

As Reported by the House Civil Justice Committee

133rd General Assembly

Regular Session

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H. B. No. 172

Representative Hillyer

Cosponsors: Representatives Seitz, Becker, Hambley

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
include interest on a debt, reasonable expenses incurred in the
collection of unpaid rent, or costs associated with the
enforcement of any other remedy provided by statute or contract.

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

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

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

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

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

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