

1987 Senate Bill 27

Date of enactment: July 9, 1987  
Date of publication: July 20, 1987

## 1987 Wisconsin Act 23

AN ACT to amend 177.03 (intro.); and to create 177.165 and 704.90 of the statutes, relating to self-service storage facilities, granting rule-making authority and providing a penalty.

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

SECTION 1e. 177.03 (intro.) of the statutes is amended to read:

**177.03 General rules for taking custody of intangible unclaimed property.** (intro.) Unless otherwise provided in this chapter or by another section of the statutes, intangible property is subject to the custody of this state as unclaimed property if the conditions raising a presumption of abandonment under ss. 177.02 and 177.05 to ~~177.16~~ 177.165 are satisfied, and one of the following conditions is present:

SECTION 1m. 177.165 of the statutes is created to read:

**177.165 Proceeds from sale of property in self-service storage facility.** Notwithstanding s. 177.02 (1), the proceeds of a sale under s. 704.90 (6) of personal property stored in a leased facility located within a self-service storage facility after satisfaction of the operator's lien under s. 704.90 (3) (a) is presumed abandoned.

SECTION 1s. 704.90 of the statutes is created to read:

**704.90 Self-service storage facilities.** (1) DEFINITIONS. In this section:

(a) "Default" means the lessee fails to pay rent or other charges due under a rental agreement for a period of 7 consecutive days after the due date under the rental agreement.

(am) "Last-known address" means the address provided by a lessee to an operator in the most recent rental agreement between the lessee and the operator or the address provided by a lessee to an operator in a written notice of a change of address, whichever address is provided later.

(b) "Leased space" means 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.

(c) "Lessee" means a person entitled to the use of a leased space, to the exclusion of others, under a rental

agreement, or the person's sublessee, successor or assign.

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

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

(f) "Rental agreement" means a lease or agreement between a lessee and an operator that establishes or modifies any provisions concerning the use of a leased space, including who is entitled to the use of the leased space.

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

(2) USE OF LEASED SPACE. (a) An operator may not knowingly permit a leased space to be used for residential purposes.

(b) A lessee may not use a leased space for residential purposes.

(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.

(3) LIEN AND NOTICE IN RENTAL AGREEMENT. (a) An operator has a lien on all personal property stored in a leased space for rent and other charges related to the personal property, including expenses necessary to the preservation, removal, storage, preparation for sale and sale of the personal property. The lien attaches as of the first day the personal property is stored in the leased space and is superior to any other lien on or security interest in the personal property except for a

statutory lien or a security interest that is perfected by filing prior to the first day the personal property is stored in the leased space or a security interest in a vehicle perfected under ch. 342.

(b) A rental agreement shall state in boldface type that the operator has a lien on personal property stored in a leased space and that the operator may satisfy the lien by selling the personal property, as provided in this section, if the lessee defaults or fails to pay rent for the storage of personal property abandoned after the termination of the rental agreement.

(4) CARE AND CUSTODY. Except as provided in the rental agreement and in this section, a lessee has exclusive care, custody and control of personal property stored in the lessee's leased space.

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

(4r) DENIAL OF ACCESS; REMOVAL AND STORAGE. (a) If a lessee defaults, an operator may deny the lessee access to the personal property until the lessee redeems the personal property under sub. (5) (a).

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

(5) REDEMPTION AND NOTICE OF OPPORTUNITY TO REDEEM. (a) At any time prior to sale under sub. (6), a lessee may redeem personal property by paying the operator any rent and other charges 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.

(b) An operator may not sell personal property under sub. (6) unless the operator first delivers the following 2 notices:

1. A first notice sent by regular mail to the last-known address of the lessee and the person, if any, specified in the rental agreement under sub. (2m) containing all of the following:

a. Notification that the lessee is in default or has failed to pay rent for the storage of personal property abandoned after the termination of the rental agreement or both.

b. A brief and general description of the personal property subject to the lien that is reasonably adequate to permit the lessee to identify it, except that any container including, but not limited to, a trunk, valise or box that is locked, fastened, sealed or tied in a manner which deters immediate access to its contents may be described as such without describing its contents.

c. A notice of denial of access to the personal property if such denial is permitted under the terms of the rental agreement or under sub. (4r).

d. The name, street address and telephone number of the operator whom the lessee may contact to redeem the personal property by paying the rent and other charges due.

