

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 172**

**Representative Hillyer**

**Cosponsors: Representatives Seitz, Becker**

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**A BILL**

To amend sections 5322.01, 5322.02, and 5322.03 of 1  
the Revised Code to amend the law regarding 2  
self-service storage facilities. 3

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

**Section 1.** That sections 5322.01, 5322.02, and 5322.03 of 4  
the Revised Code be amended to read as follows: 5

**Sec. 5322.01.** As used in sections 5322.01 to 5322.05 of 6  
the Revised Code: 7

(A) "Self-service storage facility" means any real 8  
property that is designed and used only for the purpose of 9  
renting or leasing individual storage space in the facility 10  
under the following conditions: 11

(1) The occupants have access to the storage space only 12  
for the purpose of storing and removing personal property. 13

(2) The owner does not issue a warehouse receipt, bill of 14  
lading, or other document of title, as defined in section 15  
1301.201 of the Revised Code, for the personal property stored 16  
in the storage space. 17

"Self-service storage facility" does not include any garage used principally for parking motor vehicles, any garage or storage area in a private residence, an establishment licensed pursuant to sections 915.14 to 915.24 of the Revised Code, or any property of a bank or savings and loan association that contains vaults, safe deposit boxes, or other receptacles for the uses, purposes, and benefits of the bank's or savings and loan association's customers.

(B) "Owner" means a person that is ~~either the owner or operator~~ of a self-service storage facility ~~or, the lessor or sublessor~~ of an entire self-service storage facility ~~and that receives~~, the agent of any of the foregoing, or any other person authorized by any of the foregoing to manage the facility or to receive rent from an occupant pursuant to a rental agreement ~~that the person enters into with the occupant.~~

(C) "Occupant" means a person that rents storage space at a self-service storage facility pursuant to a rental agreement that the person enters into with the owner.

(D) "Rental agreement" means any written agreement that is entered into by the owner and the occupant and that establishes the terms and conditions of the occupant's use of storage space at a self-service storage facility.

(E) "Personal property" means money and every animate or inanimate tangible thing that is the subject of ownership, except anything forming part of a parcel of real estate, as defined in section 5701.02 of the Revised Code, and except anything that is an agricultural commodity, as defined in division (A) of section 926.01 of the Revised Code.

(F) "Late fee" means any fee or charge assessed for an

occupant's failure to pay rent when due. "Late fee" does not 47  
include interest on a debt, reasonable expenses incurred in the 48  
collection of unpaid rent, or costs associated with the 49  
enforcement of any other remedy provided by statute or contract. 50

(G) "Last known address" means either of the following: 51

(1) The mailing address or electronic mail address 52  
provided by the occupant in the most recent rental agreement or 53  
the mailing address or electronic mail address provided by the 54  
occupant in a subsequent written notice of a change of address; 55

(2) The mailing address or electronic mail address of any 56  
of the persons described in division (A) of section 5322.03 of 57  
the Revised Code that is provided by any of those persons to the 58  
owner of a self-service storage facility or that is discovered 59  
by the owner of a self-service storage facility. 60

**Sec. 5322.02.** (A) The owner of a self-service storage 61  
facility has a lien against the occupant on the personal 62  
property stored pursuant to a rental agreement in any storage 63  
space at the self-service storage facility, or on the proceeds 64  
of the personal property subject to the defaulting occupant's 65  
rental agreement in the owner's possession, for rent, labor, 66  
late fees, or other charges in relation to the personal property 67  
that are specified in the rental agreement and that have become 68  
due and for expenses necessary for the preservation of the 69  
personal property or expenses reasonably incurred in the 70  
enforcement of the lien or in the sale or other disposition of 71  
the personal property pursuant to law. The owner's lien provided 72  
for in this section is also effective against the following 73  
persons: 74

(1) A person who has an unfiled security interest in the 75

personal property, except that the owner's lien is not effective 76  
against a person who has a valid security interest in a motor 77  
vehicle or a valid security interest in a watercraft, whether or 78  
not the security interest in the motor vehicle or watercraft is 79  
filed; 80

