

Kansas Statutes

Chapter 58. PERSONAL AND REAL PROPERTY

Article 8. MISCELLANEOUS PROVISIONS

§ 58-813. Short title

K.S.A. 58-813 to 58-818, inclusive, shall be known and may be cited as the self-service storage act.

§ 58-814. Definitions

In the self-service storage act the following words shall mean the following:

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

(b) "Rental agreement" means any written statement that establishes or modifies the terms, conditions or rules concerning the use and occupancy of a self-service storage facility.

(c) "Leased space" means the individual storage space at the self-service facility which is rented to an occupant pursuant to a rental agreement.

(d) "Occupant" means a person, a sublessee, successor or assign, entitled to the use of a leased space at a self-service storage facility under a rental agreement.

(e) "Operator" means the owner, operator, lessor or sublessor of a self-service storage facility, an agent or any other person authorized to manage the facility, except that "operator" does not mean a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored.

(f) "Personal property" means movable property, not affixed to land, and "personal property" includes, but is not limited to, goods, wares, merchandise, motor vehicles, watercraft, household items and furnishings.

(g) "Default" means the failure to perform on time any obligation or duty set forth in the rental agreement.

(h) "Last known address" means that address provided by the occupant in the rental agreement or the address provided by the occupant in a subsequent written notice of a change of address.

(i) "Late fee" means a fee or charge assessed by an operator for an occupant's failure to pay rent when due. A late fee is not interest on a debt, nor is a late fee a reasonable expense that the operator may incur in the course of collecting unpaid rent in enforcing the operator's lien right pursuant to K.S.A. 58-814, et seq., and amendments thereto, or enforcing any other remedy provided by statute or contract.

§ 58-815. Storage facility not to be used for residential purposes

- (a) An operator may not knowingly permit a leased space at a self-service storage facility to be used for residential purposes.
- (b) An occupant may not use a leased space for residential purposes.
- (c) An operator may enter leased space at times reasonably necessary.

§ 58-816. Operator to have lien on stored property; rental agreement

(a) The operator of a self-service storage facility has a lien on all personal property stored within each leased space for rent, labor or other charges, and for expenses reasonably incurred in its sale, as provided in the self-service storage act.

(b) The rental agreement shall contain a statement, in bold type, advising the occupant:

(1) Of the existence of the lien;

(2) that property stored in the leased space may be sold to satisfy the lien if the occupant is in default; and

(3) that any proceeds from the sale of the property which remain after satisfaction of the lien will be paid to the state treasurer if unclaimed by the occupant within one year after sale of the property.

§ 58-816a. Late fees; rental agreement provision required

(a) An operator may impose a reasonable late fee, as defined in **K.S.A. 58-814**, and amendments thereto, for each month an occupant does not pay rent when it is due, in an amount not to exceed \$20 per month or 20% of the monthly rental amount, whichever is greater, for each late rental payment. An operator may set a late fee at a rate other than the rate provided for in this section if it is reasonable. The operator has the burden of proving that a higher late fee is reasonable.

(b) Any late fee charged by the operator shall be stated in the rental agreement. No late fee shall be collected unless it is provided for in the rental agreement, as defined in **K.S.A. 58-814**, and amendments thereto, or in an addendum to the rental agreement.

(c) The operator may recover all reasonable rent collection and lien enforcement expenses from the occupant in addition to any late fees imposed.

(d) This section shall be part of and supplemental to the self-service storage act.

§ 58-817. Sale of stored property; procedure; redemption; notices

(a) (1) If the occupant is in default for a period of more than 45 days, the operator may enforce the lien by selling the property stored in the leased space for cash. Sale of the property stored on the premises may be by public or private proceedings and may also be as a unit or in parcels, or by way of one or more contracts and at any time or place, and on any terms as long as the sale is commercially reasonable. The operator may otherwise dispose of any property which has no commercial value.

(2) The proceeds of such sale shall then be applied to satisfy the lien, with any surplus disbursed as provided in subsection (d).

(b) Before conducting a sale under subsection (a), the operator shall:

(1) Notify the occupant of the default by first-class mail at the occupant's last-known address, and by electronic mail if the occupant has provided an electronic mail address to the operator;

(2) send a second notice of default, not less than seven days after the notice required by subsection (b)(1), by first-class mail to the occupant at the occupant's last-known address, and by electronic mail if the occupant has provided an electronic mail address to the operator. A second notice of default shall include:

(A) A statement that the contents of the occupant's leased space are subject to the operator's lien;

(B) a statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges which shall become due before the date of release for sale and the date those additional charges shall become due;

(C) a demand for payment of the charges due within a specified time, not less than 10 days after the date of the notice;

(D) a statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold after a specified time; and

(E) the name, street address and telephone number of the operator, or a designated agent whom the occupant may contact to respond to the notice.

(3) At least seven days before the sale, advertise the time, place and terms of the sale in a newspaper of general circulation in the jurisdiction where the sale is to be held. Such advertisement shall be in the classified section of the newspaper.

(c) At any time before a sale under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

(d) If a sale is held under this section, the operator shall:

(1) Satisfy the lien from the proceeds of the sale; and

(2) hold the balance, if any, for delivery on demand to the occupant or any other recorded lienholders for a period of one year after receipt of proceeds of the sale and satisfaction of the lien. Thereafter, the proceeds remaining after satisfaction of the lien shall be considered abandoned property to be reported and paid to the state treasurer in accordance with the disposition of unclaimed property act.

(e) A purchaser in good faith of any personal property sold under the self-service storage act takes the property free and clear of any rights of:

(1) Persons against whom the lien was valid; and

(2) other lienholders.

(f) If the operator complies with the provisions of the self-service storage act, the operator's liability:

(1) To the occupant shall be limited to the net proceeds received from the sale of the personal property; and

(2) to other lienholders shall be limited to the net proceeds received from the sale of any personal property covered by the other lien.

(g) If an occupant is in default, the operator may deny the occupant access to the leased space.

(h) Notices to the occupant shall be sent to the occupant at the occupant's last-known address. Notices shall be deemed delivered when deposited with the United States postal service, properly addressed as provided in subsection (b), with postage prepaid.

§ 58-818. Care, custody and control of stored property vested in occupant; exceptions

Unless the rental agreement specifically provides otherwise and until a lien sale under the self-service storage act, the exclusive care, custody and control of all personal property stored in the leased self-service storage space remains vested in the occupant.

§ 58-819. Rental agreements entered into prior to July 1, 1983

All rental agreements, entered into before July 1, 1983, which have not been extended or renewed after that date, shall remain valid and may be enforced or terminated in accordance with their terms or as permitted by any other statute or law of this state.