

Oklahoma Lien Law

§42-191. Short title.

Sections 1 through 9 of this act shall be known and may be cited as the "Self-Service Storage Facility Lien Act".

Added by Laws 1998, c. 306, § 1, eff. Nov. 1, 1998.

§42-192. Definitions.

As used in this act, unless the context otherwise requires:

1. "Default" means the failure to perform in a timely manner any obligation or duty set forth in this act or the rental agreement;
2. "Last-known address" means that address provided by the occupant in the latest rental agreement or the address provided by the occupant in a subsequent written notice of a change of address;
3. "Occupant" means a person, or his sublessee, successor, or assign, entitled to the use of the storage space at a self-service storage facility under a rental agreement, to the exclusion of others;
4. "Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility, his agent, or any other person authorized by him to manage the facility or to receive rent from an occupant under a rental agreement;
5. "Personal property" means movable property not affixed to land and includes, but is not limited to, goods, merchandise, and household items;
6. "Rental agreement" means any written agreement or lease which establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy at a self-service storage facility and which contains a notice stating that all articles stored under the terms of such agreement will be sold or otherwise disposed of if no payment has been received for a continuous thirty-day period; and
7. "Self-service storage facility" means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such facility for the purpose of storing and removing personal property.

Added by Laws 1998, c. 306, § 2, eff. Nov. 1, 1998.

§42-193. Applicability of Article 7 of Commercial Code.

If an owner issues any warehouse receipt, bill of lading, or other document of title for the personal property stored, the owner and the occupant are subject to the provisions of Article 7 of Title 12A of the Oklahoma Statutes, and the provisions of this act are not applicable.

Added by Laws 1998, c. 306, § 3, eff. Nov. 1, 1998.

§42-194. Duty of care - Disclosure.

A. The duty of care an owner must exercise with respect to personal property located in a self-service storage facility is ordinary care only.

B. Each owner of a self-service storage facility shall provide a disclosure in the rental agreement, in conspicuous terms and in a conspicuous manner, that the occupant has a duty to safeguard the personal property located in a self-service storage facility from losses and that the owner has no legal obligation to provide insurance to protect the personal property from loss.

C. No owner of a self-service storage facility shall be liable for loss sustained by an occupant as a result of theft committed by a third party provided that ordinary care was exercised.

Added by Laws 1998, c. 306, § 4, eff. Nov. 1, 1998.

§42-195. Default by occupant - Prevention of access - Liability for damage to property.

A. An owner shall have the right to take such action as may be required to prevent an occupant who has committed an act of default pursuant to the rental agreement from gaining access to the self-service storage facility or any specific location at which personal property is stored by an occupant. The owner of a self-service storage facility shall not be liable for damages sustained by an occupant, if any, alleged to result from action taken by the owner to prevent access to the self-service storage facility after the occupant has committed an act of default pursuant to the rental agreement.

B. If an occupant damages any real or personal property of the owner in order to attempt to regain access to a self-service storage facility, or any component of a self-service storage facility, including but not limited to the destruction of a padlock or similar device, in addition to criminal liability, the occupant shall be liable for the damage caused and the owner of the self-service storage facility may add the damages or expenses incurred as a result of the action taken by the occupant to the amount of unpaid storage charges for purposes of enforcing the lien authorized by Section 6 of this act.

Added by Laws 1998, c. 306, § 5, eff. Nov. 1, 1998.

§42-196. Lien - Date of attachment - Disclosure of other lienholders.

A. Where a rental agreement, as defined in Section 2 of this act, is entered into between the owner and the occupant, the owner of a self-service storage facility and his heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at the self-service storage facility for rent, labor, or other charges, present or future, in relation to the personal property and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to this act.

B. The lien attaches as of the date the personal property is brought to the self-service storage facility and continues so long as the owner retains possession and until the default is corrected, or a sale is conducted, or the property is

otherwise disposed of to satisfy the lien.

C. The rental agreement shall contain a provision directing the occupant to disclose any lienholders with an interest in property that is or will be stored in a self-service storage facility.

Added by Laws 1998, c. 306, § 6, eff. Nov. 1, 1998.

§42-197. Priority - Enforcement - Notice - Sale of property.

A. An owner's lien as provided for a claim which has become due may be satisfied as provided by this section. The possessory lien authorized by this section shall be prior to any previously perfected security interest in the personal property pursuant to Section 19333 of Title 12A of the Oklahoma Statutes.

B. No enforcement action shall be taken by the owner until the occupant has been in default continuously for a period of thirty (30) days. As used in this subsection, "enforcement action" shall not include actions of the owner taken pursuant to Section 5 of this act.

C. After the occupant has been in default continuously for a period of thirty (30) days, the owner may begin enforcement action if the occupant has been notified in writing. Said notice shall be delivered in person or sent by certified mail return receipt requested to the last-known address of the occupant. Any lienholder with an interest in the property to be sold or otherwise disposed of, of whom the owner has actual knowledge, shall be included in the notice process as provided in this section.

D. The notice shall include:

1. An itemized statement of the owner's claim showing the sum due at the time of the notice and the date when the sum became due;
2. A brief and general description of the personal property subject to the lien. The description shall be reasonably adequate to permit the person notified to identify such property, 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;
3. A notification of denial of access to the personal property, if such denial is permitted under the terms of the rental agreement, which notification shall provide the name, street address, and telephone number of the owner or his designated agent whom the occupant may contact to respond to such notification;
4. A demand for payment within a specified time not less than fifteen (15) days after delivery of the notice; and
5. A conspicuous statement that, unless the claim is paid within the time stated in the notice, the personal property will be advertised for sale or other disposition and will be sold or otherwise disposed of at a specified time and place.

