



## South Carolina Lien Law

### Title 39, Trade and Commerce

#### Chapter 20, Self-Service Storage Facilities

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##### **§ 39-20-10. Short title.**

This chapter is known and may be cited as the “South Carolina Self-Service Storage Facility Act”.

##### **§ 39-20-20. Definitions.**

For purposes of this chapter:

- (a) “Last known address” means the physical, mailing, or electronic mail address provided by the occupant either in the latest rental agreement or in a subsequent written notice of a change of address as the address the occupant selects for the owner to use for making contact or providing notice to the occupant under the provisions of this chapter.
- (b) “Occupant” means a person, his sublessee, successor, or assign entitled to the use of the storage space at a self-service storage facility under a rental agreement, to the exclusion of others.
- (c) “Owner” means the owner, operator, lessor, or sublessor of a self-service storage facility, his agent, or any other person authorized by him to manage the facility or to receive rent from an occupant under a rental agreement.
- (d) “Personal property” means movable property not affixed to land and includes, but is not limited to, goods, merchandise, and household items.
- (e) “Rental agreement” means any written agreement or lease that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of a self-service storage facility.
- (f) “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. No occupant may use a self-service storage facility for residential purposes. A self-service storage facility is not a warehouse within the meaning of Chapter 19, Title 39 and the provisions of law relative to bonded public warehousemen do not apply to the owner of a self-service storage facility. A self-service storage facility is not a safe-deposit box or vault maintained by banks, trust companies, or other financial entities.

(g) “Electronic mail” means an electronic message or an executable program or computer file that contains an image of a message that is transmitted between two or more computers or electronic terminals and includes electronic messages that are transmitted within or between computer networks from which a confirmation of receipt is received.

**§ 39-20-30. Lien of owner for rent; denial of access to personal property.**

(A) The owner of a self-service storage facility and his heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at a self-service storage facility for rent in relation to the personal property, and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to this chapter. The lien provided for in this chapter is junior to any other liens or security interests which are perfected and recorded or liens by any lienholder with an interest in the property of whom the owner has knowledge either through the disclosure provision of the rental agreement or through other written notice. The lien attaches as of the date the occupant is considered in default.

(B) When rent is seven or more calendar days past due the owner may deny the occupant access to the personal property located in the self-service storage facility.

**§ 39-20-40. Written rental agreement.**

If an owner complies with the requirements of this code section and Section 39-20-45, he may enforce the lien without judicial intervention. An owner shall obtain from the occupant a written rental agreement and a copy of the completed agreement shall be given to the occupant upon execution. The rental agreement must include the following language with bold type where indicated:

“This agreement, made and entered into this day of, 20, by and between , the owner and , the occupant, whose last known address is . **YOU HAVE THE RIGHT TO CHOOSE WHETHER YOU WANT TO RECEIVE ANY NOTICE OF DEFAULT BY MAIL OR ELECTRONIC MAIL. WHEN CHOOSING ELECTRONIC MAIL, YOU WAIVE ANY RIGHT TO RECEIVE NOTICE OF DEFAULT PROCEEDINGS THROUGH PERSONAL SERVICE OR MAIL.**

**TO CHOOSE NOTICE BY MAIL TO THE ADDRESS WRITTEN ABOVE, SIGN HERE:**

(Occupant signs on this line to receive notice by mail.)

TO CHOOSE NOTICE BY ELECTRONIC MAIL, SIGN HERE AND PRINT YOUR ELECTRONIC MAIL ADDRESS:

(Occupant signs on this line to receive notice by electronic mail.)

(If Occupant selects to receive notice by electronic mail, on this line Occupant must print the electronic mail address for Owner to use in sending notice.)

CHANGES TO YOUR PREFERRED METHOD OF RECEIVING NOTICE MUST BE SUBMITTED IN WRITING AND SENT BY FIRST CLASS MAIL OR HAND DELIVERED TO THE OWNER.

For the consideration provided for in this agreement, the owner agrees to let the occupant use and occupy a space in the self-service storage facility, known as , located in the City of , State of South Carolina, and more particularly described as follows: Space #. The space is to be occupied and used for the purposes specified in this agreement and subject to the conditions set forth beginning on the day of , 20, and continuing month to month until terminated.

“Space”, as used in this agreement, means that part of the self-service storage facility as described above. The occupant agrees to pay the owner, as payment for the use of the space and improvements on the space, the monthly sum of \$. Monthly installments are payable in advance on or before day of each month, in the amount of \$, and a like amount of each month after that, until the termination of this agreement.

When rent is seven calendar days past due, or if any check given in payment is dishonored, occupant is considered to be in default and the owner may deny access to the personal property located in the self-storage facility. THIS IS THE OCCUPANT’S NOTICE THAT OCCUPANT MAY BE DENIED ACCESS UPON DEFAULT.

