

## **Washington Lien Law**

### § 40-401. Definitions.

For the purposes of this chapter, the term:

- (1) "Default" means the failure to perform any obligation or duty set forth in the rental agreement.
- (2) "Last known address" means the 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.
- (3) "Leased space" means the individual storage space at the self-service facility which is rented to an occupant pursuant to a rental agreement.
- (4) "Occupant" means a person, including an assignee, a sublessee, or successor, entitled to the use of a leased space at a self-service storage facility under a rental agreement.
- (5) "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. The term "operator" shall not mean a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored.
- (6) "Personal property" means movable property, not affixed to land, including goods, wares, merchandise, motor vehicles, watercraft, and household items and furnishings.
- (7) "Rental agreement" means any written agreement that establishes or modifies the terms, conditions, or rules concerning the use and occupancy of a self-service storage facility.
- (8) "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 "selfstorage" basis.

### § 40-402. Prohibited acts.

- (a) An operator shall not knowingly permit a leased space at a self-service storage facility to be used as a residence.
- (b) An occupant shall not use a leased space as a residence.

### § 40-403. Lien for rent, labor, or other charges.

- (a) The operator shall have 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 this chapter.
- (b) The rental agreement shall contain a statement, in bold type, advising the occupant:

(1) Of the existence of the lien; and

(2) That property stored in the leased space may be sold to satisfy the lien if the occupant is in default.

§ 40-404. Enforcement of lien.

(a)(1) If the occupant is in default for a period of more than 60 days, the operator may enforce the lien by selling the property stored in the leased space at a public sale.

(2) Proceeds from the sale shall be applied to satisfy the lien, and any surplus shall be disbursed as provided in subsection (e) of this section.

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

(1) Notify the occupant of the default by regular mail at the occupant's last known address;

(2) Send a second notice of default by certified mail, return receipt requested, 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, the amount of any additional charges which shall become due before the date of 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 14 days after the date that the notice was mailed;

(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; and

(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; and

(3) At least 3 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.

(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) The sale under this section shall be held at the self-service storage facility where the personal property is stored.

(e) 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.

(f) A purchaser in good faith of any personal property sold under this chapter shall take the property free and clear of any rights of:

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

(2) Other lienholders.

(g) If the operator complies with the provisions of this chapter, 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 that other lien.

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

(i)(1) Unless otherwise specifically provided, all notices required by this chapter shall be sent by certified mail, return receipt requested.

(2)(A) Notices sent to the operator shall be sent to the self-service storage facility where the occupant's property is stored.

(B) Notices to the occupant shall be sent to the occupant at the occupant's last known address.

(3) Notices shall be deemed delivered when deposited with the United States Postal Service, properly addressed as provided in subsection (b) of this section, with postage prepaid.

(j) The operator shall retain a copy of the second notice of default and the return receipt as provided in subsection (b)(2) of this section for 6 months following the date of the lien sale.

§ 40-405. Personal property vested in occupant.

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

Current through July 17, 2006.

RCW 19.150.010

## Definitions.

For the purposes of this chapter, the following terms shall have the following meanings:

- (1) "Self-service storage facility" means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to the space for the purpose of storing and removing personal property on a self-service basis, but does not include a garage or other storage area in a private residence. No occupant may use a self-service storage facility for residential purposes.
- (2) "Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility, his or her agent, or any other person authorized by him or her to manage the facility, or to receive rent from an occupant under a rental agreement.
- (3) "Occupant" means a person, or his or her sublessee, successor, or assign, who is entitled to the use of the storage space at a self-service storage facility under a rental agreement, to the exclusion of others.
- (4) "Rental agreement" means any written agreement or lease which establishes or modifies the terms, conditions, rules or any other provision concerning the use and occupancy of a self-service storage facility.
- (5) "Personal property" means movable property not affixed to land, and includes, but is not limited to, goods, merchandise, furniture, and household items.
- (6) "Last known address" means that address provided by the occupant in the latest rental agreement, or the address provided by the occupant in a subsequent written notice of a change of address.

