

Indiana Statutes

Title 26. COMMERCIAL LAW

Article 3. WAREHOUSES

Chapter 8. SELF-SERVICE STORAGE FACILITIES

[Effective 7/1/2014]

§ 26-3-8-0.5.

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.

§ 26-3-8-1. "Default" defined

As used in this chapter, "default" means the failure of a renter to perform, in a timely fashion, any duty imposed by section 10 of this chapter or by a rental agreement.

§ 26-3-8-2. "Emergency" defined

As used in this chapter, "emergency" means any sudden, unexpected occurrence or circumstance at or near a self-service storage facility that requires immediate action to avoid injury to persons or property at or near the self-service storage facility.

§ 26-3-8-3. "Last known address" defined

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.

§ 26-3-8-4. "Rented space" defined

As used in this chapter, "rented space" means the individual storage space at a self-service storage facility that is rented to a renter under a rental agreement.

§ 26-3-8-5. "Renter" defined

As used in this chapter, "renter" means:

- (1) a person who is entitled to the use of a rented space in a self-service storage facility under a rental agreement; or
- (2) the sublessee, successor, or assignee of a person described in subdivision (1).

§ 26-3-8-6. "Owner" defined

As used in this chapter, "owner" means:

- (1) the owner, operator, lessor, or sublessor of a self-service storage facility;
- (2) the agent of a person described in subdivision (1); or
- (3) any person authorized by a person described in subdivision (1) to manage a self-service storage facility or to receive rent from a renter under a rental agreement.

§ 26-3-8-7. "Personal property" defined

As used in this chapter, "personal property" means movable property not affixed to land. The term includes goods, wares, merchandise, household items, motor vehicles, and watercraft.

§ 26-3-8-8. "Rental agreement" defined

As used in this chapter, "rental agreement" means any written agreement or lease that establishes or modifies the terms under which a renter may store personal property in a rented space in a self-service storage facility.

§ 26-3-8-9. "Self-service storage facility" defined

As used in this chapter, "self-service storage facility" means any real property designed and used for the renting of space under a rental agreement that provides a renter access to rented space for the storage and retrieval of personal property.

§ 26-3-8-9.5.

As used in this chapter, "verified mail" means 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.

§ 26-3-8-10. Entry of owner into rented space

A renter, upon a reasonable request from the owner, shall allow the owner to enter a rented space for the purpose of:

- (1) inspection;
- (2) repair;
- (3) alteration;
- (4) improvement; or
- (5) providing other services that are necessary or were agreed to by the renter.

If an emergency occurs, an owner may enter a rented space for any purpose set forth in this section without notice to or consent from the renter.

§ 26-3-8-11. Lien of owner of facility upon personal property; priority; attachment; statement

- (a) The owner of a self-service storage facility has a lien upon all personal property present in the self-service storage facility for:

- (1) rent, labor, or other charges that accrue in connection with the personal property under the rental agreement;
 - (2) expenses necessary for the preservation of the personal property; and
 - (3) expenses reasonably incurred in the sale or other disposition of the personal property under this chapter.
- (b) The lien described in subsection (a) is superior to any other lien or security interest, except for:
- (1) a lien or security interest perfected before any sale or other disposition of the personal property; and
 - (2) any tax lien, as provided by law.
- (c) The lien described in subsection (a) attaches on the date on which personal property is placed in a rented space. Every rental agreement must contain a statement in bold type notifying the renter of the existence of the lien and of the method by which the owner may enforce the lien under this chapter.

§ 26-3-8-12. Enforcement of owner's lien; notice

- (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 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 electronic mail or verified mail 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 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.

(e) Any sale or other disposition of the personal property undertaken by the owner to enforce the owner's lien must 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).

§ 26-3-8-13. Redemption of personal property

Before any sale or other disposition of the personal property under this chapter, the renter may redeem the personal property by paying the owner an amount sufficient to satisfy the owner's lien. Upon the payment of this amount, the owner shall immediately return the personal property to the renter. After returning the personal property under this section, the owner has no liability to any person with respect to the personal property.

§ 26-3-8-14. Sale of personal property; advertisement; notice of other disposition

(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 in a manner described in section 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;

(3) the 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).

(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.

§ 26-3-8-15. Place of sale; owner as buyer; proceeds of sale

(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.

§ 26-3-8-16. Rental agreements; rights of owner additional to creditor's rights

(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.