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## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

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**2017 Wisconsin Act 325**  
[2017 Assembly Bill 469]

**Self-Service Storage  
Facilities and Units**

2017 Wisconsin Act 325 makes various changes to state law relating to: (1) disposal of personal property stored in a self-service storage facility (“facility”) or self-service storage unit (“unit”); (2) late fees for nonpayment of rent for a facility or unit; and (3) towing a vehicle stored in a facility or unit.

### **DISPOSAL OF PERSONAL PROPERTY**

#### **Notices**

##### **Background**

Under prior law, an operator could not dispose of or sell personal property stored in a facility or unit unless the operator first delivered two notices:

- **First Notice:** A notice sent by regular mail to the last-known address of the lessee and the person, if any, specified in the rental agreement that notifies the lessee that he or she is in default or has failed to pay rent to store personal property abandoned after the termination of the rental agreement, or both. The notice must contain certain information, including a brief and general description of the personal property that is reasonably adequate to permit the lessee to identify it.
- **Second Notice:** A notice sent by certified or first-class mail with a certificate of mailing to the last-known address of the lessee that notifies the lessee that the operator has a lien on the personal property stored in the leased space. The notice must contain certain information, including: (1) a brief and general description of the personal property; (2) an itemized statement of the operator’s claim for rent and other charges; (3) a demand for payment of the rent and other charges within a time period not sooner than 14 days after the date of the notice; and (4) a statement that unless the

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

rent and other charges are paid within that time period, the personal property may be disposed of or sold.

### **The Act**

Under the Act, an operator must deliver two notices before the operator disposes of or sells personal property stored in a facility or unit or before the operator has a vehicle removed, as described below. The Act generally retains the required contents of the notices, except that it makes the following changes:

- Email Delivery: Provides an option to send the notices by electronic mail (“email”) to the last-known email address of the lessee and, for the first notice, to the last-known email address of the person, if any, specified in the rental agreement. The Act also provides that a notice may be sent by email only if the operator uses a service that provides confirmation of the receipt of email and the operator receives confirmation that the notice was received.
- Verified Mail: If the second notice is sent by mail, requires the use of verified mail, rather than certified mail or first-class mail with a certificate of mailing. “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.
- Description of Property: Repeals the requirement that the notices contain a description of the personal property.

In addition, the Act requires the operator to have available, at the operator’s discretion, either photographs or a video of the personal property when the operator sends the second notice. The operator must make the photographs or video available to the lessee upon the lessee’s request.

### **Sale of Property**

#### **Advertisement**

Under state law, an operator may sell personal property stored in a facility or unit after the expiration of the time period given in the second notice, described above. An operator must comply with certain conditions before selling the property, including publishing an advertisement of the sale in a newspaper of general circulation where the facility or unit is located. Under **prior law**, the operator was required to publish the advertisement **once a week for two consecutive weeks**.

The **Act** requires an operator to publish the advertisement of the sale **once** in a newspaper of general circulation.

#### **Method of Sale**

Under state law, the sale of personal property stored in a facility or unit must conform to any of the following: (1) the property is offered either as a single parcel or multiple parcels at a public sale attended by three or more bidders; (2) the property has been offered to at least three persons who deal in the type of personal property offered for sale and is sold in a private

transaction; or (3) the property is sold in another manner that is commercially reasonable. In addition, a sale must be held at the facility or unit or at the nearest suitable place to the place where the property is stored.

The **Act** also allows a sale of personal property to be conducted by means of the Internet if the sale is conducted at an Internet site that is reasonably expected to attract bidders.

In addition, for a public sale at a physical location, the **Act** allows an operator to postpone a sale for up to 14 days due to inclement weather on the day of the sale if the operator complies with procedures specified in the Act.

### **Proceeds of Sale**

Under **prior law**, the operator was required to apply the proceeds of a sale of personal property first to satisfy the lien and then deliver any balance to the Secretary of the Department of Revenue (DOR) as unclaimed property.

The **Act** requires an operator to first apply the proceeds of a sale to satisfy a lien but then return any balance of the proceeds to the lessee. However, if the operator cannot with due diligence locate the lessee, the operator must deliver any balance to the DOR Secretary as unclaimed property.

### **Redemption of Property**

#### **Background**

Under prior law, at any time prior to disposal or sale of personal property, a lessee could redeem personal property by paying the operator **any rent** and other charges due.

#### **The Act**

Under the Act, at any time prior to disposal or sale of personal property, or removal of a vehicle, a lessee may redeem personal property by paying the operator the **full amount of rent** and **all** other charges, if any, that are due.

### **LATE FEES**

#### **Background**

Under state law, an operator may charge a reasonable late fee for each month a lessee does not pay rent if the amount of the late fee is contained in the rental agreement. Under prior law, the late fee could be charged if the lessee did not pay rent by **five weekdays** after the rent was due.

#### **The Act**

The Act changes the timeline of five weekdays to five days. Thus, under the Act, an operator may charge a reasonable late fee for each month a lessee does not pay rent by **five days** after the rent is due if the amount of the late fee is contained in the rental agreement.

## TOWING VEHICLES

### Background

Under state law, if a vehicle is parked on private property and is not authorized to be parked there, the vehicle may be removed, at the vehicle owner's expense, without permission of the vehicle owner. If the private property is properly posted,<sup>1</sup> the vehicle may be removed regardless of whether a citation is issued for illegal parking. However, if private property is not properly posted, the vehicle may be removed upon the issuance of a repossession judgment or upon the issuance of a citation for illegal parking. A vehicle may be removed from private property only by a towing service at the request of the property owner or owner's agent, a traffic officer, or a parking enforcer.

### The Act

The Act creates a specific procedure to remove vehicles from a facility or unit. Under the Act, a facility or unit 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:

- The lessee failed to pay rent or other charges under a rental agreement for at least seven consecutive days after the due date under the rental agreement.
- The operator has provided the two notices described above, that are required before an operator may have a vehicle removed from a facility or unit.
- Before the operator sent the second notice, 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.
- The lessee has failed to redeem the vehicle within the time specified in the second notice.

Under the Act, a vehicle may be removed from a leased space only by a towing service at the request of the operator, a traffic officer, or a parking enforcer. The operator is immune from civil liability from any damage to or loss of the vehicle arising from or related to the removal and towing of the vehicle.

**Effective date:** The Act takes effect on July 1, 2018, and first applies to a rental agreement entered into, modified, or renewed on July 1, 2018.

**Prepared by:** Jessica Karls-Ruplinger, Deputy Director

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<sup>1</sup> "Properly posted" means there is clearly visible notice that an area is private property and that vehicles that are not authorized to park in this area may be immediately removed.