

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: S2/20/13
A Bill

SENATE BILL 377

By: Senators E. Williams, E. Cheatham
By: Representatives Williams, Ratliff, Wardlaw

For An Act To Be Entitled

AN ACT TO REVISE NOTIFICATION AND STORAGE POLICIES
AND PROCEDURES FOR SELF-STORAGE FACILITIES; AND FOR
OTHER PURPOSES.

Subtitle

TO REVISE NOTIFICATION AND STORAGE
POLICIES AND PROCEDURES FOR SELF-STORAGE
FACILITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 18-16-401 is amended to read as follows:

18-16-401. Definitions.

As used in this subchapter:

(1) "Default" means the failure to timely perform ~~on time any~~ an obligation ~~or duty set forth in the~~ of a rental agreement;

(2) "Electronic mail" means an electronic message, a file, data, or other information that is transmitted:

(A) Between two (2) or more computers, computer networks, or electronic terminals; or

(B) Within or between computer networks;

(3) "Electronic mail address" means a destination commonly expressed as a string of characters to which electronic mail may be sent or delivered;

~~(2)~~ (4) "Last known address" means that the address or electronic mail address provided by the occupant in;



~~(A) the~~ The rental agreement; or
~~(B) the address provided by the occupant in a~~ A subsequent written notice of a change of address;

~~(3) (5)~~ (5) “Leased space” means ~~the~~ individual storage space at ~~the~~ a self-service storage facility ~~which that~~ that is rented to an occupant ~~pursuant to~~ under a rental agreement;

~~(4) (6)~~ (6) “Net proceeds” ~~as used in § 18-16-407(e)~~ means the proceeds from the sale authorized upon a default under this subchapter after deduction for:

~~(A) expenses~~ Expenses incurred by the operator to exercise its rights under this subchapter, ~~including, but not limited to~~ without limitation, ~~attorneys’~~ attorney’s fees, auctioneers’ fees, postage, and publication costs;

~~(B) together with the~~ The debt owed by the occupant to the operator for leased space; and

~~(C) charges directly~~ Charges related to preserving, assembling, advertising, and selling personal property under this subchapter;

~~(5) (7)~~ (7) “Occupant” means a person or entity entitled to the use of ~~a~~ leased space at a self-service storage facility under a rental agreement;

~~(6)(A) (8)(A)~~ (8)(A) “Operator” means:

~~(i) the~~ The owner, operator, lessor, or sublessor of a self-service storage facility;

~~(ii) an~~ An agent, ~~of the owner operator, lessor, or~~ sublessor of a self-service storage facility; or

~~(iii) any~~ Any other person authorized to manage ~~the a~~ self-service storage facility;

(B) “Operator” does not ~~mean~~ include a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for storing the personal property ~~stored~~;

~~(7)(A) (9)(A)~~ (9)(A) “Personal property” means movable property not affixed to ~~the~~ land;

(B) “Personal property” includes, ~~but is not limited to~~ without limitation, goods, wares, merchandise, motor vehicles, watercraft, and household items and furnishings;

~~(8) (10)~~ (10) “Rental agreement” means ~~any a~~ a written agreement that

establishes or modifies the terms, conditions, or rules concerning the use and occupancy of a self-service storage facility; and

~~(9)~~ (11) "Self-service storage facility" means ~~any~~ real property used for renting or leasing ~~individual storage spaces~~ leased space in which ~~the occupants themselves customarily store and remove their own~~ an occupant stores and removes personal property on a self-service basis.

SECTION 2. Arkansas Code § 18-16-407(a), concerning notice of a self-service storage facility sale, is amended to read as follows:

(a) Before conducting a sale under § 18-16-406, the operator shall:

(1)(A) Notify the occupant in writing of the default.

(B) ~~The~~ Except as provided in subdivision (2)(D) of this section, notice shall be sent by first class mail with certificate of mailing to the occupant at the occupant's last known address, ~~and,~~

(C) The notice shall include:

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

~~(B)(ii)~~ A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges that shall become due before the date of sale, and the date ~~those~~ the additional charges shall become due;

~~(C)(iii)~~ A demand for payment of the charges due within a specified time, not less than fourteen (14) days after the date that the notice ~~was mailed~~ is sent;

~~(D)(iv)~~ 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)(v)~~ The name, street address, and telephone number of the operator or his or her designated agent, ~~whom~~ the occupant may contact to respond to the notice; and

~~(F)(vi)~~ Designation of the date, time, and place where the contents will be sold unless the default is remedied ~~prior to~~ before the sale.

(D) If an occupant provides an electronic mail address and gives permission to the storage facility to use the electronic mail address as a legal notification for the occupant's last known address, then the

operator may use the electronic mail address to send the notice required by this subsection instead of sending the notice by first class mail with certificate of mailing.

(2) Publish one (1) advertisement in a newspaper of general circulation in the county in which the storage facility is located at least seven (7) days ~~prior to~~ before the sale; and

(3)(A) Contact the circuit clerk in the county where the personal property is stored to determine the name and address of any holder of liens or security interests in the personal property being sold.

(B)(i) The ~~owner~~ operator shall notify by first class mail with certificate of mailing each holder of a lien or security interest of the time and place of the proposed sale at least ten (10) days ~~prior to~~ before conducting the sale.

(ii) The ~~owner~~ operator shall be required to notify the holder of a lien or security interest only if the lien or security interest is filed under the name of the occupant.

SECTION 3. Arkansas Code Title 18, Chapter 16, Subchapter 4, is amended to add additional sections to read as follows:

18-16-410. Limits on value of stored property.

If the rental agreement contains a specified limit on the value of property allowed to be stored in an occupant's storage space, the operator is not liable for a loss or damages to the property stored in the occupant's storage space that exceeds the specified limit.

18-16-411. Conditions and limitations for imposing late fees.

(a) If the amount of a late fee and the conditions for imposing a late fee are stated in the rental agreement or in an addendum to the rental agreement, the operator may impose a late fee on the occupant for each month the occupant does not pay rent when due that does not exceed the greater of:

(1) Thirty dollars (\$30.00) per month; or

(2) Twenty percent (20%) of the amount of monthly rent.

(b) Expenses incurred as a result of rent collection or lien enforcement by an operator may be charged to the occupant in addition to the late fees permitted by this section.

/s/E. Williams