The space named in this agreement is to be used by the occupant solely for the purpose of storing any personal property belonging to the occupant. The occupant agrees not to store any explosives or any highly inflammable goods or any other goods in the space which would cause danger to the space. The occupant agrees that the property will not be used for any unlawful purposes and the occupant agrees not to commit waste, nor alter, nor affix signs on the space, and will keep the space in good condition during the term of this agreement.

UPON DEFAULT BY THE OCCUPANT THE OWNER HAS A LIEN ON ALL PERSONAL PROPERTY STORED IN OCCUPANT’S SPACE FOR RENT IN RELATION TO THE PERSONAL PROPERTY, AND FOR ITS PRESERVATION OR EXPENSES REASONABLY INCURRED IN ITS SALE OR OTHER DISPOSITION

PURSUANT TO THIS AGREEMENT. PERSONAL PROPERTY STORED IN OCCUPANT'S SPACE WILL BE SOLD OR OTHERWISE DISPOSED OF IF NO PAYMENT HAS BEEN RECEIVED FOR A CONTINUOUS FIFTY-DAY PERIOD AFTER DEFAULT. IF ANY RENT IS SEVEN CALENDAR DAYS PAST DUE, OR IF ANY CHECK GIVEN IN PAYMENT IS DISHONORED, THE OCCUPANT IS IN DEFAULT FROM DATE PAYMENT WAS DUE.

For purposes of owner's lien: "personal property" means movable property, not affixed to land and includes, but is not limited to, goods, merchandise, and household items; "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. The owner's lien attaches as of the date the occupant is considered in default.

OWNER DOES NOT PROVIDE ANY TYPE OF INSURANCE WHICH WOULD PROTECT THE OCCUPANT'S PERSONAL PROPERTY FROM LOSS BY FIRE, THEFT, OR ANY OTHER TYPE CASUALTY LOSS. IT IS THE OCCUPANT'S RESPONSIBILITY TO PROVIDE SUCH INSURANCE."

**§ 39-20-45. Enforcement of lien.**

(A) If the occupant has been in default continuously for fifty days, owner may enforce its lien, provided owner shall comply with, during the fifty-day default period, the following procedure.

(B) When rent is fourteen or more days past due the occupant must be notified by written notice delivered to the occupant's last known address (1) in person, (2) by personal delivery service as provided by court rule, (3) by first-class mail with a certificate of mailing, (4) by certified mail, or (5) by electronic mail.

(C) Owner's notice to occupant shall include:

(1) a brief and general description of what is believed to constitute the personal property contained in the storage unit;

(2) a statement of the owner's claim, showing the sum due at the time of the notice and the date the sum became due;

(3) a demand for payment within a specified time not less than fourteen days after delivery of notice;

(4) a conspicuous statement that, unless the claim is paid within the time stated in the notice, the personal property will be advertised for sale or disposed of as provided by law and will be sold or otherwise disposed of after a specified date;

(5) a conspicuous statement that partial payment of the owner's claim does not stop or delay the owner's right to proceed with the sale or disposition of the property; and

(6) a conspicuous statement notifying the occupant of denial of access to the personal property and provide the name, street address, and telephone number of the owner or its designated agent, whom the occupant may contact to respond to this notice.

(D) Any notice given pursuant to this section is presumed delivered when it is (1) properly addressed to the last known address, and (2) either deposited with the United States Postal Service with postage prepaid for first class mail with a certificate of mailing or certified mail or sent by electronic mail from which a confirmation of receipt is received.

(E) After the expiration of the fifty-day default period, the owner shall publish an advertisement of the public sale to the highest bidder once a week for two consecutive weeks in a newspaper of general circulation where the self-service storage facility is located.

(F) The advertisement shall include:

(1) a brief and general description of what is believed to constitute the personal property, contained in the storage unit;

(2) the address of the self-storage facility or the address where the self-contained storage unit is located and the name of the occupant; and

(3) the time, place, and manner of the public sale or other disposition.

(G) If the owner determines that the property in the storage space has a sale value of less than three hundred dollars, the owner, at the owner's sole discretion, may hold the property for sixty days from the date notice was provided pursuant to this section. If the occupant fails to claim the goods and pay the rent owed during that period, the owner may destroy or dispose of the property without further notice to occupant and occupant's debt shall be extinguished and the owner shall have no liability to the occupant or any other person for the personal property.

(H) If the property upon which the lien is claimed is a motor vehicle or a watercraft and rent and other charges related to the property remain unpaid or unsatisfied for sixty days following the maturity of the obligation to pay rent, the lienor may have the property towed by a towing company licensed pursuant to law. If a motor vehicle is towed as authorized in this subsection, the lienor shall not be liable for the motor vehicle or any damages to the motor vehicle once the tower takes possession of the property.

(I) If no one purchases the property at the public sale and if the owner has complied with the foregoing procedures, the owner may otherwise dispose of the property and shall

notify the occupant of the action taken. Any sale or disposition of the personal property must be held at the self-service storage facility, at the nearest suitable place to where the personal property is held or stored, or online by an auctioneer licensed in this State.

