



## 2009 BILL

1     **AN ACT to repeal** 704.90 (12); **to renumber and amend** 704.90 (6) (a) 7.; **to**  
2     **amend** 704.90 (2m), 704.90 (4g), 704.90 (5) (a), 704.90 (5) (b) (intro.), 704.90 (5)  
3     (b) 2. (intro.), 704.90 (5) (b) 2. d., 704.90 (6) (a) 4. and 704.90 (6) (a) 5. b.; and **to**  
4     **create** 704.90 (3) (c), 704.90 (5m) and 704.90 (6) (a) 7. a., b. and c. of the statutes;  
5     **relating to:** self-service storage facility notices and procedures.

---

### ***Analysis by the Legislative Reference Bureau***

Current law regulates the operation of self-storage facilities, including requiring written rental agreements, creating liens on personal property stored in the facility, limiting late rental fees, and establishing the procedures when a person fails to pay the rental fee. One of those procedures requires the operator of a self-storage facility to send two notices to the person who has failed to pay the rental fee at the facility before the operator may sell the personal property left in the facility. The notices describe the methods that will be used to sell the personal property if the person does not pay the rental fee. Currently, the facility operator must send the first notice by regular mail and the second notice by certified mail to the person's last-known address. In addition, the facility operator must advertise the sale of the personal property once a week for two consecutive weeks by publication in a newspaper of general circulation where the facility is located.

If the personal property is worth less than \$100, the bill allows the facility operator, after providing proper notice, to donate the property to a nonprofit organization, dispose of the property in a solid waste facility, recycle the property, or remove the property from the facility in another reasonable manner.

**BILL**

This bill requires the facility operator to send the second notice of the failure to pay rent by certified mail or first class mail with a certificate of mailing to the person's last-known address. The bill allows the facility operator to advertise the sale of the personal property by publishing one notice in a newspaper of general circulation where the facility is located in addition to a posting in two public places. The Internet is included as a public place in the bill.

Currently, the notice of the sale must include a description of the personal property to be sold and the address of the self-service storage facility, the number of the space where the property is located, and the name of the lessee. This bill removes the requirement that the notice include the number of the space where the property is located.

Under current law, the sale of the personal property must be conducted in a commercially reasonable manner. This bill replaces that language with a requirement that the sale be a public sale with three or more bidders or that the personal property be offered for sale to at least three persons who deal with the type of property for sale, or that the sale be conducted in another manner that is commercially reasonable.

The bill requires a rental agreement that includes a provision that limits the value of property stored to print that provision in bold type or underlined type of the same size as the rest of the agreement. If such a provision is in the rental agreement, that limit is presumed to be the maximum value of the property stored.

Current law gives the Department of Agriculture, Trade and Consumer Protection authority to promulgate rules regarding self-storage facilities, investigate violations of the statutory provisions, and bring court actions against violators. Current law also allows a private person to bring a civil action for any damages the person incurs as the result of a violation of the statutory provisions. This bill removes the private right to bring a civil action.

---

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

1           **SECTION 1.** 704.90 (2m) of the statutes is amended to read:  
2           704.90 **(2m)** WRITTEN RENTAL AGREEMENT. Every rental agreement shall be in  
3 writing and shall contain a provision allowing the lessee to specify the name and  
4 last-known address of a person who, in addition to the lessee, the operator is  
5 required to notify under sub. (5) (b) 1. If the rental agreement contains a provision  
6 that places a limit on the value of property that is stored in the leased space, that

**BILL**

1 provision shall be typed in bold type or underlined type of the same size as the  
2 remainder of the agreement.

3 **SECTION 2.** 704.90 (3) (c) of the statutes is created to read:

4 704.90 (3) (c) If the rental agreement contains a limit on the value of property  
5 stored in the lessee's storage space, the limit shall be presumed to be the maximum  
6 value of the property stored in that space.

7 **SECTION 3.** 704.90 (4g) of the statutes is amended to read:

8 704.90 (4g) DEFAULT OR FAILURE TO PAY AFTER TERMINATION. A lessee who defaults  
9 or fails to pay rent for the storage of personal property abandoned after the  
10 termination of the rental agreement is subject to the procedures and remedies in  
11 subs. (4r) to (9) and ~~(12)~~.

12 **SECTION 4.** 704.90 (5) (a) of the statutes is amended to read:

13 704.90 (5) (a) At any time prior to disposal under sub. (5m) or sale under sub.  
14 (6), a lessee may redeem personal property by paying the operator any rent and other  
15 charges due. Upon receipt of such payment, the operator shall return the personal  
16 property, and thereafter the operator shall have no liability to any person with  
17 respect to such personal property.

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

19 704.90 (5) (b) (intro.) An operator may not dispose of personal property under  
20 sub. (5m) or sell personal property under sub. (6) unless the operator first delivers  
21 the following 2 notices:

22 **SECTION 6.** 704.90 (5) (b) 2. (intro.) of the statutes is amended to read:

23 704.90 (5) (b) 2. (intro.) A 2nd notice sent by certified mail or 1st class mail with  
24 a certificate of mailing to the last-known address of the lessee containing all of the  
25 following:

**BILL**

1           **SECTION 7.** 704.90 (5) (b) 2. d. of the statutes is amended to read:

2           704.90 (5) (b) 2. d. A statement that unless the rent and other charges are paid  
3 within the time period under subd. 2. c., the personal property may be disposed of if  
4 the property is worth less than \$100 or will be sold, a specification of the date, time  
5 and place of the sale and a statement that if the property is sold the operator shall  
6 apply the proceeds of the sale first to satisfy the lien and shall report and deliver any  
7 balance to the state treasurer as provided under ch. 177.

8           **SECTION 8.** 704.90 (5m) of the statutes is created to read:

9           704.90 (5m) DISPOSAL OF CERTAIN PROPERTY. If the fair market value of personal  
10 property that was stored in the lessee's leased space is less than \$100, an operator  
11 may do any of the following:

12           (a) Donate the personal property to an organization described in section 501  
13 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under s.  
14 501 (a) of the Internal Revenue Code.

15           (b) Dispose of the personal property in a solid waste facility.

16           (c) Have the personal property recycled.

17           (d) Remove the personal property in another manner that is reasonable under  
18 the circumstances.

19           **SECTION 9.** 704.90 (6) (a) 4. of the statutes is amended to read:

20           704.90 (6) (a) 4. An advertisement of the sale is published once a week for 2  
21 consecutive weeks in a newspaper of general circulation where the self-service  
22 storage facility is located, or is published once in a newspaper of general circulation  
23 where the self-storage facility is located and is posted in 2 public places to give notice  
24 to the persons affected. In this subdivision, the Internet is considered a public place.

25           **SECTION 10.** 704.90 (6) (a) 5. b. of the statutes is amended to read:

