

## **Arizona Lien Law**

### Chapter 15 SELF-SERVICE STORAGE

#### Article 1 General Provision.

33-1701. Definitions; exception A. In this article, unless the context otherwise requires:

1. "Default" means the failure to perform on time any obligation or duty set forth in the rental agreement.
2. "Department" means the Arizona game and fish department in the case of motorized watercraft and the department of transportation in the case of all other vehicles.
3. "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.
4. "Late fee" means a reasonable fee or charge that is assessed by the operator for the failure of the occupant to pay rent when due pursuant to section 33-1703, subsection D.
5. "Leased space" means the individual storage space at the self-service storage facility which is rented to an occupant pursuant to a rental agreement.
6. "Net proceeds" means the total proceeds received from the lien sale less the total amount of the lien.
7. "Occupant" means a person or his sublessee, successor or assign, entitled to the use of a leased space at a self-service storage facility under a rental agreement, to the exclusion of others.
8. "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.
9. "Personal property" means movable property that is not affixed to land and includes but is not limited to goods, wares, merchandise, household items and furnishings and vehicles.
10. "Registered owner" means an owner of a vehicle as stated in the official records of the department.

11. "Rental agreement" means any written agreement provided to the occupant which establishes or modifies the terms, conditions or rules concerning the use and occupancy of a self-service storage facility.

12. "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.

13. "Vehicle" means a motor vehicle, a trailer or a semitrailer as defined in section 28-101 and a motorized watercraft as defined in section 5-301.

B. This article does not apply to a warehouseman unless the warehouseman issues a warehouse receipt, bill of lading or other document of title for the personal property stored.

#### 33-1702. Residential use; prohibition

A. An operator shall not knowingly permit a leased space at a self-service storage facility to be used for residential purposes.

B. An occupant shall not use a leased space for residential purposes.

#### 33-1703. Lien; rental agreement; contents; late fees

A. The operator of a self-service storage facility has a possessory lien from the date the rent is unpaid and due on all personal property stored within each leased space for rent, late fees, labor or other charges, and for expenses reasonably incurred in its sale, as provided in this article. The lien shall not impair any other lien or security interest at the time the storage was commenced, unless the lienor or secured party knows and consents to the storage of the personal property.

B. The rental agreement shall contain a statement, in at least ten point bold-faced type, advising the occupant:

1. Of the accrual of the lien as of the date the rent is unpaid and due.
2. That property stored in the leased space may be sold to satisfy the lien if the occupant is in default.
3. That any insurance protecting the personal property stored within the storage space against fire, theft or damage must be provided by the occupant.

4. That a late fee may be charged by the operator for each month that the occupant does not pay rent when due. The rental agreement shall state the date on which rent is due and the date on which the late fee accrues.

C. The rental agreement shall contain a provision requiring the occupant to disclose any lienholders or secured parties who have an interest in property that is or will be stored in the self-service storage facility.

D. The operator may impose a reasonable late fee on the occupant for each month the occupant does not pay rent when due. For purposes of this section, a reasonable late fee may be computed as the greater of ten dollars per month or twenty per cent of the amount of monthly rent. Any late fee imposed by the operator pursuant to this section is in addition to any other remedy provided by law or contract.

E. The operator shall provide adequate notice to the occupant before a late fee is imposed. Adequate notice is provided if the rental agreement complies with subsection B or if a notice is sent to the occupant by certified mail that notifies the occupant that a late fee may be charged in any month in which the occupant does not pay rent when due.

#### 33-1704. Enforcement of lien

A. If the occupant is in default for a period of more than thirty days, the operator may foreclose the lien by selling the property stored in the leased space at a public sale, for cash. Proceeds shall then be applied as provided in subsection E of this section. If the contents of the occupant's space include a vehicle, the provisions of section 28-4839 do not apply.

B. Before conducting a sale under subsection A of this section, the operator shall:

1. Notify the occupant of the default by certified mail, return receipt requested, at the occupant's last known address.

2. Send a second notice of default by regular mail not less than seven days after the mailing date of the first notice to the occupant at the occupant's last known address which includes:

(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 and any other charges that may accrue.

