

REFERENCE TITLE: self-storage facilities; valuation; vehicles; towing

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2087

Introduced by
Representatives Hendrix: Parker B

AN ACT

**AMENDING SECTIONS 33-1701, 33-1703 AND 33-1704, ARIZONA REVISED STATUTES;
RELATING TO SELF-SERVICE STORAGE.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 33-1701, Arizona Revised Statutes, is amended to
3 read:
4 33-1701. Definitions; exception
5 A. In this article, unless the context otherwise requires:
6 1. "Default" means the failure to perform on time any obligation or
7 duty set forth in the rental agreement.
8 2. "Department" means the Arizona game and fish department in the
9 case of motorized watercraft and the department of transportation in the
10 case of all other vehicles.
11 3. ~~"Electronic mail"~~ "EMAIL":
12 (a) Means an electronic message or an executable program or
13 computer file that contains an image of a message that is transmitted
14 between two or more computers or electronic terminals. ~~and~~
15 (b) Includes electronic messages that are transmitted within or
16 between computer networks from which a confirmation of receipt is
17 received.
18 4. "Last known address" means that postal address or electronic
19 address provided by the occupant in the rental agreement or the postal
20 address or electronic address provided by the occupant in a subsequent
21 written notice of a change of address.
22 5. "Late fee" means a reasonable fee or charge that is assessed by
23 the operator for the failure of the occupant to pay rent when due pursuant
24 to section 33-1703, ~~subsection D~~.
25 6. "Leased space" means the storage space or spaces at the
26 self-service storage facility that are rented to an occupant pursuant to a
27 rental agreement.
28 7. "Net proceeds" means the total proceeds received from the lien
29 sale minus the total amount of the lien.
30 8. "Occupant" means a person or the person's sublessee, successor
31 or assign that is entitled to ~~the~~ use ~~of~~ the leased space at a
32 self-service storage facility under a rental agreement, to the exclusion
33 of others.
34 9. "Operator" means the owner, operator, lessor or sublessor of a
35 self-service storage facility, an agent or any other person authorized to
36 manage the facility.
37 10. "Personal information" has the same meaning prescribed in
38 section 18-551.
39 11. "Personal property":
40 (a) Means movable property that is not affixed to land. ~~and~~
41 (b) Includes goods, wares, merchandise, household items and
42 furnishings and vehicles.

1 12. "Protected property" means personal property for which the sale
2 or disposal is regulated by state or federal law and that is one of the
3 following:

4 (a) Documents, files or electronic data that ~~contains~~ **CONTAIN**
5 personal information relating to clients, customers, patients or others in
6 connection with the occupant's business.

7 (b) Alcoholic beverages.

8 (c) Pharmaceuticals other than those dispensed by a licensed
9 pharmacy for the occupant's personal use.

10 (d) Firearms.

11 13. "Registered owner" means an owner of a vehicle as stated in the
12 official records of the department.

13 14. "Rental agreement" means any written agreement provided to the
14 occupant that establishes or modifies the terms, conditions or rules
15 concerning the use and occupancy of leased space at a self-service storage
16 facility.

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

21 16. "Vehicle" means a motor vehicle, a trailer or a semitrailer as
22 defined in section 28-101 and a motorized watercraft as defined in section
23 5-301.

24 17. "Verified mail" means any method of mailing that is offered by
25 the United States postal service and that provides evidence of mailing.

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

29 Sec. 2. Section 33-1703, Arizona Revised Statutes, is amended to
30 read:

31 33-1703. Lien; rental agreement; contents; late fees

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

39 B. The rental agreement shall contain a statement, in at least ~~ten~~
40 ~~point~~ **TEN-POINT** bold-faced type, advising the occupant:

41 1. Of the accrual of the lien as of the date the rent is unpaid and
42 due.

43 2. That property stored in the leased space may be sold or
44 otherwise disposed of if the occupant is in default.

