

# **DISCUSSING THE WOW FACTOR:**

The Arkansas Self-Storage Facilities  
Statute and How To Use It To Your  
Advantage

---

**ARSSA State Convention & Expo**

August 7, 2024

# agenda

---

1. Notice of the Lien
2. Perfecting the Lien
3. Tenant Default
4. Sale and Removal Procedure
5. Disbursement of Sale Proceeds
6. Bonus: Vehicles

**Notice of the lien**

# Notice of the lien: The Rental Agreement

---

A rental agreement must include notice of the lien on personal property.  
(A.C.A. § 18-16-404)

The rental agreement must notify the existence of the lien and inform the tenant that the property stored in the leased space may be sold or removed to satisfy the lien if the occupant is in default.

Include information that states the lien attaches on the date the personal property is brought to the self-storage facility (A.C.A. § 18-16-402(b)).

## Notice of the lien (cont.)

---

Note that a lien on all personal property within the leased space covers **rent, labor, or other charges** and for **expenses reasonably incurred** in the sale or removal of the personal property from the self-storage facility (A.C.A. § 18-16-402(a)(1)).

If the property is a **motor vehicle, trailer, or watercraft**, then the lien additionally includes fees and expenses reasonably incurred to remove the property from the facility (A.C.A. § 18-16-402(a)(2)).

This provision allows operators to recover costs associated with the handling of larger or more complex items that may require special procedures for removal.

# Perfecting the lien

# Perfecting the lien

A lien which is perfected and recorded in Arkansas must include:

1. The **name** of the tenant
2. The **county** of the tenant's last known address OR the county where the self-storage facility is located (prior to the date of the rental agreement)

Note that the lien will be superior to any other lien or security interest except for tax liens and any lienholder with a perfected security interest in the property.

A.C.A. § 18-16-402(b)

# Tenant Default



# Tenant Default: Notice of Default

---

A default refers to a tenant's failure to timely perform an obligation of the rental agreement. A.C.A. § 18-16-401(1).

- As an operator, notice must be provided to the tenant in writing of the default and inform them of the facility's intent to enforce its lien. This notice may include:
  - ❑ The amount due and the date it became due
  - ❑ A statement that the property in the facility will be sold or disposed of if payment is not made within a certain timeframe.
  - ❑ Information on where and when the sale will occur
    - more to follow in the Sale and Removal Procedure section

# Tenant Default: Waiting Period

---

If the tenant is in default for more than 45 days, then the operator may enforce the lien by selling the personal property in the leased space. A.C.A. § 18-16-406(a).

If the personal property is a motor vehicle, trailer, or watercraft and the occupant is in default for at least 60 days, then the operator may opt to remove the personal property instead of selling the personal property. A.C.A. § 18-16-406(b).

# Tenant Default: Denying Access

---

- If an occupant is in default, the operator may deny access to the leased space. A.C.A. § 18-16-405(a).
- This means that the tenant cannot enter the unit to remove its contents until the default is resolved.
- If the tenant cures the default (pays the overdue amount and applicable fees) before the sale of the contents occurs, then the operator must allow the tenant access to the storage unit to retrieve the contents.

# **Sale and Removal Procedure**

# Sale and REMOVAL PROCEDURE

---

**Notify the Tenant**

**Advertise the Sale**

**Verify Existing Liens**

# Sale and Removal Procedure

---

## I. **Notification**

The operator must notify the occupant in writing of the default, which must include:

- 1) A statement that the contents of the leased space are subject to the operator's lien
- 2) A statement indicating the charges due on the date of the notice, including any additional fees that will accrue before the scheduled sale with specific dates when the additional fees will become due.
- 3) A demand for payment of the charges due within a specified time, not less than **14 days** after the date the notice is sent

