

LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature First Regular Session - 2019

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 145, As Amended

BY BUSINESS COMMITTEE

AN ACT

RELATING TO SELF-SERVICE STORAGE FACILITIES; AMENDING SECTION 55-2301, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE TERMS; AMENDING SECTION 55-2304, IDAHO CODE, TO REVISE PROVISIONS REGARDING RENTAL AGREEMENTS; AMENDING SECTION 55-2305, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE CREATION OF LIENS; AMENDING SECTION 55-2306, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE ENFORCEMENT OF LIENS; AMENDING CHAPTER 23, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-2308, IDAHO CODE, TO PROVIDE A PROCEDURE IN THE EVENT OF DEFAULT WHEN THE PROPERTY STORED IN THE LEASED SPACE IS A VEHICLE OR TRAILER; AND AMENDING CHAPTER 23, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-2309, IDAHO CODE, TO PROVIDE THAT AN OPERATOR MAY DENY ACCESS TO THE LEASED SPACE UNDER CERTAIN CONDITIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 55-2301, Idaho Code, be, and the same is hereby amended to read as follows:

55-2301. DEFINITIONS. As used in this chapter:

(1) "Default" means the failure by the lessee to perform, on time, any obligation or duty set forth in the rental agreement or the provisions of this chapter.

(2) "E-mail" means an electronic message or an executable program or computer file that contains a message that is transmitted between two (2) or more computers or electronic terminals, including electronic messages that are transmitted within or between computer networks.

(3) "Last known address" means that address provided by the lessee in the rental agreement or the address provided by the lessee to the operator in a subsequent written notice of a change of address.

(4) "Last known e-mail address" means the e-mail address provided by the lessee in a rental agreement or, if the lessee provides a subsequent written notice of a change of address, the e-mail address provided in the written notice of a change of address.

(35) "Leased space" means the individual storage space at the self-service storage facility which is or may be rented to a lessee pursuant to a rental agreement. The leased space may be enclosed, covered, or open storage.

(46) "Lessee" means a person, sublessee, successor, or assignee entitled to the use of a leased space at a self-service storage facility under the terms of a rental agreement.

(57) "Operator" means any person authorized by the owner, operator, lessor, or sublessor of a self-service storage facility or an agent or another person authorized to manage the facility or to receive rent from a lessee under a rental agreement. The term does not include a warehouse oper-

ator if the warehouse operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored.

~~(6) "Owner" means the person who holds legal title to the self-service storage facility. An owner may also be an operator.~~

(78) "Personal property" means those items placed within the leased space and includes, but is not limited to, goods, wares, merchandise, motor vehicles, watercraft and household items and furnishings.

(89) "Rental agreement" means a signed, written agreement or contract that establishes or modifies conditions or rules concerning the use and occupancy by a lessee of leased space at a self-service storage facility and includes any signed, written amendment to such an agreement.

(910) "Self-service storage facility" means any real property used for renting or leasing individual storage space in which the lessees themselves store and remove their own personal property on a "self-service" basis.

(11) "Vehicle" is as defined in section 49-123, Idaho Code, and "trailer" is as defined in section 49-121, Idaho Code. Should the operator choose to proceed with a lien sale of a vehicle, the operator must comply with the provisions of chapter 17, title 49, Idaho Code.

(12) "Verified mail" means certified mail, registered mail, statutory overnight delivery, or any method of mailing or delivery in which the United States postal service or private delivery service furnishes proof that the mail was sent.

SECTION 2. That Section 55-2304, Idaho Code, be, and the same is hereby amended to read as follows:

55-2304. RENTAL AGREEMENT. (1) From and after July 1, 1990, any operator offering storage spaces in a self-service storage facility for rent shall provide a written rental agreement which shall be executed by the operator and the lessee. The operator of a ~~self-storage~~ self-service storage facility shall provide a lessee with a copy of the rental agreement at the time of the rental by delivery at that time or by e-mail to the lessee at the lessee's last known e-mail address.

(2) The rental agreement shall contain a conspicuous statement advising the lessee:

(a) Of the existence of the operator's lien;

(b) That the property in the leased space may be sold to satisfy the lien if the lessee is in default; ~~and~~

(c) That the personal property stored in a ~~storage~~ leased space will not be insured unless the lessee obtains insurance on his property;

(d) Of the amount of any late fee and the conditions for imposing the fee; and

(e) That all notices and correspondence may be transmitted via mail or e-mail as provided for in the rental agreement.