[1988 c 240 § 2.]

RCW 19.150.020

### Lien on personal property.

The owner of a self-service storage facility and his or her heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at a self-service storage facility for rent, labor, or other charges, present or future, incurred pursuant to the rental agreement, and for expenses necessary for the preservation, sale, or disposition of personal property subject to this chapter. The lien may be enforced consistent with this chapter. However, any lien on a motor vehicle or boat which has attached and is set forth in the documents of title to the motor vehicle or boat shall have priority over any lien created pursuant to this chapter.

[1988 c 240 § 3.]

RCW 19.150.030

### Unpaid rent — Denial of access to storage space.

When any part of the rent or other charges due from an occupant remains unpaid for six consecutive days, and the rental agreement so provides, an owner may deny the occupant access to the storage space at a self-service storage

facility.

[1988 c 240 § 4.]

RCW 19.150.040

Unpaid rent — Termination of occupant's rights — Notice.

When any part of the rent or other charges due from an occupant remains unpaid for fourteen consecutive days, an owner may terminate the right of the occupant to the use of the storage space at a self-service storage facility by sending a notice to the occupant's last known address, and to the alternative address specified in RCW 19.150.120(2), by first class mail, postage prepaid, containing all of the following:

- (1) An itemized statement of the owner's claim showing the sums due at the time of the notice and the date when the sums become due.
- (2) A statement that the occupant's right to use the storage space will terminate on a specified date (not less than fourteen days after the mailing of the notice) unless all sums due and to become due by that date are paid by the occupant prior to the specified date.
- (3) A notice that the occupant may be denied or continue to be denied, as the case may be, access to the storage space after the termination date if the sums are not paid, and that an owner's lien, as provided for in RCW 19.150.020 may be imposed thereafter.
- (4) The name, street address, and telephone number of the owner, or his or her designated agent, whom the occupant may contact to respond to the notice.

[1988 c 240 § 5.]

RCW 19.150.050

Form of notice.

A notice in substantially the following form shall satisfy the requirements of RCW 19.150.040:

"PRELIMINARY LIEN NOTICE

to (occupant)

(address)

(state)

You owe and have not paid rent and/or other charges for the use of storage (space number) at (name and address of self-service storage facility)

Charges that have been due for more than fourteen days and accruing on or before (date) are itemized as follows:

DUE DATE DESCRIPTION AMOUNT

TOTAL \$

IF this sum is not paid in full before (date at least fourteen days from mailing) , your right to use the storage space will terminate, you may be denied, or continue to be denied, access and an owner's lien on any stored property will be imposed. You may pay the sum due and contact the owner at:

(Name)

(Address)

(State)

(Telephone)

(Date)

(Owner's Signature) "

[1988 c 240 § 6.]

RCW 19.150.060

Attachment of lien — Notice of lien sale or notice of disposal.

If a notice has been sent, as required by RCW 19.150.040, and the total sum due has not been paid as of the date specified in the preliminary lien notice, the lien proposed by this notice attaches as of that date and the owner may deny an occupant access to the space, enter the space, inventory the goods therein, and remove any property found therein to a place of safe keeping. The owner shall then serve by personal service or send to the occupant, addressed to the occupant's last known address and to the alternative address specified in RCW 19.150.120(2) by certified mail, postage prepaid, a notice of lien sale or notice of disposal which shall state all of the following:

(1) That the occupant's right to use the storage space has terminated and that the occupant no longer has access to the stored property.

(2) That the stored property is subject to a lien, and the amount of the lien accrued and to accrue prior to the date required to be specified in subsection (3) of this section.