# Sale and Removal Procedure

---

## 1. **Notification**

- 4) A statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold at a specified time and place or removed from the self-service storage facility on a specified date
- 5) The name, street address, and telephone number of the operator whom the tenant may contact to respond to the notice; and
- 6) The designated date, time, and place where the contents will be sold or removed from the facility unless the default is cured

# Sale and Removal Procedure

---

## 1. **Notification:** Delivery

Notice may be sent by first-class mail with certificate of mailing to the tenant at the tenant's last known address

OR

If the tenant provides an email address and gives permission to the facility to use the email address as a legal notification for the tenant's last known address, then operators may use the email address to send notice

A.C.A. § 18-16-407(b)(1)(B), (D)



# Sale and Removal Procedure

---

## **Advertise the Sale**

Click icon to add table

At least seven (7) days before the sale or removal of personal property:

- Publish one advertisement announcing the sale or removal of personal property in a newspaper of general circulation in the county in which the storage facility is located;

**OR**

- Advertise the sale or removal of personal property in a *commercially reasonable manner*
  - At least **three** independent bidders participate in the sale
  - “A manner confirming with advertising practices among dealers on the type of personal property being sold or removed”

# Sale and Removal Procedure

---

## **3. Verify Existing Liens**

Click icon to add chart

Contact the circuit clerk where the personal property is stored to determine if there are any existing security interests

- Notification must be made by first-class mail to the existing lienholder of the time and place of the proposed sale or removal at least **10 days** before the sale or removal

Notification is required *only if* the lien or security interest is filed under the name of the occupant

A.C.A. § 18-16-407(b)(3)

# Other Provisions Governing Lien Enforcement

---

- At any time before a sale or removal of personal property, the tenant may pay the amount necessary to satisfy the lien and reclaim his/her personal property.
- The sale must be held at the self-storage facility where the personal property is stored.
- Operators must retain a copy of all notices and return receipts for the sale and removal procedure for **6 months** following the date of the lien sale or removal of the personal property from the facility.

A.C.A. § 18-16-407(c)-(d), (g)

**Disbursement of sale proceeds**

# Disbursement of Sale Proceeds

- Proceeds from the sale must be applied to satisfy the lien.
- If any surplus from the sale exists after satisfying the operator's lien, then the operator must **hold the balance** to be disbursed upon request to the occupant (or any other recorded lienholders).
- If a request is not made within **2 years** after the date of the sale, the surplus will revert to the county.

# **Bonus: Vehicles**

# Vehicles

A self-storage facility may sell a vehicle as outlined under A.C.A. § 27-50-1202.

This provision addresses the conditions under which a vehicle can be considered **abandoned** and the rights and procedures to obtain a possessory lien on the abandoned vehicle.

An **abandoned** vehicle refers to a vehicle that remains unattended for a period at least **30 days** without any indication from the owner that they intend to reclaim it, and where the owner has clearly shown, they do not intend to reclaim it.

A.C.A. § 18-16-413

# Vehicles (cont.)

The storage facility must have a first lien on the vehicle and its contents for all reasonable charges for storage for which the owner is liable.

A possessory lien attaches to not only the vehicle and its contents but also any trailer attached to the vehicle at the time it is stored and any contents of the trailer including, but not limited to, other vehicles or boats.

A lien does **not** extend to personal or legal documents, medications, child-restraint seating, wallets or purses, etc.

- Such items described must be released without charge by the storage facility to the owner or operator of the motor vehicle or his/her authorized representative.

A.C.A. § 27-50-1208(a)



# Vehicles: Perfecting the lien

The lien will be perfected by:

1. Maintaining possession
2. Mailing notice to the owner(s) and lienholders involved from the record of the Office of Motor Vehicle, Arkansas Crime Information center or the name and address of the last registered owner and lienholder.

Notice must be posted no sooner than 2 business days but within 8 business days after the storage facility receives the vehicle.

If the Office of Motor Vehicle does not contain any information as to the last known registered owner(s) or lienholder(s), notice must be provided by publication at least one time in a newspaper in the county where the vehicle and storage facility exists.