(2) A person who meets both of the following requirements: 81

(a) The person has a legal interest in the personal 82  
property, a filed security interest in the personal property, or 83  
a valid security interest in the personal property that is a 84  
motor vehicle. 85

(b) The person consents in writing to the storage of the 86  
personal property. 87

(B) The owner's lien created by division (A) of this 88  
section attaches as of the date the personal property is brought 89  
to the self-service storage facility. An owner loses the owner's 90  
lien on any personal property that the owner voluntarily permits 91  
to be removed from the self-service storage facility or 92  
unjustifiably refuses to permit to be removed from the self- 93  
service storage facility. 94

**Sec. 5322.03.** An owner's lien created by division (A) of 95  
section 5322.02 of the Revised Code for a claim that has become 96  
due may be enforced only as follows: 97

(A) The following persons shall be notified in accordance 98  
with divisions (B) and (C) of this section: 99

(1) All persons whom the owner has actual knowledge of and 100  
who claim an interest in the personal property; 101

(2) All persons holding liens on any motor vehicle,  102  
trailer, or watercraft amongst the property; 103

(3) All persons who have filed security agreements in the name of the occupant evidencing a security interest in the personal property with either the secretary of state or the county recorder of the county in which the self-service storage facility is located or the Ohio county of the last known address of the occupant.

(B) The notice shall be delivered in person, sent by electronic mail, sent by certified mail, or sent by first-class mail or private delivery service with a certificate or verification of mailing to the last known address of each person who is required to be notified by division (A) of this section;

(C) The notice shall include all of the following:

(1) The name and last known address of the occupant who rented the storage space in which the personal property was stored;

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

(3) A brief and general description of the personal property subject to the lien. The description shall be reasonably adequate to permit the person notified to identify it except that any container including, but not limited to, a trunk, valise, or box that is locked, fastened, sealed, or tied in a manner that deters immediate access to its contents and that has not been opened by the owner prior to the date on which the notice is given may be described as such without describing its contents.

(4) A notice of denial of access to the personal property, if a denial of access is permitted under the terms of the rental

agreement, which notice provides the name, street address, and 133  
telephone number of the person whom the person notified may 134  
contact to pay the claim and to either obtain the personal 135  
property or enter into a rental agreement for the storage of the 136  
personal property; 137

(5) A demand for payment within a specified time not less 138  
than ten days after delivery of the notice; 139

(6) A conspicuous statement that unless the claim is paid 140  
within that time the personal property will be advertised for 141  
sale and will be sold by auction ~~at a specified time and place~~ 142  
and that, if no person purchases the personal property at the 143  
auction, the personal property may be sold at a private sale or 144  
destroyed; 145

(7) The street or internet address of the place at which 146  
the sale will be held, if the sale will be held at a place other 147  
than the self-service storage facility in which the personal 148  
property was stored. 149

(D) ~~(1)~~ Any notice given pursuant to this section ~~shall be~~ 150  
~~presumed delivered, if the notice that~~ is sent by first-class 151  
mail or private delivery service with a certificate or 152  
verification of mailing, shall be presumed delivered when it is 153  
deposited with the United States postal service or private 154  
delivery service and properly addressed with proper postage 155  
prepaid. 156

(2) Any notice given pursuant to this section that is sent 157  
by electronic mail shall be presumed delivered when it is 158  
properly addressed and sent. 159

(E) The sale of the personal property shall conform to the 160  
terms of the notice as provided for in this section. 161

(F) The sale of the personal property ~~shall~~may be held at 162  
the self-service storage facility or, if the street or internet 163  
address of the place was included in the notice as required by 164  
division (C) (7) of this section, on the internet or at the 165  
nearest suitable place to the self-service storage facility at 166  
which the personal property is stored. 167

(G) After the expiration of the time given in the notice, 168  
an advertisement of the sale shall be published once a week for 169  
two consecutive weeks in a newspaper of general circulation in 170  
the county in which the self-service storage facility is located 171  
or any other commercially reasonable manner. The manner of 172  
advertisement shall be deemed commercially reasonable if at 173  
least three independent bidders register for, view, or attend 174  
the sale ~~at the time and place advertised~~. The advertisement 175  
shall include all of the following: 176