(c) A demand for payment of the charges due within a specified time, not less than fourteen days after the mailing date of the second notice or thirty additional days if the address of the occupant is outside of the continental United States.

(d) A statement that unless the claim is paid within the time stated the contents of the occupant's space will be sold at a specified time and place.

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

3. If the contents of the occupant's space include a vehicle:

(a) At the time the notice is sent pursuant to paragraph 1 of this subsection, send a notice of default by certified mail, return receipt requested, to the registered owner at the registered owner's most recent address as shown in the records of the department.

(b) At the time the notice is sent pursuant to paragraph 2 of this subsection, send a notice of default by regular mail to the registered owner at the registered owner's most recent address as shown in the records of the department.

(c) The operator is not required to send a notice pursuant to this paragraph if ownership information for a vehicle is unavailable.

(d) In any notice that is sent, include a description of the vehicle and its vehicle identification number.

4. At least ten days prior to the sale, notify by certified mail, return receipt requested any record lienholder or secured party who has an interest in the property to be sold, of whom the operator has actual or constructive knowledge either through the disclosure provision of the rental agreement or through any other written or recorded notice of the sale, that any prior record lienor or secured party may at any time prior to the sale recover possession of the item of personal property to which the record lien or security interest attaches.

5. At the time the operator sends the second notice to the occupant, publish a notice indicating the date, time and place of the sale and a description of the property to be sold. This notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county where the self-service storage facility is located. If there

is no newspaper of general circulation in the county where the self-service storage facility is located, the notice shall be posted at least ten days before the date of the sale in not less than six conspicuous places in the neighborhood where the self-service storage facility is located.

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 the personal property includes a vehicle, any person listed as a registered owner or lienholder on the records of the department may pay the amount necessary to satisfy the lien, redeem the vehicle and recover possession of the vehicle. The operator is not liable to the occupant or any other person who claims an interest in the vehicle if the operator releases the vehicle to a person listed as a registered owner or lienholder pursuant to this subsection.

E. If a sale is held under this section, the operator shall distribute the proceeds in the following manner:

1. To pay all reasonable costs of sale.
2. To satisfy the valid claims of any lienholder or secured party not otherwise subordinated pursuant to section 33-1703, subsection A.
3. To satisfy the operator's lien.
4. To satisfy the valid claims of any record lienholder or secured party subordinated pursuant to section 33-1703, subsection A.
5. To the occupant on demand.
6. If the occupant does not claim the balance due to him within ninety days of the sale, the operator shall pay the balance to the department of revenue. If the occupant, at any time within two years from the date of payment to the department of revenue, establishes his right to the money to the satisfaction of the director of the department of administration, it shall be paid to him. After two years, all unclaimed monies shall be deposited in the permanent state school fund.

F. A purchaser in good faith of any personal property sold under this article takes the property free and clear of any rights of any party.

G. If the operator complies with this article, the operator's liability arising from the sale:

1. To the occupant is limited to the net proceeds received from the sale of the personal property.

2. To other lienholders or a secured party is limited to the net proceeds received from the sale of any personal property covered by that other lien.

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

I. Unless the rental agreement specifically provides otherwise and until a lien sale under this article, the exclusive care, custody and control of all personal property stored in the leased self-service storage space remain vested in the occupant. If the occupant is in default for a period of more than thirty days and until the time of sale, the operator may, in addition to denying the occupant access to the personal property, transfer the personal property to a place of safekeeping.

#### 33-1705. Notice posted in the office

Each operator acting pursuant to this article shall at all times keep posted in a prominent place in his office or on the premises of the self-service storage facility, a notice which shall read as follows:

"All articles stored pursuant to a rental agreement will be sold to pay any storage charges overdue for more than thirty days."

#### 33-1706. Failure to comply; penalty

Any person aggrieved by a violation of any provision of this article may bring a civil action. In any civil action brought for a violation of this article, in addition to any award for damages, the court may impose a civil penalty not to exceed five hundred dollars and may award reasonable attorney's fees and court costs.