

H. B. No. 390
As Introduced

_____ moved to amend as follows:

In line 1 of the title, after "2329.44" insert ", 5322.03, 5322.06"; 1
after "5721.20" insert "and to enact section 5322.07" 2

In line 2 of the title, delete "the law" and insert "laws"; after 3
the second "to" insert "self-storage units and" 4

In line 5, after "2329.44" insert ", 5322.03, 5322.06"; after 5
"5721.20" insert "be amended and section 5322.07" 6

In line 6, delete "amended" and insert "enacted" 7

After line 119, insert: 8

"Sec. 5322.03. ~~An~~ The owner of a self-service storage 9
facility may enforce the owner's lien created by division (A) of 10
section 5322.02 of the Revised Code for a claim that has become 11
due may be enforced, or remove and dispose of personal property 12
stored at the self-service storage facility pursuant to a rental 13
agreement that has been terminated or is expired, only as 14
follows: 15

(A) The following persons shall be notified in accordance 16



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| with divisions (B) and (C) of this section: | 17 |
| (1) All persons whom the owner has actual knowledge of and who claim an interest in the personal property; | 18 19 |
| (2) All persons holding liens on any motor vehicle or watercraft amongst the property; | 20 21 |
| (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. | 22 23 24 25 26 27 |
| (B) (1) Except as otherwise provided in division (B) (2) of this section, the notice shall be delivered in person, 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; | 28 29 30 31 32 33 |
| (2) (a) The notice may be sent by electronic mail to the occupant only if both of the following apply: | 34 35 |
| (i) The occupant agreed to receive the notice via electronic mail and provided an electronic mail address to the owner in the original agreement or in a subsequent amendment to the agreement. | 36 37 38 39 |
| (ii) The owner sends the notice via electronic mail in such a way as to establish, with a response or return receipt, that the message was delivered to the occupant's electronic mail address. | 40 41 42 43 |
| (b) If it cannot be established in accordance with | 44 |

division (B) (2) (a) of this section that the notice was 45
delivered, the owner shall use another method of delivery 46
authorized by division (B) (1) of this section. 47

(C) The notice shall include all of the following: 48

(1) The name and last known address of the occupant who 49
rented the storage space in which the personal property was 50
stored; 51

(2) The reason for the notice, including either or both of 52
the following, as applicable: 53

(a) An itemized statement of the owner's claim showing the 54
sum due at the time of the notice and the date when the sum 55
became due; 56

(b) The date on which the rental agreement for the storage 57
space expired or was terminated. 58

(3) A brief and general description of the personal 59
property subject to the lien or stored pursuant to the 60
terminated or expired rental agreement. The description shall be 61
reasonably adequate to permit the person notified to identify it 62
except that any container including, but not limited to, a 63
trunk, valise, or box that is locked, fastened, sealed, or tied 64
in a manner that deters immediate access to its contents and 65
that has not been opened by the owner prior to the date on which 66
the notice is given may be described as such without describing 67
its contents. 68

(4) A notice of denial of access to the personal property, 69
if a denial of access is permitted under the terms of the rental 70
agreement, which notice provides the name, street address, and 71
telephone number of the person whom the person notified may 72

contact to pay the claim, if any, and to either obtain the 73
personal property or, at the owner's sole discretion, enter into 74
a rental agreement for the storage of the personal property; 75

(5) A demand for payment of the claim or removal of the 76
personal property, as applicable, within a specified time not 77
less than ten days after delivery of the notice; 78

(6) A conspicuous statement that, unless the claim is paid 79
or the personal property is removed within that time, the 80
personal property will be advertised for sale and will be sold 81
by auction and that, if no person purchases the personal 82
property at the auction, the personal property may be sold at a 83
private sale or destroyed; 84

(7) The street or internet address of the place at which 85
the sale will be held, if the sale will be held at a place other 86
than the self-service storage facility in which the personal 87
property was stored. 88

(D) (1) Any notice given pursuant to this section that is 89
sent by first-class mail or private delivery service with a 90
certificate or verification of mailing shall be deemed delivered 91
when it is deposited with the United States postal service or 92
private delivery service and properly addressed with proper 93
postage prepaid. 94

(2) Any notice given pursuant to this section that is sent 95
by electronic mail to an occupant shall be deemed delivered when 96
the owner receives a response or return receipt. 97

(E) The sale of the personal property shall conform to the 98
terms of the notice as provided for in this section. 99

(F) The sale of the personal property may be held at the 100

self-service storage facility or, if the street or internet address of the place was included in the notice as required by division (C)(7) of this section, on the internet or at the nearest suitable place to the self-service storage facility at which the personal property is stored.

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

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

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

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

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

The sale shall take place at least fifteen days after the first publication.

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

(2) Before any sale of personal property other than a motor vehicle or watercraft pursuant to this section, any person who has a legal interest or a security interest in, or who holds a lien against, any personal property other than a motor vehicle or watercraft may pay the amount necessary to satisfy the lien created by division (A) of section 5322.02 of the Revised Code, if any, and the reasonable expenses incurred under this section and remove the personal property in which the person has the interest or against which the person holds the lien. After removal of all the personal property, including any motor vehicle or watercraft, from the storage space of the self-service storage facility by any means under this section, the owner may enter into a rental agreement with a new occupant for the storage space, and the owner has no obligation to the prior occupant of that storage space.

