

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

H. B. No. 390

Representative Merrin

A BILL

To amend sections 1923.04 and 1923.14 of the 1
Revised Code to clarify how to calculate certain 2
timelines under which a forcible entry and 3
detainer action must occur. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1923.04 and 1923.14 of the 5
Revised Code be amended to read as follows: 6

Sec. 1923.04. (A) Except as provided in division (B) or 7
(C) of this section, a party desiring to commence an action 8
under this chapter shall notify the adverse party to leave the 9
premises, for the possession of which the action is about to be 10
brought, three or more days before beginning the action, by 11
certified mail, return receipt requested, or by handing a 12
written copy of the notice to the defendant in person, or by 13
leaving it at the defendant's usual place of abode or at the 14
premises from which the defendant is sought to be evicted. The 15
three-day period shall begin on the day immediately following 16
the day the notice is delivered and, notwithstanding section 17
1.14 of the Revised Code, shall count all intervening days 18
including Saturdays, Sundays, and legal holidays. 19

Every notice given under this section by a landlord to recover residential premises shall contain the following language printed or written in a conspicuous manner: "You are being asked to leave the premises. If you do not leave, an eviction action may be initiated against you. If you are in doubt regarding your legal rights and obligations as a tenant, it is recommended that you seek legal assistance."

(B) The service of notice pursuant to section 5313.06 of the Revised Code constitutes compliance with the notice requirement of division (A) of this section. The service of the notice required by division (C) of section 5321.17 of the Revised Code constitutes compliance with the notice requirement of division (A) of this section.

(C) If the adverse party in an action under this chapter is a deceased resident of a manufactured home park, the notice required by division (A) of this section shall be left at the premises from which the defendant is sought to be evicted and also shall be sent by ordinary mail to the following persons if their names and addresses are known to the park operator:

(1) If a probate court has granted letters testamentary or of administration for the estate of the adverse party in accordance with Title XXI of the Revised Code, the executor or administrator appointed by the probate court;

(2) The deceased resident's spouse and any other members of the deceased resident's immediate family.

Sec. 1923.14. (A) Except as otherwise provided in this section, within ten days after receiving a writ of execution described in division (A) or (B) of section 1923.13 of the Revised Code, the sheriff, police officer, constable, or bailiff

shall execute it by restoring the plaintiff to the possession of 49
the premises, and shall levy and collect reasonable costs, not 50
to exceed the standard motion fee, and make return, as upon 51
other executions. The ten-day period shall begin on the day 52
immediately following the day the writ is received by the 53
sheriff, police officer, constable, or bailiff and, 54
notwithstanding section 1.14 of the Revised Code, shall count 55
all intervening days including Saturdays, Sundays, and legal 56
holidays. 57

If an appeal from the judgment of restitution is filed and 58
if, following the filing of the appeal, a stay of execution is 59
obtained and any required bond is filed with the court of common 60
pleas, municipal court, or county court, the judge of that court 61
immediately shall issue an order to the sheriff, police officer, 62
constable, or bailiff commanding the delay of all further 63
proceedings upon the execution. If the premises have been 64
restored to the plaintiff, the sheriff, police officer, 65
constable, or bailiff shall forthwith place the defendant in 66
possession of them, and return the writ with the sheriff's, 67
police officer's, constable's, or bailiff's proceedings and the 68
costs taxed on it. 69

(B) (1) After a municipal court or county court issues a 70
writ of execution described in division (B) of section 1923.13 71
of the Revised Code, the clerk of the court shall send by 72
regular mail, to the last known address of each person other 73
than the titled owner of the manufactured home, mobile home, or 74
recreational vehicle that is the subject of the writ who is 75
listed on the writ as having any outstanding right, title, or 76
interest in the home, vehicle, or personal property and to the 77
auditor and treasurer of the county in which the court is 78
located, a written notice that the home or vehicle potentially 79

may be sold, destroyed, or have its title transferred under the 80
circumstances described in division (B) (3) or (4) of this 81
section. A person having any outstanding right, title, or 82
interest in the home, vehicle, or personal property is not 83
required to consent to the notice required under this division 84
in order for the writ to be executed. 85

