2015 SENATE BILL 769

February 23, 2016 – Introduced by Senators RINGHAND and WIRCH, cosponsored by Representatives BARCA, OHNSTAD, ALLEN, KAH, KOLSTE, KRUG, SINICKI and SUBECK. Referred to Committee on Insurance, Housing, and Trade.

AN ACT to repeal 704.90 (5) (b) 1. b., 704.90 (5) (b) 2. ag. and 704.90 (6) (a) 5. a.;
to renumber 349.13 (3m) (a) 1. and 704.90 (7); to consolidate, renumber and amend 704.90 (6) (a) 5. (intro.) and b.; to amend 349.13 (3m) (d), 349.13 (3m) (dr) 2., 349.13 (5) (b) 2., 704.90 (1) (e), 704.90 (4b) (a), 704.90 (5) (a), 704.90 (5)
(b) (intro.), 704.90 (5) (b) 1. (intro.), 704.90 (5) (b) 2. (intro.), 704.90 (5) (b) 2. d., 704.90 (6) (a) 2., 704.90 (6) (a) 4., 704.90 (6) (a) 6., 704.90 (6) (a) 7. (intro.), 704.90 (6) (a) 7. c., 704.90 (6) (a) 8., 704.90 (6) (b) and 704.90 (7) (title); and to create 349.13 (3m) (a) 1g., 1n., 1r. and 3., 349.13 (3m) (bm), 628.02 (1) (b) 10., 632.976, 704.90 (1) (i), 704.90 (1) (j), 704.90 (5) (c), 704.90 (5r), 704.90 (6) (am) and 704.90 (7) (b) of the statutes; relating to: enforcing liens on personal property stored in self-service storage facilities and units, towing a vehicle of a lessee in default,
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authorizing the sale of self-service storage limited lines insurance, and 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. 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
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:

SECTION 1. 349.13 (3m) (a) 1. of the statutes is renumbered 349.13 (3m) (a) 1w.

SECTION 2. 349.13 (3m) (a) 1g., 1n., 1r. and 3. of the statutes are created to read:

349.13 (3m) (a) 1g. “Leased space” has the meaning given in s. 704.90 (1) (b).

1n. “Lessee” has the meaning given in s. 704.90 (1) (c).

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

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

SECTION 3. 349.13 (3m) (bm) of the statutes is created to read:

349.13 (3m) (bm) Notwithstanding par. (b), and subject to par. (dr) 1., an operator may have a vehicle that is stored in a lessee’s leased space removed, at the
vehicle owner’s expense, without the permission of the vehicle owner, regardless of whether a citation is issued for illegal parking, if all of the following apply:

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

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

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

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

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

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

2. Before any vehicle is removed under par. (b) or (c) by a towing service, the towing service shall 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 removed.

3. Subject to par. (dr) 2., if a vehicle is removed under par. (b) or (c) by a towing service, the vehicle owner shall pay the reasonable charges for removal and, if applicable, storage of the vehicle, as well as any service fee imposed under par. (dm).

Subject to par. (dr) 2., if the vehicle was removed at the request of the property owner or property owner’s agent or at the request of an operator, these reasonable charges
shall be paid directly to the towing service, and the towing service may impound the
vehicle until these charges are paid. If these charges have not been paid in full within
30 days of the vehicle's removal and the vehicle owner has not entered into a written
agreement with the towing service to pay these reasonable charges in installment
payments, the vehicle shall be deemed abandoned and may be disposed of as are
other abandoned vehicles.

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

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

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

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

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

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

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

632.976 Self-service storage insurance. (1) DEFINITIONS. In this section:
(a) “Customer” means a person who leases a self-service storage unit or space at a self-service storage facility under the terms of a rental agreement.

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

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

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

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

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

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

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

1. Homeowner’s insurance.

2. Renter’s insurance.

3. Private passenger motor vehicle insurance.

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

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

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

(k) “Supervising entity” means a business entity that is a licensed insurer or licensed intermediary and that is appointed by an insurer to supervise the
administration of a self-service storage insurance program offered by an operator to its customers.

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

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

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

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

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

(b) Prohibited representations. No operator and no employee or authorized representative of an operator may advertise, represent, or otherwise hold himself or
herself out as a licensed insurance intermediary if the operator or employee or authorized representative does not hold a license as an intermediary in this state.

