

Self-service storage

Do you need a place to store your things temporarily? A self-service storage facility may be the answer to your problems.

Before renting, find out if the facility is:

- Secure from break-ins, vermin, and water damage.
- Heated or ventilated to prevent mildew?

Wisconsin law governs the rights and responsibilities of both the operators and renters of storage facilities. Rental agreements with self-service storage facilities must inform the renter that the owner holds a lien on the property being stored.

If the renter fails to pay rental fees or abandons the property, the owner can recover his or her money by selling the possessions.

Renters may be considered in default just seven days after payment is due on the rental agreement.

The owner of the rental facility could lock up the belongings or remove them to another area, while they continue to charge a reasonable rent.

The owner must make two attempts to contact the renter; first by regular mail and then via certified mail. If there is no response, the owner can begin to make plans to sell the property. Of course, renters can get their property back anytime before the sale if overdue rent charges are paid.

Before signing a contract for storage services, read it carefully. Check to see if any insurance is offered on your items while in storage. Make sure you understand and agree to all provisions in the

contract, and then be sure your payments are up-to-date.

Self-service storage facilities are not inspected or licensed by the state. Licensed warehouses—which take possession of property—are inspected by the Department of Agriculture, Trade and Consumer Protection.

For more information or to file a complaint, contact the Bureau of Consumer Protection:

(800) 422-7128

2811 Agriculture Drive
PO Box 8911
Madison WI 53708-8911
(608) 224-4976

FAX: (608) 224-4939

TTY: (608) 224-5058

**E-MAIL:
DATCPHotline@Wisconsin.gov**

**WEBSITE:
www.datcp.state.wi.us**

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704.90 LANDLORD AND TENANT

Updated 07-08 Wis. Stats. Database

Not certified under s. 35.18 (2), stats.

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, a security interest in a vehicle perfected under ch. 342 or a security interest in a boat perfected under ch. 30.

(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.

(4b) LATE FEE. (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.

(b) A late fee of \$20 or 20 percent of the monthly rental amount, whichever is greater, is presumed reasonable. An operator may charge a higher late fee but has the burden of proof that the higher late fee is reasonable.

(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 AGRICULTURE, TRADE AND CONSUMER PROTECTION. (a) Except as provided in par. (c), the department of agriculture, trade and consumer protection 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.

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

177.165 & 177.17 UNCLAIMED PROPERTY ACT

Updated 07–08 Wis. Stats. Database

Not certified under s. 35.18 (2), stats.

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. **History:** 1987 a. 23.

While excess proceeds from sales under s. 704.90 (6) are presumed abandoned, nothing in ch. 177 suggests that this presumption may not be overcome. Nothing suggests that the holder may continue to hold the excess proceeds even if the person whose property was sold presents himself or herself in person to the holder or otherwise contacts the holder. *Cook v. Public Storage, Inc.* 2008 WI App 155, ___ Wis. 2d ___, ___ N.W.2d ___, 07-2077.

177.17 Reporting, payment, and delivery of abandoned property. (1) A person holding tangible or intangible property presumed abandoned and subject to custody as unclaimed property under this chapter shall report to the administrator concerning the property as provided in this section.

(2) The report shall be verified and shall include all of the following:

(a) Except with respect to travelers checks and money orders, the name, if known, and last-known address, if any, of each person appearing from the records of the holder to be the owner of property with a value of \$50 or more presumed abandoned under this chapter.

(b) In the case of unclaimed funds of \$50 or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last-known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds.

(c) In the case of the contents of a safe deposit box or other safekeeping repository or of other tangible property, a description of the property and the place where it is held and may be inspected by the administrator, and any amounts owing to the holder.

(d) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items with a value of less than \$50 each may be reported in the aggregate.

(e) The date the property became payable, demandable or returnable, and the date of the last transaction with the apparent owner with respect to the property.

(f) Other information the administrator prescribes by rule as necessary for the administration of this chapter.

(3) If the person holding property presumed abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the property for the apparent owner or if the holder has changed his or her name while holding the property, the holder shall file with his or her report all known names and addresses of each previous holder of the property.

(4) (a) 1. Before November 1 of each year, each holder shall file a report covering the previous fiscal year. In this paragraph, "fiscal year" means the period beginning on July 1 and ending on the following June 30. On written request by any person required to file a report, the administrator may extend the deadline established in this paragraph.

2. Except as otherwise provided in this subdivision and s. 177.06 (4), upon filing the report under subd. 1., the holder shall pay or deliver to the administrator all abandoned property required to be reported. This subdivision does not apply to abandoned property that is in the form of amounts credited under s. 20.912 (1) to the support collections trust fund or amounts not distributable from the support collections trust fund to the persons for whom the amounts were awarded.

(b) The holder of an interest under s. 177.10 or a stock or other intangible ownership interest presumed abandoned under s. 177.075 (1) shall deliver to the administrator, upon filing the report required under this section, a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership. Upon delivery of a duplicate certificate to the administrator, the holder and any transfer agent, registrar or other person acting for or on behalf of a holder in executing or delivering the duplicate certificate are relieved of all liability, as provided under s. 177.20, to any person, including any person acquiring the original certificate or the duplicate of the certificate issued to the administrator, for any loss or damage caused by the issuance and delivery of the duplicate certificate to the administrator.

(5) Not more than 120 days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this chapter shall send written notice to the apparent owner at his or her last-known address informing him or her that the holder is in possession of property subject to this chapter if all of the following exist:

(a) The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate.

(b) The claim of the apparent owner is not barred by the statute of limitations.

(c) The property has a value of \$50 or more.

History: 1983 a. 408; 1987 a. 399; 2001 a. 16 ss. 2888 to 2890, 2897; 2003 a. 33; 2005 a. 400; 2007 a. 157.

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