(2) Except as otherwise provided in this division, after 86
causing the defendant to be removed from the residential 87
premises of the manufactured home park, if necessary, by writ of 88
restitution, and receiving a writ of execution described in 89
division (B) of section 1923.13 of the Revised Code, in 90
accordance with the writ, the sheriff, police officer, 91
constable, or bailiff may cause the manufactured home, mobile 92
home, or recreational vehicle that is the subject of the writ, 93
and all personal property on the residential premises, to be 94
retained at their current location on the residential premises, 95
until they are claimed by the defendant or they are disposed of 96
in a manner authorized by division (B) (3), (4), or (6) of this 97
section or by another section of the Revised Code. 98

The park operator shall not be liable for any damage 99
caused by the park operator's removal of the manufactured home, 100
mobile home, or recreational vehicle or the removal of the 101
personal property from the residential premises, or for any 102
damage to the home, vehicle, or personal property during the 103
time the home, vehicle, or property remains abandoned or stored 104
in the manufactured home park, unless the damage is the result 105
of acts that the park operator or the park operator's agents or 106
employees performed with malicious purpose, in bad faith, or in 107
a wanton or reckless manner. The reasonable costs for a removal 108
of the manufactured home, mobile home, or recreational vehicle 109
and personal property and, as applicable, the reasonable costs 110

for its storage shall constitute a lien upon the home or vehicle 111
payable by the titled owner of the home or vehicle or payable 112
pursuant to division (B) (3) of this section to the park 113
operator. 114

The sheriff, police officer, constable, or bailiff shall 115
not be liable for any damage caused by the park operator's 116
removal of the manufactured home, mobile home, or recreational 117
vehicle or the removal of the personal property from the 118
residential premises, or for any damage to the home, vehicle, or 119
personal property during the time the home, vehicle, or property 120
remains abandoned or stored in the manufactured home park. 121

(3) Except as provided in divisions (B) (4), (5), and (6) 122
of this section and division (D) of section 1923.12 of the 123
Revised Code, within sixty days after receiving a writ of 124
execution described in division (B) of section 1923.13 of the 125
Revised Code for a manufactured home, mobile home, or 126
recreational vehicle, determined to have a value of more than 127
three thousand dollars, the sheriff, police officer, constable, 128
or bailiff shall commence proceedings for the sale of the 129
manufactured home, mobile home, or recreational vehicle that is 130
the subject of the writ, and the abandoned personal property on 131
the residential premises, if the home or vehicle is determined 132
to be abandoned in accordance with the procedures for the sale 133
of goods on execution under Chapter 2329. of the Revised Code. 134
In addition to all notices required to be given under section 135
2329.13 of the Revised Code, the sheriff, police officer, 136
constable, or bailiff shall serve at their respective last known 137
addresses a written notice of the date, time, and place of the 138
sale upon all persons who are listed on the writ of execution as 139
having any outstanding right, title, or interest in the 140
abandoned manufactured home, mobile home, or recreational 141

vehicle and the personal property and shall provide written 142
notice to the auditor and the treasurer of the county in which 143
the court issuing the writ is located. 144

Unless the proceedings are governed by division (D) of 145
section 1923.12 of the Revised Code, notwithstanding any 146
statutory provision to the contrary, including, but not limited 147
to, section 2329.66 of the Revised Code, there shall be no stay 148
of execution or exemption from levy or sale on execution 149
available to the titled owner of the abandoned manufactured 150
home, mobile home, or recreational vehicle in relation to a sale 151
under this division. Except as otherwise provided in sections 152
2113.031, 2117.25, and 5162.21 of the Revised Code in a case 153
involving a deceased resident or resident's estate, the sheriff, 154
police officer, constable, or bailiff shall distribute the 155
proceeds from the sale of an abandoned manufactured home, mobile 156
home, or recreational vehicle and any personal property under 157
this division in the following manner: 158