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

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

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

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

(J) The owner may examine any personal property to be sold

pursuant to this section. The examination may include, but is 190
not limited to, the opening of any trunk, valise, box, or other 191
container that is locked, fastened, sealed, tied, or otherwise 192
closed in a manner that deters immediate access to its contents. 193

(K) (1) If the property upon which division (A) of section 194
5322.02 of the Revised Code creates a lien or which is stored 195
pursuant to a terminated or expired rental agreement is a motor 196
vehicle, trailer, or a watercraft, the owner may, at the owner's 197
sole discretion, have the motor vehicle, trailer, or watercraft 198
towed from the premises if any of the following circumstances 199
applies: 200

(a) The notice was delivered or sent pursuant to division 201
(B) of this section to all persons holding a lien on the motor 202
vehicle, trailer, or watercraft, and thirty days have elapsed 203
since the notice was delivered or sent. 204

(b) Rent and other charges related to the property remain 205
unpaid or unsatisfied by the occupant for sixty days, and no 206
lien holders have been identified. 207

(c) The owner is planning to hold or has held a sale for 208
the personal property that was stored in the self-service 209
storage space with that motor vehicle, trailer, or watercraft, 210
in which case the motor vehicle, trailer, or watercraft may, at 211
the owner's sole discretion, be towed prior to or following the 212
sale. 213

(2) The owner shall not be liable for the motor vehicle, 214
trailer, or watercraft or any damages to the motor vehicle, 215
trailer, or watercraft once the towing service or storage 216
facility takes possession of the property. The notice delivered 217
or sent pursuant to division (B) of this section to all persons 218

holding a lien on the motor vehicle, trailer, or watercraft 219
shall include the name of the towing service or storage 220
facility. The name and the street address of the towing service 221
or storage facility shall also be made available to the occupant 222
or any lien holder upon the presentation of a document of title 223
or another document that confirms an interest in the motor 224
vehicle, trailer, or watercraft. 225

As used in this division, "towing service or storage 226
facility" means any for-hire motor carrier that removes a motor 227
vehicle, trailer, or watercraft from a self-service storage 228
facility pursuant to this division and any place to which that 229
for-hire motor carrier delivers the motor vehicle, trailer, or 230
watercraft. 231

(L) The owner may satisfy the owner's lien from the 232
proceeds of any sale held pursuant to this section, but shall 233
mail the balance, if any, by certified mail, or by first class 234
mail or private delivery service with a certificate or 235
verification of mailing, to the occupant at the occupant's last 236
known mailing address. If the balance is returned to the owner 237
after the owner mailed the balance by certified mail, first 238
class mail, or private delivery service to the occupant or if 239
the mailing address of the occupant is not known, the owner 240
shall hold the balance for two years after the date of the sale 241
for delivery on demand to the occupant or to any other person 242
who would have been entitled to possession of the personal 243
property. After the expiration of the two-year period, the 244
balance shall become unclaimed funds, as defined in division (B) 245
of section 169.01 of the Revised Code, and shall be disposed of 246
pursuant to Chapter 169. of the Revised Code. 247

(M) An owner may buy at any public sale held pursuant to 248

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| this section. | 249 |
| (N) The rights provided by this section shall be in addition to all other rights allowed by law to a creditor against a debtor. | 250 251 252 |
| (O) (1) If the owner complies with the requirements for sale under this section, the owner's liability to persons who have an interest in the personal property sold is limited to the balance of the proceeds of the sale after the owner has satisfied the owner's lien. | 253 254 255 256 257 |
| (2) The owner is liable for damages caused by the failure to comply with the requirements for sale under this section and is liable for conversion for willful violation of the requirements for sale under this section. | 258 259 260 261 |
| (P) If no person purchases the personal property at the auction and if the owner has complied with this section, the owner may do any of the following: | 262 263 264 |
| (1) Advertise and sell the personal property pursuant to divisions (F) to (O) of this section; | 265 266 |
| (2) Sell the personal property at a private sale; | 267 |
| (3) Dispose of the personal property in any manner considered appropriate by the owner including, but not limited to, destroying the personal property. | 268 269 270 |
| Sec. 5322.06. (A) Except as otherwise provided in this section, if the rental agreement entered into between the owner and the occupant contains a provision placing a limit on the value of personal property that may be stored in the occupant's storage space, that limit is the maximum value of the stored property, provided that the provision is printed in bold type or | 271 272 273 274 275 276 |

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| underlined in the rental agreement. | 277 |
| (B) A limit on the value of personal property under division (A) of this section shall not be less than one thousand dollars. | 278 279 280 |
| (C) The rental agreement may provide that the occupant may increase the limit on the value of property with the written permission of the owner. | 281 282 283 |
| (D) Nothing in a rental agreement shall limit an occupant's claim for damages based on the loss or destruction of personal property stored in the occupant's storage space, when those damages are the result of negligence <u>willful or wanton misconduct</u> by, or on behalf of the owner. | 284 285 286 287 288 |
| <u>Sec. 5322.07. (A) The owner of a self-service storage facility may modify the terms of a rental agreement by providing written notice of the new terms to the occupant at least thirty days in advance of the effective date of the new terms.</u> | 289 290 291 292 |
| <u>(B) The continued use of the storage space by the occupant constitutes acceptance of the new terms of the rental agreement."</u> | 293 294 295 |
| In line 155, after "2329.44" insert ", 5322.03, 5322.06" | 296 |

The motion was _____ agreed to.

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| <u>SYNOPSIS</u> | 297 |
| Self-service storage facilities | 298 |
| R.C. 5322.03, 5322.06, and 5322.07 | 299 |

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| Authorizes an owner of a self-service storage facility to | 300 |
| dispose of stored property of occupants whose rental agreement | 301 |
| is expired or has been terminated. | 302 |
| Modifies the threshold of liability relating to self- | 303 |
| service storage spaces. | 304 |
| Permits the owner of a self-service storage facility to | 305 |
| modify the rental agreement if notice is provided to the | 306 |
| occupant 30 days in advance of the effective date of the change. | 307 |