2. A 2nd notice sent by certified mail to the last-known address of the lessee containing all of the following:

a. A statement that the operator has a lien on personal property stored in a leased space.

ag. A brief and general description of the personal property subject to the lien that is reasonably adequate to permit the lessee to identify it, except that any container including, but not limited to, a trunk, valise or box that is locked, fastened, sealed or tied in a manner which deters immediate access to its contents may be described as such without describing its contents.

am. A notice of denial of access to the personal property if such denial is permitted under the terms of the rental agreement or under sub. (4r).

b. An itemized statement of the operator's claim for rent and other charges due as of the date of the notice and of additional rent and other charges that will become due prior to sale and the dates when they will become due.

c. A demand for payment of the rent and other charges due within a time period not sooner than 14 days after the date of the notice.

d. A statement that unless the rent and other charges are paid within the time period under subd. 2. c, the personal property will be sold, a specification of the date, time and place of sale and a statement that if the property is sold the operator shall apply the proceeds of the sale first to satisfy the lien and shall report and deliver any balance to the state treasurer as provided under ch. 177.

e. The name, street address and telephone number of the operator whom the lessee may contact to redeem the personal property by paying the rent and other charges due.

(6) SALE, NOTICE OF SALE AND PROCEEDS OF SALE. (a) After the expiration of the time period given in the 2nd notice under sub. (5) (b) 2. c, an operator may sell personal property that was stored in a lessee's leased space to satisfy the lien under sub. (3) (a) in the manner set forth in pars. (b) and (c) if all of the following conditions are met:

2. The operator has complied with the notice requirements under sub. (5) (b).

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

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 is located.

5. The advertisement under subd. 4 contains all of the following:

a. A brief and general description of the personal property reasonably adequate to permit its identification, as provided in the notices under sub. (5) (b).

b. The address of the self-service storage facility, the number, if any, of the space where the personal property is located and the name of the lessee.

6. The sale takes place not sooner than 15 days after the first publication under subd. 4.

7. The sale is conducted in a commercially reasonable manner and conforms to the terms of the notices under sub. (5) (b).

8. The sale is held at the self-service storage facility or at the nearest suitable place to the place where the personal property is stored.

(b) The operator shall apply the proceeds of the sale first to satisfy the lien under sub. (3) (a). The operator shall report and deliver any balance to the state treasurer as provided under ch. 177.

(c) A purchaser in good faith of personal property sold takes the personal property free and clear of any rights of any person against whom the lien under sub. (3) (a) was valid and any rights of any other lienholder, regardless of any noncompliance with the requirements of this section by any person.

(7) NOTICE; PRESUMPTION OF DELIVERY. Notice by mailing under sub. (5) (b) is presumed delivered if deposited with the U.S. postal service, properly addressed to the last-known address of the lessee or person specified in the rental agreement under sub. (2m) with postage prepaid.

(8) SUPPLEMENTAL NATURE OF SECTION. This section does not impair or affect in any way the right of parties to create liens by special contract or agreement, nor does it impair or affect any lien not arising under this section, whether the other lien is statutory or of any other nature.

(9) RULES. The department of agriculture, trade and consumer protection may promulgate rules necessary to carry out the purposes of this section.

(10) PENALTIES. (a) Except as provided in par. (b), any person who violates this section or any rule promulgated under this section may be required to forfeit not more than \$1,000 for the first offense and may be required to forfeit not more than \$3,000 for the 2nd or any later offense within a year. Each day of continued violation constitutes a separate offense. The period shall be measured by using the dates of the offenses which resulted in convictions.

(b) Paragraph (a) does not apply to a lessee who violates sub. (4g) or (4r) (b) because he or she defaults or fails to pay rent for the storage of personal property abandoned after the termination of the rental agreement.

(c) Forfeitures under par. (a) shall be enforced by action on behalf of the state by the department of justice or by the district attorney of the county where the violation occurs.

(11) DUTIES OF THE DEPARTMENT OF JUSTICE. (a) Except as provided in par. (c), the department of justice shall investigate alleged violations of this section and rules promulgated under sub. (9). To facilitate its investigations, the department may subpoena persons and records and may enforce compliance with the subpoenas as provided in s. 885.12.

(b) Except as provided in par. (a), the department may, on behalf of the state, bring an action for temporary or permanent injunctive or other relief in any court of competent jurisdiction for any violation of this section or any rule promulgated under sub. (9).

(c) This subsection does not apply to a lessee who violates sub. (4g) or (4r) (b) because he or she defaults or fails to pay rent for the storage of personal property abandoned after the termination of the rental agreement.

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

**SECTION 1w. Program responsibility changes.** In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

A	B	C
Statute Sections	References Deleted	References Inserted
15.131 (intro.)	none	704.90 (9)
15.251 (intro.)	none	704.90 (10) and (11)

**SECTION 2. Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

<b>A</b>	<b>B</b>	<b>C</b>
Statute Sections	Old Cross-References	New Cross-References
704.11	704.05 (5) and 779.43	704.05 (5), 704.90 and 779.43

**SECTION 3. Initial applicability.** This act applies to rental agreements entered into, renewed or modified on and after the effective date of this SECTION.

---