

SELF-SERVICE STORAGE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies requirements for self-service storage facilities.

Highlighted Provisions:

This bill:

▶ adds additional requirements for the written notice to the occupant before the disposal of personal property; and

▶ enacts standards for the renewal of a rental agreement with a self-service storage facility.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

38-8-2, as last amended by Laws of Utah 2013, Chapter 163

38-8-3, as last amended by Laws of Utah 2021, Chapter 355

ENACTS:

38-8-6, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:



28 Section 1. Section 38-8-2 is amended to read:

29 **38-8-2. Lien against stored property -- Attachment and duration -- Search for**
30 **financing statement prerequisite to enforcement of lien.**

31 (1) When an owner and an occupant enter into a rental agreement, the owner and the
32 owner's heirs, executors, administrators, successors, and assigns have a lien upon all personal
33 property located at the self-service storage facility for rent, labor, or other charges, present or
34 future, in relation to the personal property and for expenses necessary for its preservation or
35 expenses reasonably incurred in its sale under this chapter.

36 (2) The lien described in Subsection (1) attaches on the date the personal property is
37 brought to the self-service storage facility and continues so long as the owner retains
38 possession and until any default is corrected or a sale pursuant to a default is conducted to
39 satisfy the lien.

40 (3) (a) A rental agreement shall state that:

41 ~~[(a)]~~ (i) an owner is entitled to sell, donate, or dispose of all personal property stored at
42 the self-service storage facility pursuant to the rental agreement if the occupant is in default for
43 a continuous 30-day period; and

44 ~~[(b)]~~ (ii) the occupant shall disclose to the owner any lienholders that have an interest
45 in the property that will be stored at the self-service storage facility.

46 (b) (i) An owner may impose and collect a reasonable late fee for each period described
47 in the rental agreement that an occupant does not timely pay rent, fees, or other charges due
48 under the rental agreement if the fee and the conditions for imposing the fee are stated in the
49 rental agreement.

50 (ii) A late fee of the greater of \$20 or 20% of the monthly rent, for each period
51 described in the rental agreement, is a reasonable fee and is not considered a penalty.

52 (4) If a rental agreement states a maximum, aggregate value of the personal property
53 that may be stored at the occupant's storage space, the occupant may not assert that the value of
54 the personal property actually stored at the occupant's storage space exceeds the maximum
55 amount stated in the rental agreement.

56 (5) (a) Before an owner takes enforcement action under Section 38-8-3, the owner shall
57 determine if a financing statement filed in accordance with Title 70A, Chapter 9a, Part 5,
58 Filing, has been filed with the Division of Corporations and Commercial Code concerning the

59 property to be sold.

60 (b) A security interest evidenced by a financing statement filed in accordance with
61 Title 70A, Chapter 9a, Part 5, Filing, has priority over the lien provided by this section.

62 Section 2. Section **38-8-3** is amended to read:

63 **38-8-3. Enforcement of lien -- Notice requirements -- Sale procedure and effect.**

64 (1) An owner may enforce a lien described in Section 38-8-2 against an occupant [~~if:~~
65 and sell, donate, or dispose of stored property under Subsection 38-8-3, without liability if:

66 (a) the occupant is in default for a continuous 30-day period; and

67 (b) the owner provides written notice of the owner's intent to enforce the lien, in
68 accordance with the requirements of this section, to:

69 (i) the occupant;

70 (ii) each lienholder disclosed by the occupant under Subsection 38-8-2(3)(b);

71 (iii) each person that has filed a valid financing statement with the Division of
72 Corporations and Commercial Code; and

73 (iv) each person identified as a lienholder in the records of the Motor Vehicle Division.

74 (2) The owner may sell, donate, or dispose of the property without additional notice to
75 the occupant if:

76 (a) the written notice complies with this section; or

77 (b) the personal property is not inside the occupant's storage space.

78 [~~(2)~~] (3) An owner shall provide the written notice described in Subsection (1)(b):

79 (a) in person;

80 (b) by certified mail, to the person's last known address; or

81 (c) subject to Subsection [~~(3)~~] (4), by email, to the person's last known email address.

82 [~~(3)~~] (4) If an owner sends a notice described in Subsection [~~(2)~~] (3) by email and does
83 not receive a response, return receipt, or delivery confirmation from the email address to which
84 the notice was sent within three business days after the day on which the notice was sent, the
85 owner shall deliver the notice in person or by certified mail to the person's last known address.