(3) That the property, other than personal papers and personal effects, may be sold to satisfy the lien after a specified date which is not less than fourteen days from the date of mailing the lien sale notice, or a minimum of forty-two days after the date when any part of the rent or other charges due from the occupants remain unpaid, whichever is later, unless the amount of the lien is paid. If the total value of property in the storage space is less than three hundred dollars, the owner may, instead of sale, dispose of the property in any reasonable manner,

subject to the restrictions of RCW 19.150.080(4).

(4) That any excess proceeds of the sale or other disposition under RCW 19.150.080(2) over the lien amount and costs of sale will be retained by the owner and may be reclaimed by the occupant, or claimed by another person, at any time for a period of six months from the sale and that thereafter the proceeds will be turned over to the state as abandoned property as provided in RCW 63.29.165.

(5) That any personal papers and personal effects will be retained by the owner and may be reclaimed by the occupant at any time for a period of six months from the sale or other disposition of property and that thereafter the owner may dispose of the personal papers and effects in a reasonable manner, subject to the restrictions of RCW 19.150.080(3).

(6) That the occupant has no right to repurchase any property sold at the lien sale.

[1996 c 220 § 1; 1993 c 498 § 5; 1988 c 240 § 7.]

Notes:

Application -- 1996 c 220: "This act shall only apply to rental agreements entered into, extended, or renewed after June 6, 1996. Rental agreements entered into before June 6, 1996, which provide for monthly rental payments but providing no specific termination date shall be subject to this act on the first monthly rental payment date next succeeding June 6, 1996." [1996 c 220 § 4.]

RCW 19.150.070

Sale of property.

The owner, subject to RCW 19.150.090 and 19.150.100, may sell the property, other than personal papers and personal effects, upon complying with the requirements set forth in RCW 19.150.080.

[1988 c 240 § 8.]

RCW 19.150.080

Manner of sale — Who may not acquire — Excess proceeds — Accounting.

(1) After the expiration of the time given in the notice of lien sale pursuant to RCW 19.150.060, the property, other than personal papers and personal effects, may be sold or disposed of in a reasonable manner.

(2)(a) If the property has a value of three hundred dollars or more, the sale shall be conducted in a commercially reasonable manner, and, after deducting the amount of the lien and costs of sale, the owner shall retain any excess proceeds of the sale on the occupant's behalf. The occupant, or any other person having a court order or other judicial process against the property, may claim the excess proceeds, or a portion thereof sufficient to satisfy the particular claim, at any time within six months of the date of sale.

(b) If the property has a value of less than three hundred dollars, the property may be disposed of in a reasonable

manner.

(3) Personal papers and personal effects that are not reclaimed by the occupant within six months of a sale under subsection (2)(a) of this section or other disposition under subsection (2)(b) of this section may be disposed of in a reasonable manner.

(4) No employee or owner, or family member of an employee or owner, may acquire, directly or indirectly, the property sold pursuant to subsection (2)(a) of this section or disposed of pursuant to subsection (2)(b) of this section, or personal papers and personal effects disposed of under subsection (3) of this section.

(5) The owner is entitled to retain any interest earned on the excess proceeds until the excess proceeds are claimed by another person or are turned over to the state as abandoned property pursuant to RCW 63.29.165.

(6) After the sale or other disposition pursuant to this section has been completed, the owner shall provide an accounting of the disposition of the proceeds of the sale or other disposition to the occupant at the occupant's last known address and at the alternative address.

[1996 c 220 § 2; 1993 c 498 § 6; 1988 c 240 § 9.]

Notes:

Application -- 1996 c 220: See note following RCW 19.150.060.

RCW 19.150.090

Claim by persons with a security interest.

Any person who has a perfected security interest under \*Article 62A.9 RCW of the uniform commercial code may claim any personal property subject to the security interest and subject to a lien pursuant to this chapter by paying the total amount due, as specified in the lien notices, for the storage of the property. Upon payment of the total amount due, the owner shall deliver possession of the particular property subject to the security interest to the person who paid the total amount due. The owner shall not be liable to any person for any action taken pursuant to this section if the owner has fully complied with RCW 19.150.050 and 19.150.060.

