

## CHAPTER 240

[Substitute Senate Bill No. 5595]  
SELF-SERVICE STORAGE FACILITIES

AN ACT Relating to self-service storage facilities; amending RCW 18.11.070 and 18-.85.110; adding a new section to chapter 63.29 RCW; and adding a new chapter to Title 19 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. This chapter shall be known as the "Washington self-service storage facility act."

NEW SECTION. Sec. 2. 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.

NEW SECTION. Sec. 3. 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.

**NEW SECTION.** Sec. 4. 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.

**NEW SECTION.** Sec. 5. 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 section 13(2) of this act, 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 section 3 of this act 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.

**NEW SECTION.** Sec. 6. A notice in substantially the following form shall satisfy the requirements of section 5 of this act:

"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) "

**NEW SECTION.** Sec. 7. If a notice has been sent, as required by section 5 of this act, 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 section 13(2) of this act 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 one hundred dollars, the owner may, instead of sale, dispose of the property in any reasonable manner, subject to the restrictions of section 9(3) of this act.

(4) That any excess proceeds of the sale or other disposition under section 9(2) of this act over the lien amount and costs of sale and any personal papers and personal effects 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 and personal papers and effects will be turned over to the state as abandoned property as provided in section 21 of this act.

(5) That if the occupant was served with notice of the lien sale by mail, the occupant within six months after the date of the sale may repurchase from any purchaser or subsequent purchaser any of the occupant's property

sold pursuant to section 9 of this act at the price paid by the original purchaser.

(6) That if notice of the lien sale was by personal service, the occupant has no right to repurchase any property sold at the lien sale.

NEW SECTION. Sec. 8. The owner, subject to sections 10 and 11 of this act, may sell the property, other than personal papers and personal effects, upon complying with the requirements set forth in section 9 of this act.

NEW SECTION. Sec. 9. (1) After the expiration of the time given in the notice of lien sale pursuant to section 7 of this act, 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 one 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 one hundred dollars, the property may be disposed of in a reasonable manner.

(3) 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.

(4) 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 section 21 of this act.

(5) 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.

NEW SECTION. Sec. 10. 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 sections 6 and 7 of this act.

NEW SECTION. Sec. 11. Prior to any sale pursuant to section 9 of this act, 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.

NEW SECTION. Sec. 12. (1) Except as provided in subsection (2) of this section, a purchaser in good faith of goods disposed of pursuant to section 9(2) of this act 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.

(2) A purchaser or subsequent purchaser shall return the goods to the occupant if the occupant tenders the original purchase price plus any costs incurred by the original purchaser within six months of the date of the purchase, unless the occupant was personally served with notice of the lien sale. If the occupant was personally served, the occupant has no right to repurchase the property.

(3) If the occupant exercises his or her right to repurchase property pursuant to subsection (2) of this section, a subsequent purchaser is entitled to rescind a transaction with a previous purchaser.

NEW SECTION. Sec. 13. (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 section 5 or 7 of this act 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.

NEW SECTION. Sec. 14. 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.

**NEW SECTION.** Sec. 15. 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.

**NEW SECTION.** Sec. 16. This chapter shall only apply to rental agreements entered into, extended, or renewed after the effective date of this section. Rental agreements entered into before the effective date of this section 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 the effective date of this section.

**NEW SECTION.** Sec. 17. All rental agreements entered into before the effective date of this section, and not extended or renewed after that date, or otherwise made subject to this chapter pursuant to section 16 of this act, 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.

**NEW SECTION.** Sec. 18. 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.

Sec. 19. Section 6, chapter 205, Laws of 1982 as amended by section 4, chapter 324, Laws of 1986 and RCW 18.11.070 are each amended to read as follows:

(1) It is unlawful for any person to act as an auctioneer or for an auction company to engage in any business in this state without a license.

(2) This chapter does not apply to:

(a) An auction of goods conducted by an individual who personally owns those goods and who did not acquire those goods for resale;

(b) An auction conducted by or under the direction of a public authority;

(c) An auction held under judicial order in the settlement of a decedent's estate;

(d) An auction which is required by law to be at auction;

(e) An auction conducted by or on behalf of a political organization or a charitable corporation or association if the person conducting the sale receives no compensation; ((or))

(f) An auction of livestock or agricultural products which is conducted under chapter 16.65 or 20.01 RCW. Auctions not regulated under chapter 16.65 or 20.01 RCW shall be fully subject to the provisions of this chapter;  
or

(g) An auction held under chapter 19.— RCW (sections 1 through 18 of this 1988 act).

Sec. 20. Section 3, chapter 252, Laws of 1941 as last amended by section 9, chapter 370, Laws of 1977 ex. sess. and RCW 18.85.110 are each amended to read as follows:

This chapter shall not apply to (1) any person who purchases property and/or a business opportunity for his own account, or that of a group of which he is a member, or who, as the owner or part owner of property, and/or a business opportunity, in any way disposes of the same; nor, (2) any duly authorized attorney in fact, or an attorney at law in the performance of his duties; nor, (3) any receiver, trustee in bankruptcy, executor, administrator, guardian, or any person acting under the order of any court, or selling under a deed of trust; nor, (4) any secretary, bookkeeper, accountant, or other office personnel who does not engage in any conduct or activity specified in any of the definitions under RCW 18.85.010; nor, (5) any owner of rental or lease property, members of the owner's family whether or not residing on such property, or a resident manager of a complex of residential dwelling units wherein such manager resides; nor, (6) any person who manages residential dwelling units on an incidental basis and not as his principal source of income so long as that person does not advertise or hold himself out to the public by any oral or printed solicitation or representation that he is so engaged; nor, (7) only with respect to the rental or lease of individual storage space, any person who owns or manages a self-service storage facility as defined under chapter 19.— RCW (sections 1 through 18 of this 1988 act).

NEW SECTION. Sec. 21. A new section is added to chapter 63.29 RCW to read as follows:

The personal papers and personal effects held by the owner and the excess proceeds of a sale conducted pursuant to section 9 of this act by an owner of a self-service storage facility to satisfy the lien and costs of storage which are not claimed by the occupant of the storage space or any other person which remains unclaimed for more than six months are presumed abandoned.

NEW SECTION. Sec. 22. Sections 1 through 18 of this act shall constitute a new chapter in Title 19 RCW.

NEW SECTION. Sec. 23. 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.

Passed the Senate March 10, 1988.

Passed the House March 10, 1988.

Approved by the Governor March 24, 1988.

Filed in Office of Secretary of State March 24, 1988.