(J) Before any sale or other disposition of personal property pursuant to this agreement, the occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred, and by that action redeem the personal property and after that the owner shall have no liability to any person with respect to the personal property. A partial payment of rent shall not satisfy the lien, stop or delay the owner's right to proceed with a sale or disposition of the occupant's property as provided in this section unless the owner agrees to the stop or delay in a writing signed by the owner.

(K) A purchaser in good faith of the personal property sold to satisfy owner's lien takes the property subject to any other liens or security interests which are perfected and recorded or liens by any lienholder with an interest in the property of whom the owner has knowledge either through the disclosure provision of the rental agreement or through other written notice.

(L) In the event of a sale, the owner may satisfy his lien from the proceeds of the sale. The owner shall hold the balance of the proceeds, if any, for the occupant or any notified, secured interest holder. If not claimed within two years of the date of sale, the balance of the proceeds must be disposed of in accordance with Chapter 18, Title 27. In no event may the owner's liability exceed the proceeds of the sale.

**§ 39-20-47. Enforcement of lien by distraint.**

(A) If no written rental agreement exists between the owner and occupant and the oral rental agreement was entered into prior to the effective date of this chapter, an owner may enforce collection of rent due by distress in the manner prescribed by this section if the occupant has been in default continuously for thirty days. Any magistrate having jurisdiction over the district in which the self-service storage facility is located may issue, upon receipt of an affidavit of the owner or his agent setting forth the amount of rent due, a notice directed to the occupant stating the alleged amount of rent due, including any cost, and fixing a time and place for a predistress hearing to be held not earlier than five days after the service of the notice. The notice, together with a copy of the affidavit, must be delivered to (a) any regular constable, (b) such special constable as the magistrate may appoint, or (c) the sheriff of the county for enforcement. The officer shall serve a copy of the notice and affidavit on the occupant by personal service by any method provided by law.

(B) The purpose of the predistress hearing is to protect the occupant's use and possession of property from arbitrary encroachment and to prevent unfair or mistaken deprivation of property. If the magistrate shall, after conducting the hearing, find that the owner's right

to distress is valid and the occupant has no overriding right to continue in possession of the property subject to distress, then the magistrate may issue his distress warrant naming the amount of rent due, with costs, and the warrant shall be delivered to an officer as set forth in subsection (A).

(C) The officer to whom a distress warrant is delivered after the predistress hearing shall demand of the occupant payment of the rent with costs as enumerated in the distress warrant. If the amount is paid the officer shall return the warrant with the amount collected to the magistrate who shall settle with the owner. If the tenant fails or refuses to pay the rent with costs, the officer shall distrain sufficient other property upon the rented premises to pay the amount by delivering or mailing to the occupant at his last known address a list in writing of the property distrained together with a copy of the distress warrant.

(D) If any property distrained is not the property of the occupant, the occupant immediately shall name the owner of the property and inform the officer of the ownership and the officer shall distrain sufficient other property of the occupant to pay the rent and costs. The property of the occupant must be first applied to payments of the rent and costs. All property in the self-service storage facility is subject to distress as provided in this section.

(E) Any property belonging to the occupant removed from the self-service storage facility must, if found, be subject to distraint and sale, provided the distraint be made within thirty days after the removal.

(F) Within five days after the distraint, the occupant may free the property from the lien of the distraint by giving a bond payable to the owner in double the amount claimed, with sufficient surety or sureties approved by the court, and the issues thus joined must be tried by the court. The owner has the right to except to the surety or sureties and the surety or sureties shall justify before the magistrate as provided for justification for sureties in claim and delivery actions.

(G) If the occupant fails to give bond as prescribed in subsection (F) then the officer may sell the property at public auction to the highest bidder for cash at a designated place of sale after posting a notice of the sale for five days upon the premises and two other public places in the county stating the time and place of the sale.

(H) The purchaser at a sale of chattels seized under a distress warrant takes the property subject to any other perfected and recorded liens on the property.

(I) If the property distrained brings more than the rent with costs at the sale the surplus must be paid to the occupant and the rent must be paid to the owner.

**§ 39-20-49. Person claiming contents of storage facility to pay all unpaid rents.**

The owner of a self-service storage facility may require of a person laying claim to any of the contents of the self-service storage facility that the claimant pay to the owner all unpaid rents due for the use of the facility before taking possession of the contents. The owner is not responsible for any property taxes that may be due on any contents that have been in storage in the facility.

**§ 39-20-50. Creation of additional rights, duties, and obligations by agreement; relation of chapter to other laws.**

Nothing in this chapter may be construed as in any manner impairing or affecting the right of the parties to create additional rights, duties, and obligations in and by virtue of the rental agreement. The rights provided by this chapter are in addition to all other rights allowed by law to a creditor against his debtor.