E. Any notice made pursuant to this section shall be presumed delivered when it is deposited with the United States Postal Service and properly addressed with postage prepaid.

F. After the expiration of the time given in the notice, an advertisement of the sale or other disposition shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the county where the self-service storage facility is located.

G. The advertisement prescribed by subsection F of this section shall include:

1. A brief and general description of the personal property reasonably adequate to permit its identification as provided in paragraph 2 of subsection D of this section, the address of the self-service storage facility and the number, if any, of the space where the personal property is located, and the name of the occupant and his last-known address;
2. The time, place, and manner of the sale or other disposition. The sale or other disposition shall take place not sooner than fifteen (15) days after the first publication; or
3. If there is no newspaper of general circulation in the county where the self-service storage facility is located, the advertisement shall be posted at least ten (10) days before the date of the sale or other disposition in not less than six conspicuous places in the neighborhood where the self-service storage facility is located.

H. Any sale or other disposition of the personal property shall conform to the terms of the notification as provided for in this section.

I. Any sale or other disposition of the personal property shall be held at the self-service storage facility or at the nearest suitable place to where the personal property is held or stored.

J. Before any sale or other disposition of personal property pursuant to this section, the occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section and thereby redeem the personal property. Upon receipt of such payment, the owner shall return the personal property, and thereafter the owner shall have no liability to any person with respect to such personal property.

K. A purchaser in good faith of the personal property sold to satisfy a lien as provided in this act takes the property free of any rights of persons against whom the lien was valid and free of any rights of a secured creditor, despite noncompliance by the owner with the requirements of this section.

L. In the event of a sale under this section, the owner may satisfy his lien from the proceeds of the sale.

M. If the proceeds from sale of the property are less than the amount required to pay the obligation secured by the lien, the owner may pursue a deficiency against the tenant. If the proceeds from sale of the property are more than the amount required to pay the obligation secured by the owner's lien, the owner shall hold the excess proceeds for a period of ninety (90) days from the date of the sale. During this period, any persons, including the tenant, claiming an interest in the excess proceeds from the sale of the property shall present adequate proof of their claim to the owner. After the expiration of the ninety-day period, the owner shall make such distribution of the excess proceeds as is required based upon the claims presented. If after making distribution of the proceeds as prescribed by this subsection there are any remaining proceeds, the proceeds shall become the property of the owner without further recourse by the occupant, any lienholder or other person in interest.

N. If the requirements of this act are not satisfied, if the sale of the personal property is not in conformity with the

notice of sale, or if there is a willful violation of this act, nothing in this section affects the rights and liabilities of the owner, the occupant, or any other person.

O. Any purchaser of personal property sold pursuant to this section for which a certificate of title has been issued by the Oklahoma Tax Commission shall obtain a certificate of title to be issued in the purchaser's name in the same manner as provided by law for the issuance of a certificate of title for property requiring a certificate of title sold pursuant to the provisions of Sections 91 through 102 of Title 42 of the Oklahoma Statutes.

Added by Laws 1998, c. 306, § 7, eff. Nov. 1, 1998. Amended by Laws 1999, c. 212, § 3, eff. Nov. 1, 1999; Laws 2000, c. 371, § 172, eff. July 1, 2001.

§42-197.1. Abandonment or surrender – Possession – Disposal – Notice.

A. If the occupant abandons or surrenders possession of the self-service storage facility and leaves household goods, furnishings, fixtures, or any other personal property in the self-service storage facility, the owner may take possession of the property, and if, in the judgment of the owner, the property has no ascertainable or apparent value, the owner may dispose of the property without any duty of accounting or any liability to any party.

B. If the occupant abandons or surrenders possession of the self-service storage facility and leaves household goods, furnishings, fixtures, or any other personal property in the self-service storage facility, the owner may take possession of the property, and if, in the judgment of the owner the property has an ascertainable or apparent value, such property left with the owner for a period of thirty (30) days or longer shall be conclusively determined to be abandoned and as such the owner may dispose of said property in any manner which he deems reasonable and proper without liability to the occupant or any other interested party; however, before the property is disposed of, the owner shall provide written notice to the occupant, by certified mail with return receipt requested, and the owner may dispose of the property fifteen (15) days after the owner receives the return receipt document or fifteen (15) days after the owner receives a communication from the United States Post Office that the written notice was not claimed by the addressee, whichever period occurs first.

Added by Laws 1999, c. 212, § 4, eff. Nov. 1, 1999.

§42-198. Residential use prohibited.

No occupant shall use a self-service storage facility for residential purposes.

Added by Laws 1998, c. 306, § 8, eff. Nov. 1, 1998.

§42-199. Other rights not impaired or affected.

Nothing in this act shall be construed as in any manner impairing or affecting the right of parties to create liens by special contract or agreement, nor shall it in any manner affect or impair other liens arising at common law in equity, or by any statute of this state.

Added by Laws 1998, c. 306, § 9, eff. Nov. 1, 1998.

§42-200. Publication of act.

The Oklahoma Real Estate Commission shall cause the "Self-Service Storage Facility Lien Act" to be reproduced in a publication together with other statutes of the State of Oklahoma as are ordinarily reproduced by the Commission for distribution to the public.

Added by Laws 1998, c. 306, § 10, eff. Nov. 1, 1998.