86 [~~(4)~~] (5) A written notice described in Subsection (1)(b) shall include:

87 (a) an itemized statement of the owner's claim showing the sum due at the time of the
88 notice and the date when the sum became due;

89 (b) a brief description of the personal property subject to the lien that permits the

90 person to identify the property, unless the property is locked, fastened, sealed, tied, or
91 otherwise stored in a manner that prevents immediate identification of the property;

92 (c) if permitted by the terms of the rental agreement, a notice that the occupant may not
93 access the occupant's personal property until the occupant complies with the requirements
94 described in Subsection ~~[(9)]~~ (10);

95 (d) the name, street address, and telephone number of the owner or the individual the
96 occupant may contact to respond to the notification;

97 (e) a demand for payment within a specified time not less than 15 days after the day on
98 which the notice is delivered; and

99 (f) a conspicuous statement that, unless the claim is paid within the time stated in the
100 notice, the owner will:

101 (i) sell, donate, or dispose of the personal property; or

102 (ii) ~~[will be advertised for sale and will]~~ advertise the personal property to be sold at a
103 specified time and place.

104 ~~[(5)]~~ (6) A notice under this section shall be presumed delivered when it is deposited
105 with the United States Postal Service and properly addressed with postage prepaid.

106 ~~[(6)]~~ (7) (a) (i) After the expiration of the time given in the notice, the owner shall
107 publish an advertisement of the sale of the personal property subject to the lien once in a
108 newspaper of general circulation in the county where the self-service storage facility is located.

109 (ii) An advertisement described in Subsection ~~[(6)(a)(i)]~~ (7)(a)(i) shall include:

110 (A) the address of the self-service storage facility and the number, if any, of the space
111 where the personal property is located;

112 (B) the name of the occupant; and

113 (C) the time, place, and manner of the sale, which shall take place not sooner than 15
114 days after the day on which the sale is advertised under Subsection ~~[(6)(a)(i)]~~ (7)(a)(i) .

115 (b) Subsection ~~[(6)(a)]~~ (7)(a) does not apply if:

116 (i) the owner:

117 (A) provided the notice described in Subsection (1)(b) by email; and

118 (B) received a response or return receipt from the email address to which the notice
119 was sent; or

120 (ii) the owner:

121 (A) provided the notice described in Subsection (1)(b) by certified mail; and

122 (B) has evidence of providing the notice by certified mail.

123 [~~(7)~~] (8) A sale of the personal property shall conform to the terms of the notice
124 provided for in this section.

125 [~~(8)~~] (9) A sale of the personal property shall be held at the self-service storage facility,
126 at the nearest suitable place to where the personal property is held or stored, or online.

127 [~~(9)~~] (10) Before a sale of personal property under this section, the occupant may pay
128 the amount necessary to satisfy the lien and the reasonable expenses incurred under this section
129 and thereby redeem the personal property; upon receipt of this payment, the owner shall return
130 the personal property, and thereafter the owner shall have no liability to any person with respect
131 to that personal property.

132 [~~(10)~~] (11) A purchaser in good faith of the personal property sold to satisfy a lien as
133 provided for in this chapter takes the property free of any rights of persons against whom the
134 lien was valid and free of any rights of a secured creditor, despite noncompliance by the owner
135 with the requirements of this section.

136 [~~(11)~~] (12) In the event of a sale under this section, the owner may satisfy the lien for
137 the proceeds of the sale, subject to the rights of any prior lienholder; the lien rights of the prior
138 lienholder are automatically transferred to the proceeds of the sale; if the sale is made in good
139 faith and is conducted in a reasonable manner, the owner shall not be subject to any surcharge
140 for a deficiency in the amount of a prior secured lien, but shall hold the balance, if any, for
141 delivery to the occupant, lienholder, or other person in interest; if the occupant, lienholder, or
142 other person in interest does not claim the balance of the proceeds within one year of the date
143 of sale, it shall become the property of the Utah state treasurer as unclaimed property with no
144 further claim against the owner.

145 [~~(12)~~] (13) If the requirements of this chapter are not satisfied, if the sale of the
146 personal property is not in conformity with the notice of sale, or if there is a willful violation of
147 this chapter, nothing in this section affects the rights and liabilities of the owner, occupant, or
148 any other person.

149 Section 3. Section **38-8-6** is enacted to read:

150 **38-8-6. Renewal.**

151 (1) An owner may establish or modify the terms of a rental agreement upon giving

152 notice in writing to the occupant:

153 (a) by first-class mail to the occupant's last known address; or

154 (b) by email to the occupant's last known email address.

155 (2) An owner shall send written notice to establish or modify the terms of the rental
156 agreement at least 30 days before the day on which the existing rental agreement expires.

157 (3) The occupant is bound by the terms of the new rental agreement if the occupant
158 continues to store personal property at the self-service storage facility beginning on the date the
159 new rental agreement takes effect if the owner complies with Subsections (1)(a) and (b).

160 **Section 4. Effective date.**

161 This bill takes effect on May 1, 2024.