(3) The rental agreement shall contain a provision requiring the lessee to disclose any lienholders or secured parties who have an interest in property that is stored in the ~~self-service storage facility~~ leased space.

(4) If the rental agreement specifies a limit on the value of personal property that the lessee may store in the leased space, the limit must be deemed to be the maximum value of the personal property in the leased space and the maximum liability on the part of the operator to the lessee for any

1 loss of or damage to the personal property. Nothing in this section shall be
 2 deemed to create any liability on the part of the operator to the lessee for
 3 any loss of or damage to the lessee's personal property, regardless of cause.

4 (5) The parties may agree that all notices and correspondence may be
 5 transmitted by mail or e-mail, or any combination thereof, as agreed under
 6 the rental agreement and that said notice and correspondence shall be con-
 7 structive and conclusive notice under the rental agreement. If an operator
 8 sends a notice by e-mail and does not receive a response, return receipt, or
 9 delivery confirmation from the e-mail address to which the notice was sent
 10 within three (3) business days after the day on which the notice was sent,
 11 the operator shall deliver the notice in person or by verified mail to the
 12 lessee's last known address.

13 (6) A reasonable late fee may be imposed and collected by an opera-
 14 tor for each period that a lessee does not pay rent, fees, or other charges
 15 when due under the rental agreement, if the amount of the late fee and the
 16 conditions for imposing the fee are stated in the rental agreement. A late
 17 fee of twenty dollars (\$20.00) or twenty percent (20%) of the monthly rent,
 18 whichever is greater, is a reasonable fee and will not be considered a
 19 penalty.

20 (7) Nothing in this chapter shall be construed in any manner as impair-
 21 ing or affecting the right of parties to create additional rights, duties,
 22 and obligations in and by virtue of a rental agreement. In addition to the
 23 rights and remedies set forth in this chapter, the operator has the same
 24 rights and remedies available to a creditor or landlord under Idaho law.

25 SECTION 3. That Section 55-2305, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 55-2305. LIEN CREATED. The ~~owner~~ operator of a self-service storage
 28 facility, his heirs, executors, administrators, successors, and assigns
 29 shall have a lien on all personal property stored within each leased space
 30 located at the self-service storage facility for rent, labor, fees, or
 31 other charges, present or future, and for expenses reasonably incurred in
 32 enforcing the lien. Self-service storage facility liens shall be brought
 33 exclusively under the provisions of this chapter. Notwithstanding any other
 34 provision of this chapter, the exclusive care, custody, and control of the
 35 personal property stored within each leased space remains with the lessee
 36 until the property has been sold or disposed of pursuant to this chapter.

37 SECTION 4. That Section 55-2306, Idaho Code, be, and the same is hereby
 38 amended to read as follows:

39 55-2306. ENFORCEMENT OF LIEN. (1) Action to enforce a lienholder's
 40 claim ~~which that~~ has become due against a lessee and ~~which that~~ is secured by
 41 the ~~owner's~~ operator's lien may be taken by the ~~owner or~~ operator after the
 42 lessee has been in default ~~of the rental agreement~~ continuously for a period
 43 of sixty (60) days.

44 (2) The operator shall send notice by ~~certified~~ verified mail or e-mail
 45 to the lessee at his last known address or last known e-mail address and by
 46 mail to all persons disclosed by the lessee as claiming a security interest
 47 in the stored property. The notice shall include:

1 (a) The name, address and telephone number of the person claiming the
2 lien;

3 (b) An itemized statement of the lienholder's claim showing the sum due
4 at the time of the notice and the date when the sum became due;

5 (c) A demand for payment within a time specified, not less than ten (10)
6 days after mailing or e-mailing of the notice;

7 (d) A statement that unless the claim is paid within the time stated in
8 the notice, the personal property shall be advertised for sale and ~~shall~~
9 ~~be sold at a specified time and place, but which shall not be sooner than~~
10 ten (10) days after the first publication;

11 (e) A brief and general description of the goods subject to the lien;
12 and

13 (f) Notification that the operator has denied or may deny access by the
14 lessee to his personal property until the lien has been satisfied.