1 3. That any insurance protecting the personal property stored
2 within the storage space against fire, theft or damage must be provided by
3 the occupant.

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

8 C. The rental agreement shall contain a provision requiring the
9 occupant to disclose the following:

10 1. Any lienholders or secured parties who have an interest in
11 property that is or will be stored in the self-service storage facility.

12 2. Whether any protected property is or will be stored in the
13 leased space.

14 D. THE RENTAL AGREEMENT MAY PROVIDE FOR A LIMIT ON THE VALUE OF THE
15 PROPERTY THAT IS STORED BY THE OCCUPANT ON THE PREMISES AND THAT LIMIT IS
16 DEEMED TO BE THE MAXIMUM VALUE OF STORED PROPERTY FOR ALL PURPOSES.

17 ~~E.~~ E. The operator may impose a reasonable late fee on the
18 occupant for each month the occupant does not pay rent when due. For THE
19 purposes of this section, a reasonable late fee may be computed as the
20 greater of ~~ten dollars~~ \$10 per month or twenty ~~per cent~~ PERCENT of the
21 amount of monthly rent. Any late fee imposed by the operator pursuant to
22 this section is in addition to any other remedy provided by law or
23 contract.

24 ~~F.~~ F. The operator shall provide adequate notice to the occupant
25 before a late fee is imposed. Adequate notice is provided if the rental
26 agreement complies with subsection B OF THIS SECTION or if a notice is
27 sent to the occupant by verified mail that notifies the occupant that a
28 late fee may be charged in any month in which the occupant does not pay
29 rent when due.

30 Sec. 3. Section 33-1704, Arizona Revised Statutes, is amended to
31 read:

32 33-1704. Enforcement of lien

33 A. If the occupant is in default for a period of more than thirty
34 days, the operator may foreclose the lien by selling the property stored
35 in the leased space at a public sale, for cash, or if the property is
36 protected property, by disposing of the property pursuant to this
37 section. Proceeds shall then be applied as provided in subsection ~~H~~ H of
38 this section. If the contents of the leased space include a vehicle,
39 section 28-4839 does not apply.

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

42 1. Send notice of the default by verified mail or ~~electronic mail~~
43 EMAIL to the occupant at the occupant's last known address.

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

4 (a) A statement that the contents of the occupant's leased space
5 are subject to the operator's lien.

6 (b) A statement of the operator's claim, indicating the charges due
7 on the date of the notice and any other charges that may accrue.

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

12 (d) A statement that unless the claim is paid within the time
13 stated, the contents of the leased space will be sold at a specified time
14 and place, or in the case of protected property, otherwise disposed of at
15 a specified time and place.

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

19 3. If the contents of the leased space include a vehicle:

20 (a) At the time the notice is sent pursuant to paragraph 1 of this
21 subsection, send a notice of default by verified mail to the registered
22 owner at the registered owner's most recent address as shown in the
23 records of the department.

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

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

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

32 4. At least ten days before the sale, send notice by verified mail
33 to any record lienholder or secured party who has an interest in the
34 property to be sold, of whom the operator has actual or constructive
35 knowledge either through the disclosure provision of the rental agreement
36 or through any other written or recorded notice of the sale, that any
37 prior record lienor or secured party may at any time before the sale
38 recover possession of the item of personal property to which the record
39 lien or security interest attaches.

40 C. At any time before a sale under this section or before the
41 disposal of protected property, whichever occurs first, the occupant may
42 pay the amount necessary to satisfy the lien and redeem the occupant's
43 personal property.

