreement under sub. (2m) containing all of the following:

24 **SECTION 16.** 704.90 (5) (b) 1. b. of the statutes is repealed.

25 **SECTION 17.** 704.90 (5) (b) 2. (intro.) of the statutes is amended to read:

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1 704.90 (5) (b) 2. (intro.) ~~A Subject to sub. (7) (b), a 2nd notice sent by certified~~
2 ~~mail or 1st class mail with a certificate of mailing verified mail~~ to the last-known
3 ~~address of the lessee, or by electronic mail to the last-known electronic mail address~~
4 ~~of the lessee,~~ containing all of the following:

5 **SECTION 18.** 704.90 (5) (b) 2. ag. of the statutes is repealed.

6 **SECTION 19.** 704.90 (5) (b) 2. d. of the statutes is amended to read:

7 704.90 (5) (b) 2. d. A statement that, unless the rent and other charges are paid
8 within the time period under subd. 2. c., the personal property may be disposed of if
9 the fair market value of the property is less than \$100, may be removed by a towing
10 company if the property is a vehicle, or will be sold; a specification of the date, time,
11 and place of the sale if the property is to be sold; and a statement that if the property
12 is sold the operator first shall apply the proceeds of the sale ~~first~~ to satisfy the lien
13 and then shall return any balance to the lessee or, if the operator cannot with due
14 diligence locate the lessee, report and deliver any balance to the secretary of revenue
15 as provided under ch. 177.

16 **SECTION 20.** 704.90 (5) (c) of the statutes is created to read:

17 704.90 (5) (c) When the operator sends the 2nd notice under par. (b) 2., the
18 operator shall have available, at the operator's discretion, either photographs or a
19 video of the personal property. The operator shall make the photographs or video
20 available to the lessee upon the lessee's request.

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

22 704.90 (5r) REMOVAL OF VEHICLE. (a) If the personal property stored in the
23 lessee's leased space is a vehicle, in lieu of a sale under sub. (6), the operator may have
24 the vehicle removed from the leased space by a towing company as provided in s.
25 349.13 (3m) if all of the following apply:

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1 1. The lessee failed to pay rent or other charges under a rental agreement for
2 at least 7 consecutive days after the due date under the rental agreement.

3 2. The operator has complied with the notice requirements under subs. (5) (b)
4 and (7) (b).

5 3. Before the operator sent the 2nd notice under sub. (5) (b) 2., the lessee had
6 failed to pay rent or other charges due under the rental agreement for more than 60
7 consecutive days after the due date under the rental agreement.

8 4. The lessee has failed to redeem the personal property under sub. (5) (a)
9 within the time specified in the notice under sub. (5) (b) 2. c.

10 (b) The operator shall be immune from civil liability for any damage to or loss
11 of the vehicle arising from or related to the removal and towing of the vehicle.

12 **SECTION 22.** 704.90 (6) (a) 2. of the statutes is amended to read:

13 704.90 (6) (a) 2. The operator has complied with the notice requirements under
14 ~~sub.~~ subs. (5) (b) and (7) (b).

15 **SECTION 23.** 704.90 (6) (a) 4. of the statutes is amended to read:

16 704.90 (6) (a) 4. An advertisement of the sale is published once ~~a week for 2~~
17 ~~consecutive weeks~~ in a newspaper of general circulation where the self-service
18 storage facility or unit is located.

19 **SECTION 24.** 704.90 (6) (a) 5. (intro.) and b. of the statutes are consolidated,
20 renumbered 704.90 (6) (a) 5. and amended to read:

21 704.90 (6) (a) 5. The advertisement under subd. 4. contains ~~all of the following:~~
22 ~~b.~~ The the address of the self-service storage facility or of the operator of the
23 self-service storage unit and the name of the lessee.

24 **SECTION 25.** 704.90 (6) (a) 5. a. of the statutes is repealed.

25 **SECTION 26.** 704.90 (6) (a) 6. of the statutes is amended to read:

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1 704.90 (6) (a) 6. The sale takes place not sooner than 15 days after the first
2 publication under subd. 4.

3 **SECTION 27.** 704.90 (6) (a) 7. (intro.) of the statutes is amended to read:

4 704.90 (6) (a) 7. (intro.) The Except as provided in par. (am), the sale conforms
5 to the terms of the notices under sub. (5) (b) and to any of the following:

6 **SECTION 28.** 704.90 (6) (a) 7. c. of the statutes is amended to read:

7 704.90 (6) (a) 7. c. The personal property is sold in another manner that is
8 commercially reasonable, including by means of the Internet.