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

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

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

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

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

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

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

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

(4) **Training.** The insurer or supervising entity shall develop and administer a training program, as required under sub. (2) (a) 4., that complies with all of the following:
(a) The insurer or supervising entity shall deliver training to operators who are individuals, and to employees and authorized representatives of operators, who are directly engaged in selling or offering self-service storage insurance.

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

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

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

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

2. The operator shall separately itemize on the enrolled customer’s bill any charge to the enrolled customer for coverage that is not included in the cost associated with the lease of the leased space.
3. If the self-service storage insurance coverage is included with the lease of
the leased space, the vendor shall clearly and conspicuously disclose to the enrolled
customer that the coverage is included with the lease of the leased space.

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

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

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

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

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

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

1. The identity of the insurer.
2. The identity of the supervising entity, if any.
3. The amount of any applicable deductible and how to pay that deductible.
4. The benefits of coverage.
5. The key terms and conditions of coverage.
6. A summary of the process for filing a claim.
7. A statement that the enrolled customer may cancel enrollment for coverage under a self-service storage insurance policy at any time and that upon cancellation the person paying the premium receives a refund of any applicable unearned premium.

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

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

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

(c) 1. An insurer may terminate the enrollment of an enrolled customer under a self-service storage insurance policy after providing 15 days’ notice if the insurer discovers that the enrolled customer committed fraud or made a material
misrepresentation in obtaining coverage or in the presentation of a claim under the policy.

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

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

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

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

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

   (e) Any notice or correspondence with respect to coverage under a policy of self-service storage insurance that is required under this section or otherwise required by law shall be in writing and may be mailed to the operator at the mailing
address of the operator and to an enrolled customer at his or her last known mailing
address on file with the insurer or delivered by electronic means to the operator or
enrolled customer. If the notice or correspondence is mailed, the insurer or operator,
whichever mails the notice or correspondence, shall maintain proof of mailing in a
form authorized or accepted by the U.S. postal service or other commercial mail
delivery service. If delivery of the notice or correspondence is by electronic means,
the insurer shall use the electronic mail address specified by the operator for that
purpose and the insurer or operator shall use the last known electronic mail address
provided by each enrolled customer. An enrolled customer who provides an
electronic mail address to the insurer or operator consents to receive notices and
correspondence by electronic means. If delivery is by electronic means, the insurer
or operator, whichever delivers the notice or correspondence, shall maintain proof of
delivery.

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

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

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

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

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

SECTION 11. 704.90 (1) (j) of the statutes is created to read:
704.90 (1) (j) “Verified mail” means any method of mailing that is offered by the U.S. postal service or other commercial mail delivery service and that provides evidence of mailing.

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

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

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

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

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

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

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

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

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

**SECTION 17.** 704.90 (5) (b) 2. (intro.) of the statutes is amended to read:
704.90 (5) (b) 2. (intro.) A. Subject to sub. (7) (b), a 2nd notice sent by certified mail or 1st class mail with a certificate of mailing verified mail to the last-known address of the lessee, or by electronic mail to the last-known electronic mail address of the lessee, containing all of the following:

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

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

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

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

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

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

704.90 (5r) REMOVAL OF VEHICLE. (a) If the personal property stored in the lessee’s leased space is a vehicle, in lieu of a sale under sub. (6), the operator may have the vehicle removed from the leased space by a towing company as provided in s. 349.13 (3m) if all of the following apply:
1. The lessee failed to pay rent or other charges under a rental agreement for at least 7 consecutive days after the due date under the rental agreement.

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

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

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

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

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

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

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

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

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

704.90 (6) (a) 5. The advertisement under subd. 4. contains all of the following:

b. The address of the self-service storage facility or of the operator of the self-service storage unit and the name of the lessee.

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

**SECTION 26.** 704.90 (6) (a) 6. of the statutes is amended to read:
704.90 (6) (a) 6. The sale takes place not sooner than 15 days after the first publication under subd. 4.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 35. Initial applicability.**

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

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

(3) The treatment of section 704.90 (1) (i) and (j) and (5) (b) 1. (intro.) and b. and
2. (intro.), ag., and d. and (c) and (7) (title) of the statutes, the renumbering of section
704.90 (7) of the statutes, and the creation of section 704.90 (7) (b) of the statutes first apply to notices sent with respect to a default or failure to pay rent under a rental agreement entered into, modified, or renewed on the effective date of this subsection.

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

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

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

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