[1988 c 240 § 10.]

Notes:

\*Reviser's note: Article 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see Article 62A.9A RCW.

RCW 19.150.100

Payment prior to sale by persons claiming a right to the property.

Prior to any sale pursuant to RCW 19.150.080, any person claiming a right to the goods may pay the amount

necessary to satisfy the lien and the reasonable expenses incurred for particular actions taken pursuant to this chapter. In that event, the goods shall not be sold, but shall be retained by the owner subject to the terms of this chapter pending a court order directing a particular disposition of the property.

[1988 c 240 § 11.]

RCW 19.150.110

Good faith purchasers.

A purchaser in good faith of goods disposed of pursuant to RCW 19.150.080(2) takes the goods free of any rights of persons against whom the lien was claimed, despite noncompliance by the owner of the storage facility with this chapter.

[1996 c 220 § 3; 1988 c 240 § 12.]

Notes:

Application -- 1996 c 220: See note following RCW 19.150.060.

RCW 19.150.120

Contract for storage space — Alternative address for notice.

(1) Each contract for the rental or lease of individual storage space in a self-service storage facility shall be in writing and shall contain, in addition to the provisions otherwise required or permitted by law to be included, a statement requiring the occupant to disclose any lienholders or secured parties who have an interest in the property that is or will be stored in the self-service storage facility, a statement that the occupant's property will be subject to a claim of lien and may even be sold to satisfy the lien if the rent or other charges due remain unpaid for fourteen consecutive days, and that such actions are authorized by this chapter.

(2) The lien authorized by this chapter shall not attach, unless the rental agreement requests, and provides space for, the occupant to give the name and address of another person to whom the preliminary lien notice and subsequent notices required to be given under this chapter may be sent. Notices sent pursuant to RCW 19.150.040 or 19.150.060 shall be sent to the occupant's address and the alternative address, if both addresses are provided by the occupant. Failure of an occupant to provide an alternative address shall not affect an owner's remedies under this chapter or under any other provision of law.

[1988 c 240 § 13.]

RCW 19.150.130

Owner not obligated to provide insurance.

Any insurance protecting the personal property stored within the storage space against fire, theft, or damage is the

responsibility of the occupant. The owner is under no obligation to provide insurance.

[1988 c 240 § 14.]

RCW 19.150.140

Other rights not impaired.

Nothing in this chapter may be construed to impair or affect the right of the parties to create additional rights, duties, and obligations which do not conflict with the provisions of this chapter. The rights provided by this chapter shall be in addition to all other rights provided by law to a creditor against his or her debtor.

[1988 c 240 § 15.]

RCW 19.150.900

Short title.

This chapter shall be known as the "Washington self-service storage facility act."

[1988 c 240 § 1.]

RCW 19.150.901

Application of chapter.

This chapter shall only apply to rental agreements entered into, extended, or renewed after June 9, 1988. Rental agreements entered into before June 9, 1988, which provide for monthly rental payments but providing no specific termination date shall be subject to this chapter on the first monthly rental payment date next succeeding June 9, 1988.

[1988 c 240 § 16.]

RCW 19.150.902

Existing rental agreements not affected.

All rental agreements entered into before June 9, 1988, and not extended or renewed after that date, or otherwise made subject to this chapter pursuant to RCW 19.150.901, and the rights, duties, and interests flowing from them, 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.

[1988 c 240 § 17.]

RCW 19.150.903

Chapter not applicable to owner subject to Article 62A.7 RCW.

If an owner issues any warehouse receipt, bill of lading, or other document of title for the personal property stored, the owner and the occupant are subject to Article 62A.7 RCW (commencing with RCW 62A.7-101) of the uniform commercial code and this chapter does not apply.

[1988 c 240 § 18.]

RCW 19.150.904

Severability — 1988 c 240.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1988 c 240 § 23.]