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

8 E. IF THE PERSONAL PROPERTY INCLUDES A VEHICLE, WATERCRAFT OR
9 TRAILER AND THE OCCUPANT IS IN DEFAULT FOR MORE THAN THIRTY DAYS, THE
10 OPERATOR MAY CONTRACT WITH A TOWING COMPANY TO REMOVE THE PROPERTY. AT
11 LEAST TEN DAYS BEFORE THE TOWING COMPANY REMOVES THE PROPERTY, THE
12 OPERATOR MUST SEND NOTICE BY VERIFIED MAIL OR EMAIL TO THE OCCUPANT AT THE
13 OCCUPANT'S LAST KNOWN ADDRESS. THE NOTICE SHALL PROVIDE THE NAME, ADDRESS
14 AND TELEPHONE NUMBER OF THE TOWING COMPANY THAT WILL REMOVE THE PROPERTY
15 IF THE OCCUPANT DOES NOT CURE THE DEFAULT BY THE DATE PRESCRIBED IN THE
16 NOTICE. ON RECEIPT OF THE PROPERTY BY THE TOWING COMPANY, THE OPERATOR IS
17 NOT LIABLE TO THE OCCUPANT OR ANY OTHER PERSON WHO CLAIMS AN INTEREST IN
18 THE PROPERTY.

19 ~~F.~~ F. If the personal property is subject to a restitution lien,
20 any person listed as the holder of the restitution lien in the public
21 records may pay the amount necessary to satisfy the lien, redeem the
22 personal property and recover possession of the personal property. The
23 operator is not liable to the occupant or any other person who claims an
24 interest in the personal property if the operator releases the personal
25 property to a person listed as a restitution lienholder pursuant to this
26 subsection.

27 ~~F.~~ G. If the leased space contains protected property and the
28 operator has actual knowledge of the protected property, the protected
29 property shall not be sold but is subject to disposal by the operator.
30 The operator is not liable to the occupant or to any other person who
31 claims an interest in protected property if the operator disposes of the
32 protected property pursuant to this section. Proper disposal methods
33 include destruction of the protected property or surrendering the
34 protected property to appropriate state or federal authorities if those
35 appropriate state or federal authorities accept the protected property.

36 ~~G.~~ H. If a sale is held under this section, the operator shall
37 distribute the proceeds in the following manner:

- 38 1. To pay all reasonable costs of sale.
- 39 2. To satisfy the valid claims of any lienholder or secured party
40 not otherwise subordinated pursuant to section 33-1703, subsection A.
- 41 3. To satisfy the operator's lien.
- 42 4. To satisfy the valid claims of any record lienholder or secured
43 party subordinated pursuant to section 33-1703, subsection A.
- 44 5. To the occupant on demand.

1 6. If the occupant does not claim the balance due to the occupant
2 within ninety days ~~of~~ AFTER the sale, the operator shall pay the balance
3 to the department of revenue. If the occupant, at any time within two
4 years ~~from~~ AFTER the date of payment to the department of revenue,
5 establishes the occupant's right to the money to the satisfaction of the
6 director of the department of administration, it shall be paid to the
7 occupant. After two years, all unclaimed monies shall be deposited in the
8 permanent state school fund.

9 ~~H.~~ I. If five or more bidders who are unrelated to the operator
10 are in attendance at a sale held under this section, the sale and its
11 proceeds are deemed to be commercially reasonable.

12 ~~I.~~ J. A purchaser in good faith of any personal property sold
13 under this article:

14 1. Does not acquire ownership of protected property contained in
15 the leased space and shall return to the operator any protected property
16 that is found in the leased space.

17 2. Except for protected property prescribed in paragraph 1 of this
18 subsection, takes the property free and clear of any rights of any party.

19 ~~J.~~ K. If the operator complies with this article, the operator's
20 liability arising from the sale:

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

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

26 ~~K.~~ L. If an occupant is in default, the operator may deny the
27 occupant access to the leased space.

28 ~~L.~~ M. Unless the rental agreement specifically provides otherwise
29 and until a lien sale under this article, the exclusive care, custody and
30 control of all personal property stored in the leased space remain vested
31 in the occupant. If the occupant is in default for a period of more than
32 thirty days and until the time of sale, the operator, in addition to
33 denying the occupant access to the personal property, may transfer the
34 personal property to a place of safekeeping.