(1) A brief and general description of the personal 177  
property as required by division (C) (3) of this section, except 178  
that the description shall describe the contents of any trunk, 179  
valise, or box that is locked, fastened, sealed, or tied in a 180  
manner that deters immediate access to its contents, if the 181  
trunk, valise, or box is opened by the owner prior to the date 182  
on which the advertisement of sale is published; 183

(2) The name and last known address of the occupant who 184  
rented the storage space in which the personal property was 185  
stored; 186

(3) The street address of the self-service storage 187  
facility; 188

(4) The time, place, and manner of the sale. 189

The sale shall take place at least fifteen days after the 190

first publication. 191

(H) (1) Any person who has a ~~a~~ security interest in, or who 192  
holds a lien against, a motor vehicle or watercraft may pay the 193  
amount necessary to satisfy the lien created by division (A) of 194  
section 5322.02 of the Revised Code and the reasonable expenses 195  
incurred under this section. That person, upon payment of the 196  
amount necessary to satisfy the lien plus expenses, may enter 197  
into a new rental agreement for the storage of the motor vehicle 198  
or watercraft. Any person who presents proof of a security 199  
interest in or lien on a motor vehicle or watercraft or a court 200  
order authorizing the person to take possession of a motor 201  
vehicle or watercraft may immediately remove the motor vehicle 202  
or watercraft from the self-service storage facility without 203  
satisfying the lien or expenses of the owner. 204

(2) Before any sale of personal property other than a 205  
motor vehicle or watercraft pursuant to this section, any person 206  
who has a legal interest or a security interest in, or who holds 207  
a lien against, any personal property other than a motor vehicle 208  
or watercraft may pay the amount necessary to satisfy the lien 209  
created by division (A) of section 5322.02 of the Revised Code 210  
and the reasonable expenses incurred under this section and 211  
remove the personal property in which the person has the 212  
interest or against which the person holds the lien. After 213  
removal of all the personal property, including any motor 214  
vehicle or watercraft, from the storage space of the self- 215  
service storage facility by any means under this section, ~~any~~ 216  
~~person can the owner may~~ enter into a rental agreement ~~for the~~ 217  
~~storage of personal property with the owner with a new occupant~~ 218  
for the storage space, and the owner has no obligation to the 219  
prior occupant of that storage space ~~in the self-service storage~~ 220  
~~facility. Before entering into a new rental agreement, the owner~~ 221

~~must have any motor vehicle or watercraft towed from that~~ 222  
~~storage space.~~ 223

(3) Upon receipt of the payment from a person other than 224  
the occupant, the owner ~~shall may, at the owner's sole~~ 225  
discretion, enter into a new rental agreement for the storage of 226  
the personal property or, if the person meets the conditions set 227  
forth in division (H) (2) of this section, shall permit the 228  
person to remove the personal property from the self-service 229  
storage facility. 230

(4) If the occupant pays the amount necessary to satisfy 231  
the lien created by division (A) of section 5322.02 of the 232  
Revised Code and the reasonable expenses incurred under this 233  
section, the occupant shall immediately remove all of the 234  
occupant's personal property from the self-service storage 235  
facility, unless the owner of the self-service storage facility 236  
agrees to enter into a new rental agreement for the storage of 237  
the property. 238

(I) (1) If property on which there is a lien under division 239  
(A) of section 5322.02 of the Revised Code is not sold at 240  
auction, but is claimed under division (H) of this section and 241  
the owner's lien is satisfied, then all legal or security 242  
interest in, or any other liens held against, the property shall 243  
remain intact. 244

(2) A purchaser at auction in good faith, except an owner 245  
or an owner's agent, of the personal property sold to satisfy an 246  
owner's lien created by division (A) of section 5322.02 of the 247  
Revised Code takes the property free and clear of any rights of 248  
persons against whom the lien was valid, or any persons who had 249  
an interest in, or who held, any other lien against the 250  
property, despite noncompliance by the owner with the 251

requirements of this section. 252

(J) The owner may examine any personal property to be sold 253  
pursuant to this section. The examination may include, but is 254  
not limited to, the opening of any trunk, valise, box, or other 255  
container that is locked, fastened, sealed, tied, or otherwise 256  
closed in a manner that deters immediate access to its contents. 257