(a) The sheriff, police officer, constable, or bailiff 159
shall first pay the costs for any moving of and any storage 160
outside the manufactured home park of the home or vehicle and 161
any personal property pursuant to division (B)(2) of this 162
section, the costs of the sale, any advertising expenses paid by 163
the park operator for the sale of the manufactured home, mobile 164
home, or recreational vehicle under division (B)(3) of this 165
section, and any unpaid court costs assessed against the 166
defendant in the underlying action. 167

(b) Following the payment required by division (B)(3)(a) 168
of this section, the sheriff, police officer, constable, or 169
bailiff shall pay all outstanding tax liens on the home or 170
vehicle. 171

(c) Following the payment required by division (B) (3) (b) 172
of this section, the sheriff, police officer, constable, or 173
bailiff shall pay all other outstanding security interests, 174
liens, or encumbrances on the home or vehicle by priority of 175
filing or other priority. 176

(d) Following the payment required by division (B) (3) (c) 177
of this section, the sheriff, police officer, constable, or 178
bailiff shall pay any outstanding monetary judgment rendered 179
under section 1923.09 or 1923.11 of the Revised Code in favor of 180
the plaintiff and any costs associated with retaining the home 181
or vehicle prior to the sale at its location on the residential 182
premises within the manufactured home park pursuant to division 183
(B) (2) of this section. 184

(e) After complying with divisions (B) (3) (a) to (d) of 185
this section, the sheriff, police officer, constable, or bailiff 186
shall report any remaining money as unclaimed funds pursuant to 187
Chapter 169. of the Revised Code. 188

Upon the return of any writ of execution for the 189
satisfaction of which an abandoned manufactured home, mobile 190
home, or recreational vehicle has been sold under this division, 191
on careful examination of the proceedings of the sheriff, police 192
officer, constable, or bailiff conducting the sale, if the court 193
that issued the writ finds that the sale was made, in all 194
respects, in conformity with this division, the court shall 195
direct the clerk of the court to make an entry on the journal 196
that the court is satisfied with the legality of the sale and 197
order the clerk of the court of common pleas title division to 198
issue a certificate of title, free and clear of all security 199
interests, liens, and encumbrances, to the purchaser of the home 200
or vehicle. If the manufactured home, mobile home, or 201

recreational vehicle sold under this division is located in a 202
manufactured home park, the purchaser of the home or vehicle 203
shall have no right to maintain the home or vehicle in the 204
manufactured home park without the park operator's consent and 205
the sheriff, police officer, constable, or bailiff conducting 206
the sale shall notify all prospective purchasers of this fact 207
prior to the commencement of the sale. 208

If, after it is offered for sale on two occasions under 209
this division, the abandoned manufactured home, mobile home, or 210
recreational vehicle cannot be sold due to a want of bidders, 211
the sheriff, police officer, constable, or bailiff shall present 212
the writ of execution unsatisfied to the clerk of the court of 213
common pleas title division, of the county in which the writ was 214
issued for the issuance by the clerk in the manner prescribed in 215
section 4505.10 of the Revised Code of a certificate of title 216
transferring the title of the home or vehicle to the plaintiff, 217
free and clear of all security interests, liens, and 218
encumbrances. If any taxes are owed on the home or vehicle at 219
this time, the county auditor shall remove the delinquent taxes 220
from the manufactured home tax list and the delinquent 221
manufactured home tax list and remit any penalties for late 222
payment of manufactured home taxes. Acceptance of the 223
certificate of title by the plaintiff terminates all further 224
proceedings under this section. In accordance with division (E) 225
(3) of section 4503.061 of the Revised Code, the plaintiff shall 226
notify the county auditor of the transfer of title. Pursuant to 227
section 4503.061 of the Revised Code, if the manufactured home, 228
mobile home, or recreational vehicle is destroyed or removed, 229
the plaintiff shall provide the county auditor with notice of 230
removal or destruction of the manufactured home, mobile home, or 231
recreational vehicle. 232