9 **SECTION 29.** 704.90 (6) (a) 8. of the statutes is amended to read:

10 704.90 (6) (a) 8. The sale is conducted at an Internet site that is reasonably
11 expected to attract bidders or, if conducted at a physical location, is held at the
12 self-service storage facility, at the self-service storage unit, or at the nearest suitable
13 place to the place where the personal property is stored.

14 **SECTION 30.** 704.90 (6) (am) of the statutes is created to read:

15 704.90 (6) (am) If the sale is advertised to be a public sale at a physical location,
16 notwithstanding the date and time specified in the notice under sub. (5) (b) 2. d. for
17 the sale, the operator may postpone the sale for up to 14 days due to inclement
18 weather on the day of the sale. If the sale is postponed, the operator shall provide
19 notice of the new date, time, and place of the sale in an advertisement that satisfies
20 the requirements under par. (a) 5. and that provides the original date of the sale, that
21 explains that the original sale was postponed, and that provides the reason for the
22 postponement. The advertisement under this paragraph may be published in the
23 manner provided in par. (a) 4. and the sale on the new date may be conducted as
24 provided in par. (a) 8. The operator shall also send notice at least 5 days before the
25 new date of the sale, by regular mail to the last-known address of the lessee or by

ASSEMBLY BILL 818**SECTION 30**

1 electronic mail to the last-known electronic mail address of the lessee, stating that
2 the sale was postponed and providing the new date, time, and place of the sale.

3 **SECTION 31.** 704.90 (6) (b) of the statutes is amended to read:

4 704.90 (6) (b) The operator first shall apply the proceeds of the sale first to
5 satisfy the lien under sub. (3) (a). The operator then shall return any balance of the
6 proceeds to the lessee or, if the operator cannot with due diligence locate the lessee,
7 report and deliver any balance to the secretary of revenue as provided under ch. 177.

8 **SECTION 32.** 704.90 (7) (title) of the statutes is amended to read:

9 704.90 (7) (title) NOTICE; PRESUMPTION OF DELIVERY; USE OF ELECTRONIC MAIL.

10 **SECTION 33.** 704.90 (7) of the statutes is renumbered 704.90 (7) (a).

11 **SECTION 34.** 704.90 (7) (b) of the statutes is created to read:

12 704.90 (7) (b) A notice under sub. (5) (b) 1. or 2. or (6) (am) may be sent by
13 electronic mail only if the operator uses a service that provides confirmation of the
14 receipt of electronic mail and the operator receives confirmation that the notice was
15 received. If the operator does not use such a service or if receipt is not confirmed, the
16 operator must send the notice by regular or verified mail, whichever is applicable.

17 **SECTION 35. Initial applicability.**

18 (1) The treatment of section 704.90 (4b) (a) of the statutes first applies to a late
19 fee charged for nonpayment of rent under a rental agreement entered into, modified,
20 or renewed on the effective date of this subsection.

21 (2) The treatment of section 704.90 (5) (a) of the statutes first applies to
22 redeeming personal property under a rental agreement entered into, modified, or
23 renewed on the effective date of this subsection.

24 (3) The treatment of section 704.90 (1) (i) and (j) and (5) (b) 1. (intro.) and b. and
25 2. (intro.), ag., and d. and (c) and (7) (title) of the statutes, the renumbering of section

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1 704.90 (7) of the statutes, and the creation of section 704.90 (7) (b) of the statutes first
2 apply to notices sent with respect to a default or failure to pay rent under a rental
3 agreement entered into, modified, or renewed on the effective date of this subsection.

4 (4) The treatment of sections 349.13 (3m) (a) 1., 1g., 1n., 1r., and 3., (bm), (d),
5 and (dr) 2. and 704.90 (5) (b) (intro.) and (5r) of the statutes first applies to the
6 removal of a vehicle stored in a leased space under a rental agreement entered into,
7 modified, or renewed on the effective date of this subsection.

8 (5) The treatment of section 704.90 (6) (a) 2., 4., 5. (intro.), a., and b., 6., 7.
9 (intro.) and c., and 8., (am), and (b) of the statutes first applies to sales of personal
10 property as a result of a default or failure to pay rent under a rental agreement
11 entered into, modified, or renewed on the effective date of this subsection.

12 **SECTION 36. Effective dates.** This act takes effect on July 1, 2016, except as
13 follows:

14 (1) The treatment of sections 628.02 (1) (b) 10. and 632.976 of the statutes takes
15 effect on the day after publication.

16 (END)

Barman, Mike

From: Walsh, Patrick
Sent: Friday, February 19, 2016 8:08 AM
To: LRB.Legal
Subject: Draft Review: LRB -4790/1

Please Jacket LRB -4790/1 for the SENATE.