

2023 Kansas Statutes

58-817. Sale of stored property; towing of stored property, subject to city ordinance or county resolution, extinguishment of liens; procedure; online sales; redemption; notices. (a) (1) If the occupant is in default for a period of more than 45 days, the operator may enforce the lien by selling the property stored in the leased space for cash. Sale of the property stored on the premises may be conducted online or in person, by public or private proceedings and may also be as a unit or in parcels, or by way of one or more contracts and at any time or place, and on any terms as long as the sale is commercially reasonable. The operator may otherwise dispose of any property that has no commercial value.

(2) The proceeds of such sale shall then be applied to satisfy the lien, with any surplus disbursed as provided in subsection (d).

(3) If the property subject to the operator's lien is a motor vehicle, watercraft or trailer and the occupant is in default for a period of more than 60 days, the operator may have such property towed from the self-service storage facility. The operator shall not be liable for any damages to the motor vehicle, watercraft or trailer after a towing service takes possession of such property if such towing service has a certificate of public service from the state corporation commission, as provided by K.S.A. 66-1330, and amendments thereto. Towing of a motor vehicle at the direction of the operator shall only be permitted if a city ordinance or county resolution of the city or county where the self-service storage facility is located authorizes the towing of vehicles by a wrecker or towing service, as provided by K.S.A. 8-1103, and amendments thereto. The operator's lien on the motor vehicle, watercraft or trailer shall be extinguished if such property is towed from the self-service storage facility under this subsection.

(b) Before conducting a sale or authorizing a tow under subsection (a), the operator shall:

(1) Notify the occupant of the default by first-class mail at the occupant's last-known address, and by electronic mail if the occupant has provided an electronic mail address to the operator;

(2) send a second notice of default, not less than seven days after the notice required by subsection (b)(1), by first-class mail to the occupant at the occupant's last-known address, and by electronic mail if the occupant has provided an electronic mail address to the operator. A second notice of default shall include:

(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 release for 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 10 days after the date of the notice;

(D) a statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold or, if the contents is a motor vehicle, watercraft or trailer, may be towed after a specified time; and

(E) the name, street address and telephone number of the operator, or a designated agent whom the occupant may contact to respond to the notice.

(3) At least seven 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 or in any other commercially reasonable manner. Such advertisement shall be in the classified section of the newspaper, if notice is placed in the newspaper. If less than three independent bidders attend the sale in person or view the sale online at the time and place advertised, the manner of advertising the sale shall not be considered to have been commercially reasonable and the sale shall be canceled, rescheduled and readvertised. Further notice to the occupant shall not be required.

(c) At any time before a sale or a tow under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

(d) 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 for a period of one year after receipt of proceeds of the sale and satisfaction of the lien. Thereafter, the proceeds remaining after satisfaction of the lien shall be considered abandoned property to be reported and paid to the state treasurer in accordance with the disposition of unclaimed property act.

(e) A purchaser in good faith of any personal property sold under the self-service storage act takes the property free and clear of any rights of:

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

(2) other lienholders.

(f) If the operator complies with the provisions of the self-service storage act, 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 the other lien.

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

(h) Notices to the occupant shall be sent to the occupant at the occupant's last-known address. Notices shall be deemed delivered when deposited with the United States postal service, properly addressed as provided in subsection (b), with postage prepaid.

History: L. 1983, ch. 187, § 6; L. 1984, ch. 204, § 1; L. 2012, ch. 169, § 1; L. 2021, ch. 27, § 2; L. 2023, ch. 36, § 2; July 1.