(4) Except as provided in division (B) (5) or (6) of this 233
section and division (D) of section 1923.12 of the Revised Code, 234
within thirty days after receiving a writ of execution described 235
in division (B) of section 1923.13 of the Revised Code, if the 236
manufactured home, mobile home, or recreational vehicle is 237
determined to be abandoned and to have a value of three thousand 238
dollars or less, the sheriff, police officer, constable, or 239
bailiff shall present the writ of execution to the clerk of the 240
court of common pleas title division, of the county in which the 241
writ was issued for the issuance by the clerk in the manner 242
prescribed in section 4505.10 of the Revised Code of a 243
certificate of title transferring the title of the home or 244
vehicle to the plaintiff, free and clear of all security 245
interests, liens, and encumbrances. If any taxes are owed on the 246
home or vehicle at this time, the county auditor shall remove 247
the delinquent taxes from the manufactured home tax list and the 248
delinquent manufactured home tax list and remit any penalties 249
for late payment of manufactured home taxes. Acceptance of the 250
certificate of title by the plaintiff terminates all further 251
proceedings under this section. In accordance with division (E) 252
(3) of section 4503.061 of the Revised Code, the plaintiff shall 253
notify the county auditor of the transfer of title. Pursuant to 254
section 4503.0611 of the Revised Code, if the manufactured home, 255
mobile home, or recreational vehicle is destroyed or removed, 256
the plaintiff shall provide the county auditor with notice of 257
removal or destruction of the manufactured home, mobile home, or 258
recreational vehicle. 259

(5) At any time prior to the issuance of the writ of 260
execution described in division (B) of section 1923.13 of the 261
Revised Code, the titled owner of the manufactured home, mobile 262
home, or recreational vehicle that would be the subject of the 263

writ may remove the abandoned home or vehicle from the 264
manufactured home park upon payment to the county auditor of all 265
outstanding tax liens on the home or vehicle and, unless the 266
owner is indigent, payment to the clerk of court of all unpaid 267
court costs assessed against the defendant in the underlying 268
action. After the issuance of the writ of execution, the titled 269
owner of the home or vehicle may remove the abandoned home or 270
vehicle from the manufactured home park at any time up to the 271
day before the scheduled sale, destruction, or transfer of the 272
home or vehicle pursuant to division (B) (3) or (4) of this 273
section upon payment of all of the following: 274

(a) All costs incurred by the sheriff, police officer, 275
constable, or bailiff; 276

(b) All outstanding tax liens on the home or vehicle; 277

(c) Unless the owner is indigent, all unpaid court costs 278
assessed against the defendant in the underlying action. 279

(6) At any time after the issuance of the writ of 280
execution described in division (B) of section 1923.13 of the 281
Revised Code, the holder of any outstanding lien, right, title, 282
or interest in the manufactured home, mobile home, or 283
recreational vehicle, other than the titled owner of the home or 284
vehicle, may stop the sheriff, police officer, constable, or 285
bailiff from proceeding with the sale under this division by 286
doing both of the following: 287

(a) Commencing a proceeding to repossess the home or 288
vehicle pursuant to Chapters 1309. and 1317. of the Revised 289
Code; 290

(b) Paying to the park operator all monthly rental 291
payments for the lot on which the home or vehicle is located 292

from the time of the issuance of the writ of execution until the 293
time that the home or vehicle is sold pursuant to Chapters 1309. 294
and 1317. of the Revised Code. 295

(7) (a) At any time prior to the day before the scheduled 296
sale of the property pursuant to division (B) (3) of this 297
section, the defendant may remove any personal property of the 298
defendant from the abandoned home or vehicle or other place of 299
storage. 300

(b) If personal property owned by a person other than the 301
defendant is abandoned on the residential premises and has not 302
previously been removed, the owner of the personal property may 303
remove the personal property from the abandoned home or vehicle 304
or other place of storage up to the day before the scheduled 305
sale of the property pursuant to division (B) (3) of this section 306
upon presentation of proof of ownership of the property that is 307
satisfactory to the sheriff, police officer, constable, or 308
bailiff conducting the sale. 309

Section 2. That existing sections 1923.04 and 1923.14 of 310
the Revised Code are hereby repealed. 311