15 (3) Upon expiration of the time specified in subsection (2) (c) of this
16 section, an advertisement of the sale shall be published once ~~a week for two~~
17 ~~(2) consecutive weeks~~ in a newspaper of general circulation in the county
18 where the self-service storage facility is located. The operator may also
19 advertise the sale in any other commercially reasonable manner, including
20 on a publicly accessible website that regularly offers personal property for
21 auction or sale. The advertisement shall include:

22 (a) The location, date, time and manner of the sale of the property
23 stored in the leased space at the self-service storage facility;

24 (b) A brief and general description of the personal property; and

25 (c) The name and last known address of the lessee.

26 (4) At any time before the advertised sale of the personal property has
27 been conducted or the vehicle or trailer has been towed, the lessee or any
28 other person may pay the amount necessary to satisfy the lien, including all
29 documented and verifiable labor and expenses incurred in enforcing the lien,
30 and be permitted to remove the personal property, vehicle, or trailer from
31 the leased space.

32 (5) In the event of a sale, the operator shall:

33 (a) Ensure that the sale is conducted in conformance with the terms of
34 the published notice;

35 (b) Identify the specific properties and disclose the names and ad-
36 dresses provided by the lessee, of persons claiming a security interest
37 in the specified properties; and

38 (c) Comply with the provisions of chapter 17, title 49, Idaho Code, when
39 foreclosing on titled vehicles.

40 (6) The proceeds of the sale must be applied to the discharge of the lien
41 and costs. The remainder, if any, shall be paid over to the lessee or any
42 other person authorized in writing by the lessee to claim the balance.

43 (7) The operator may dispose of the personal property without liability
44 to any person if the operator has complied with the provisions of subsections
45 (1) through (5) of this section, and the personal property has not been pur-
46 chased.

47 (8) The operator may conduct the lien sale without obtaining an auc-
48 tioneer's license and may offer the personal property for sale as a unit or
49 in parcels on a publicly accessible website that regularly offers personal

1 property for auction or sale, at the self-service storage facility or at an-
 2 other location determined by the operator.

3 (9) A purchaser in good faith of any personal property sold pursuant to
 4 this section to satisfy the lien shall take the property free and clear of any
 5 rights of persons against whom the lien was valid, even if the operator has
 6 not complied with the provisions of this chapter or the rental agreement.

7 SECTION 5. That Chapter 23, Title 55, Idaho Code, be, and the same is
 8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 9 ignated as Section 55-2308, Idaho Code, and to read as follows:

10 55-2308. LESSEE IN DEFAULT -- VEHICLE OR TRAILER REMOVAL. (1) If a
 11 lessee is in default of the rental agreement for sixty (60) days or more and
 12 the personal property stored in the leased space is a vehicle or trailer, the
 13 operator may have the vehicle or trailer towed from the self-service storage
 14 facility by an independent towing company. Prior to having the vehicle or
 15 trailer towed, the operator shall send notice by verified mail or e-mail to
 16 the lessee at his last known address or last known e-mail address stating:

17 (a) A demand for payment within a time specified, no less than ten (10)
 18 days after mailing or e-mailing of the notice;

19 (b) That unless the claim is paid within the time stated in the notice,
 20 the vehicle or trailer may be towed; and

21 (c) The name, address, and telephone number of the towing company.

22 (2) The operator shall send a copy of the notice by U.S. mail with
 23 certificate of mailing to any lienholder of the vehicle or trailer that is
 24 listed in the rental agreement, no less than ten (10) days prior to having the
 25 vehicle or trailer towed.

26 (3) The operator has no liability to any person regarding the vehicle or
 27 trailer once the towing company takes possession of the vehicle or trailer.

28 (4) Should the operator choose to proceed with a lien sale of a vehicle,
 29 the operator must comply with the provisions of chapter 17, title 49, Idaho
 30 Code. The towing company that tows the vehicle must comply with the provi-
 31 sions of either chapter 17 or 18, title 49, Idaho Code, as applicable, prior
 32 to conducting a sale of the vehicle.

33 SECTION 6. That Chapter 23, Title 55, Idaho Code, be, and the same is
 34 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 35 ignated as Section 55-2309, Idaho Code, and to read as follows:

36 55-2309. ACCESS RESTRICTION. The operator has the right to deny the
 37 lessee access to the leased space by overlocking or other means if:

38 (1) The rent or other charges due from the lessee are delinquent and un-
 39 paid;

40 (2) The leased space is being used for residential or other unlawful
 41 purposes; or

42 (3) The lessee fails to vacate the leased space after the rental agree-
 43 ment is terminated in accordance with its terms.