(K) (1) If the property upon which ~~the lien created under~~ 258  
division (A) of ~~this section is claimed~~ 5322.02 of the Revised 259  
Code creates a lien is a motor vehicle, trailer, or a 260  
watercraft, the owner ~~shall may,~~ at the owner's sole discretion, 261  
have the motor vehicle, trailer, or watercraft towed from the 262  
premises if any of the following circumstances applies: 263

(a) The notice was delivered or sent pursuant to division 264  
(B) of this section to all persons holding a lien on the motor 265  
vehicle, trailer, or watercraft, and thirty days have elapsed 266  
since the notice was delivered or sent ~~without a response from~~ 267  
~~any of those persons.~~ 268

(b) Rent and other charges related to the property remain 269  
unpaid or unsatisfied by the occupant for sixty days, and no 270  
lien holders have been identified. 271

(c) The owner is planning to hold or has held a sale ~~at~~ 272  
~~auction of for~~ the personal property that was stored in the 273  
self-service storage ~~unit~~ space with that motor vehicle, 274  
trailer, or watercraft, in which case the motor vehicle, 275  
trailer, or watercraft ~~shall may,~~ at the owner's sole 276  
discretion, be towed prior to or following the ~~auction~~ sale. 277

(2) The owner shall not be liable for the motor vehicle, 278  
trailer, or watercraft or any damages to the motor vehicle, 279  
trailer, or watercraft once the tower takes possession of the 280

property. The notice delivered or sent pursuant to division (B) 281  
of this section to all persons holding a lien on the motor 282  
vehicle, trailer, or watercraft shall include the name of the 283  
towing company. The name and the street address of the towing 284  
company shall also be made available to the occupant or any lien 285  
holder upon the presentation of a document of title or another 286  
document that confirms an interest in the motor vehicle,  287  
trailer, or watercraft. 288

(L) The owner may satisfy the owner's lien from the 289  
proceeds of any sale held pursuant to this section, but shall 290  
mail the balance, if any, by certified mail, or by first class 291  
mail or private delivery service with a certificate or 292  
verification of mailing, to the occupant at the occupant's last 293  
known mailing address. If the balance is returned to the owner 294  
after the owner mailed the balance by certified mail, first 295  
class mail, or private delivery service to the occupant or if 296  
the mailing address of the occupant is not known, the owner 297  
shall hold the balance for two years after the date of the sale 298  
for delivery on demand to the occupant or to any other person 299  
who would have been entitled to possession of the personal 300  
property. After the expiration of the two-year period, the 301  
balance shall become unclaimed funds, as defined in division (B) 302  
of section 169.01 of the Revised Code, and shall be disposed of 303  
pursuant to Chapter 169. of the Revised Code. 304

(M) An owner may buy at any public sale held pursuant to 305  
this section. 306

(N) The rights provided by this section shall be in 307  
addition to all other rights allowed by law to a creditor 308  
against a debtor. 309

(O) (1) If the owner complies with the requirements for 310

sale under this section, the owner's liability to persons who 311  
have an interest in the personal property sold is limited to the 312  
balance of the proceeds of the sale after the owner has 313  
satisfied the owner's lien. 314

(2) The owner is liable for damages caused by the failure 315  
to comply with the requirements for sale under this section and 316  
is liable for conversion for willful violation of the 317  
requirements for sale under this section. 318

(P) If no person purchases the personal property at the 319  
auction and if the owner has complied with this section, the 320  
owner may do any of the following: 321

(1) Advertise and sell the personal property pursuant to 322  
divisions (F) to (O) of this section; 323

(2) Sell the personal property at a private sale; 324

(3) Dispose of the personal property in any manner 325  
considered appropriate by the owner including, but not limited 326  
to, destroying the personal property. 327

**Section 2.** That existing sections 5322.01, 5322.02, and 328  
5322.03 of the Revised Code are hereby repealed. 329