An aerial photograph of a vast parking lot, densely packed with rows of cars. The cars are arranged in neat, parallel lines, filling most of the frame. The ground is a light-colored, possibly asphalt or concrete, with some parking lines visible. The perspective is from a high angle, looking down on the lot. The text is overlaid on the top left portion of the image.

# Vehicles: Notice Requirement

The notice must contain the following information:

1. The year, make, model, and VIN of the vehicle.
2. The name, address, and phone number of the storage facility.
3. Statement that the vehicle is in the possession of the storage facility.
4. Statement that the storage and administrative costs are the legal responsibility of the owner.
5. Notice that the storage facility has a first lien interest on the vehicle and applicable contents.



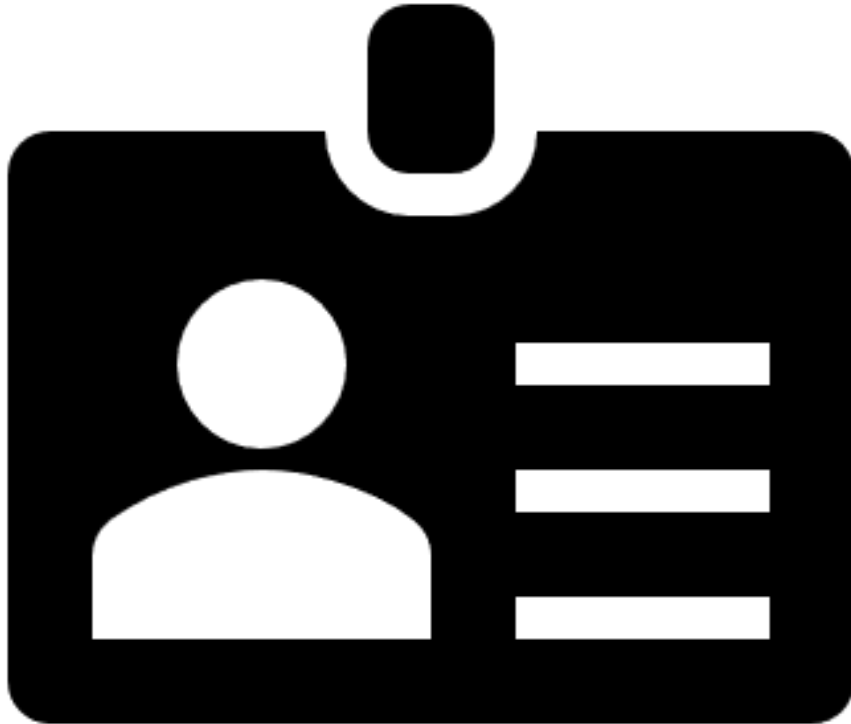
# Vehicles: Notice Requirements (Cont.)

The notice must contain the following information:

6. Notice that unless claimed within 45 days, the vehicle and its contents will be removed or sold at public sale to the highest bidder.
7. Information that failure to reclaim the vehicle within the specific time constitutes a waiver of all rights by the owner(s) and lienholder(s).
8. Instructions that the owner or lienholder can reclaim the vehicle during business hours by proving ownership, releasing any official hold, if applicable, and paying all charges, or by arranging otherwise in writing with the towing and storage firm.
9. Instructions that the vehicle owner or operator, or their authorized representative, can retrieve items listed in subdivision (a)(2)(B) of this section.

**Questions?**

Click icon to add picture



# Thank you

---

**Joseph W. Price II**  
**Managing Member**

Quattlebaum, Grooms & Tull PLLC

111 Center Street, Suite 1900

Little Rock, Arkansas 72201

Telephone: 501-379-1772

Facsimile: 501-379-1701

Email Address: [jprice@qgtlaw.com](mailto:jprice@qgtlaw.com)

Website: [www.qgtlaw.com](http://www.qgtlaw.com)