

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1385

AN ACT to amend the Indiana Code concerning commercial law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 26-3-8-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2014]: **Sec. 0.5. As used in this chapter, "electronic mail" means the transmission, by use of a computer or through other electronic means, of information or a communication that is sent to a person identified by a unique address.**

SECTION 2. IC 26-3-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. As used in this chapter, "last known address" means the **postal address or electronic mail address** provided to the owner by the renter:

- (1) for the purposes of the latest rental agreement; or
- (2) in a written notice of a change of **postal address or electronic mail address** after the latest rental agreement.

SECTION 3. IC 26-3-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. As used in this chapter, "personal property" means movable property not affixed to land. The term includes goods, wares, merchandise, **and** household items, **motor vehicles, and watercraft.**

SECTION 4. IC 26-3-8-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2014]: **Sec. 9.5. As used in this chapter, "verified mail" means**

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any method of mailing that:

(1) is offered by the United States Postal Service or a private delivery service; and

(2) provides evidence of mailing.

SECTION 5. IC 26-3-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 12. (a) After a renter has been in default continuously for **at least** thirty (30) days, an owner may begin enforcement of the owner's lien under this chapter.

(b) An owner enforcing the owner's lien under this chapter may:

(1) deny the renter access to the rented space; and

(2) move the renter's personal property from the rented space to another storage space pending ~~its~~ **the** redemption, sale, or other disposition **of the personal property** under this chapter.

(c) An owner enforcing the owner's lien shall send the renter, by ~~registered or certified electronic mail or verified mail (return receipt requested)~~ **and** addressed to the last known address of the renter, a written notice that includes:

(1) an itemized statement of the owner's claim showing the amount due at the time of the notice and the date when the amount became due;

(2) a demand for payment of the amount due before a specified time at least thirty (30) days after the date of the mailing of the notice;

(3) a statement that the contents of the renter's rented space are subject to the owner's lien;

(4) a statement advising the renter that the owner has denied the renter access to the rented space, if the owner has done this under subsection (b);

(5) a statement advising the renter that the owner has removed the renter's personal property from the rented space to another suitable storage space, if the owner has done this under subsection (b);

(6) the name, street address, and telephone number of the owner or of any other person the renter may contact to respond to the notice; and

(7) a conspicuous statement that unless the owner's claim is paid within the time stated under subdivision (2), the personal property:

(A) will:

(i) be advertised for sale; or will be otherwise disposed of; to be sold in a manner permitted under section 15 of this chapter; or



(ii) be otherwise disposed of;

at a specified place **(if applicable)** and time, which must be at least ninety (90) days after the renter's default; **or**

(B) will be disposed of in the manner described in subsection (d), if:

(i) the renter's personal property stored in the rented space is a motor vehicle or watercraft; and

(ii) the owner chooses to dispose of the renter's motor vehicle or watercraft in the manner permitted under subsection (d).

(d) If:

(1) the renter's personal property stored in the rented space is a motor vehicle or watercraft; and

(2) the renter does not pay the owner's claim within the time specified in subsection (c)(2);

as an alternative to conducting a sale under section 15 of this chapter, the owner may cause the renter's motor vehicle or watercraft to be towed or removed from the self-service storage facility.

~~(d)~~ **(e) Any sale or other disposition of the personal property undertaken by the owner to enforce the owner's lien must conform to be conducted in the same manner, and at the same place (if applicable) and time, specified by the owner in the notice given under subsection (c)(7).**

SECTION 6. IC 26-3-8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 14. (a) After the expiration of the time stated in the owner's notice under section 12(c)(2) of this chapter, if the personal property has not been otherwise disposed of ~~under in a notice provided under manner described in section 12(c)(7)~~ **12(c)(7)(A)(ii) or 12(c)(7)(B)** of this chapter, an owner enforcing the owner's lien shall prepare for a sale of the personal property under this section.

(b) Except as otherwise permitted under subsection (c), the owner shall cause an advertisement of sale to be published one (1) time before the date of the sale in a newspaper of general circulation in the county in which the self-service storage facility is located. The advertisement must include:

(1) a statement that the personal property stored in the renter's rented space will be sold to satisfy the owner's lien;

(2) the address of the self-service storage facility, the number or other designation (if any) of the space where the personal property is located, and the name of the renter; ~~and~~



- (3) the ~~time, place, and~~ manner of the sale; and
- (4) the time and place of the sale, as applicable.

(c) **As an alternative to the publication described in subsection (b), the owner may advertise the sale in any other commercially reasonable manner that is likely to attract at least three (3) independent bidders to the sale. An advertisement by an alternative method permitted under this section must include the information required under subsection (b)(1) through (b)(4).**

~~(c)~~ (d) The sale must be held at least ten (10) days after:

- (1) the publication under subsection (b); or
- (2) **the first publication, transmission, or communication of an advertisement under subsection (c);**

as applicable. If, after the publication, **transmission, or other communication** of notice under this section, the sale of the personal property is not consummated, the owner shall notify the renter in writing at the renter's last known address of the other disposition the owner intends for the property.

SECTION 7. IC 26-3-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 15. (a) Any sale of the personal property under this chapter shall be held:

- (1) at the self-service storage facility or, if that facility is not a suitable place for a sale, at the suitable place nearest to where the property is held or stored; or
- (2) **through a publicly accessible Internet web site.**

(b) The owner may buy the personal property at any sale under this chapter.

(c) An owner may satisfy the owner's lien from the proceeds of a sale under this chapter. If the proceeds of a sale under this chapter exceed the amount of the owner's lien, the owner shall hold the balance for delivery, upon demand, to the renter. If the renter does not claim the balance of the proceeds within one (1) year after the sale, the balance shall be treated as unclaimed property under IC 32-34-1.

SECTION 8. IC 26-3-8-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 16. (a) This chapter does not impair the power of the parties to a rental agreement to create rights, duties, or obligations that do not arise from this chapter. The rights provided to an owner by this chapter are in addition to all other rights provided by law to a creditor against a debtor.

(b) A rental agreement may specify a limit on the value of personal property that may be stored in a renter's rented space. If a rental agreement specifies a limit on the value of stored personal property under this subsection, the limit specified in the rental



agreement is considered the maximum value of the renter's personal property stored in the renter's rented space.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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