

As Introduced

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H. B. No. 366

Representatives Mathews, A., Swearingen

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To amend sections 5322.03 and 5322.06 of the  
Revised Code to authorize self-service storage  
facility owners to dispose of property in  
expired storage spaces and to modify the  
threshold of liability relating to said spaces.

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

**Section 1.** That sections 5322.03 and 5322.06 of the  
Revised Code be amended to read as follows:

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

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

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

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

(3) All persons who have filed security agreements in the 21  
name of the occupant evidencing a security interest in the 22  
personal property with either the secretary of state or the 23  
county recorder of the county in which the self-service storage 24  
facility is located or the Ohio county of the last known address 25  
of the occupant. 26

(B) (1) Except as otherwise provided in division (B) (2) of 27  
this section, the notice shall be delivered in person, sent by 28  
certified mail or sent by first-class mail or private delivery 29  
service with a certificate or verification of mailing to the 30  
last known address of each person who is required to be notified 31  
by division (A) of this section; 32

(2) (a) The notice may be sent by electronic mail to the 33  
occupant only if both of the following apply: 34

(i) The occupant agreed to receive the notice via 35  
electronic mail and provided an electronic mail address to the 36  
owner in the original agreement or in a subsequent amendment to 37  
the agreement. 38

(ii) The owner sends the notice via electronic mail in 39  
such a way as to establish, with a response or return receipt, 40  
that the message was delivered to the occupant's electronic mail 41  
address. 42

(b) If it cannot be established in accordance with 43  
division (B) (2) (a) of this section that the notice was 44  
delivered, the owner shall use another method of delivery 45  
authorized by division (B) (1) of this section. 46

(C) The notice shall include all of the following: 47

(1) The name and last known address of the occupant who 48  
rented the storage space in which the personal property was 49

stored; 50

(2) The reason for the notice, including either or both of 51  
the following, as applicable: 52

(a) An itemized statement of the owner's claim showing the 53  
sum due at the time of the notice and the date when the sum 54  
became due; 55

(b) The date on which the rental agreement for the storage 56  
space expired or was terminated. 57

(3) A brief and general description of the personal 58  
property subject to the lien or stored pursuant to the 59  
terminated or expired rental agreement. The description shall be 60  
reasonably adequate to permit the person notified to identify it 61  
except that any container including, but not limited to, a 62  
trunk, valise, or box that is locked, fastened, sealed, or tied 63  
in a manner that deters immediate access to its contents and 64  
that has not been opened by the owner prior to the date on which 65  
the notice is given may be described as such without describing 66  
its contents. 67

(4) A notice of denial of access to the personal property, 68  
if a denial of access is permitted under the terms of the rental 69  
agreement, which notice provides the name, street address, and 70  
telephone number of the person whom the person notified may 71  
contact to pay the claim, if any, and to either obtain the 72  
personal property or, at the owner's sole discretion, enter into 73  
a rental agreement for the storage of the personal property; 74

(5) A demand for payment of the claim or removal of the 75  
personal property, as applicable, within a specified time not 76  
less than ten days after delivery of the notice; 77

(6) A conspicuous statement that, unless the claim is paid 78

or the personal property is removed within that time, the 79  
personal property will be advertised for sale and will be sold 80  
by auction and that, if no person purchases the personal 81  
property at the auction, the personal property may be sold at a 82  
private sale or destroyed; 83

(7) The street or internet address of the place at which 84  
the sale will be held, if the sale will be held at a place other 85  
than the self-service storage facility in which the personal 86  
property was stored. 87

(D) (1) Any notice given pursuant to this section that is 88  
sent by first-class mail or private delivery service with a 89  
certificate or verification of mailing shall be deemed delivered 90  
when it is deposited with the United States postal service or 91  
private delivery service and properly addressed with proper 92  
postage prepaid. 93

(2) Any notice given pursuant to this section that is sent 94  
by electronic mail to an occupant shall be deemed delivered when 95  
the owner receives a response or return receipt. 96

(E) The sale of the personal property shall conform to the 97  
terms of the notice as provided for in this section. 98

(F) The sale of the personal property may be held at the 99  
self-service storage facility or, if the street or internet 100  
address of the place was included in the notice as required by 101  
division (C) (7) of this section, on the internet or at the 102  
nearest suitable place to the self-service storage facility at 103  
which the personal property is stored. 104

(G) After the expiration of the time given in the notice, 105  
an advertisement of the sale shall be published once a week for 106  
two consecutive weeks in a newspaper of general circulation in 107

the county in which the self-service storage facility is located 108  
or any other commercially reasonable manner. The manner of 109  
advertisement shall be deemed commercially reasonable if at 110  
least three independent bidders register for, view, or attend 111  
the sale. The advertisement shall include all of the following: 112

(1) A brief and general description of the personal 113  
property as required by division (C)(3) of this section, except 114  
that the description shall describe the contents of any trunk, 115  
valise, or box that is locked, fastened, sealed, or tied in a 116  
manner that deters immediate access to its contents, if the 117  
trunk, valise, or box is opened by the owner prior to the date 118  
on which the advertisement of sale is published; 119

(2) The name and last known address of the occupant who 120  
rented the storage space in which the personal property was 121  
stored; 122

(3) The street address of the self-service storage 123  
facility; 124

(4) The time, place, and manner of the sale. 125

The sale shall take place at least fifteen days after the 126  
first publication. 127

(H) (1) Any person who has a security interest in, or who 128  
holds a lien against, a motor vehicle or watercraft respecting 129  
which the owner of a self-service storage facility seeks to 130  
enforce the lien created by division (A) of section 5322.02 of 131  
the Revised Code may pay the amount necessary to satisfy the 132  
~~lien created by division (A) of section 5322.02 of the Revised~~ 133  
~~Code~~ and the reasonable expenses incurred under this section. 134  
That person, upon payment of the amount necessary to satisfy the 135  
lien plus expenses, may enter into a new rental agreement for 136

the storage of the motor vehicle or watercraft. Any person who 137  
presents proof of a security interest in or lien on a motor 138  
vehicle or watercraft or a court order authorizing the person to 139  
take possession of a motor vehicle or watercraft may immediately 140  
remove the motor vehicle or watercraft from the self-service 141  
storage facility without satisfying the lien or expenses of the 142  
owner. 143

(2) Before any sale of personal property other than a 144  
motor vehicle or watercraft pursuant to this section, any person 145  
who has a legal interest or a security interest in, or who holds 146  
a lien against, any personal property other than a motor vehicle 147  
or watercraft may pay the amount necessary to satisfy the lien 148  
created by division (A) of section 5322.02 of the Revised Code, 149  
if any, and the reasonable expenses incurred under this section 150  
and remove the personal property in which the person has the 151  
interest or against which the person holds the lien. After 152  
removal of all the personal property, including any motor 153  
vehicle or watercraft, from the storage space of the self- 154  
service storage facility by any means under this section, the 155  
owner may enter into a rental agreement with a new occupant for 156  
the storage space, and the owner has no obligation to the prior 157  
occupant of that storage space. 158

(3) Upon receipt of the payment from a person other than 159  
the occupant, the owner may, at the owner's sole discretion, 160  
enter into a new rental agreement for the storage of the 161  
personal property or, if the person meets the conditions set 162  
forth in division (H)(2) of this section, shall permit the 163  
person to remove the personal property from the self-service 164  
storage facility. 165

(4) If the occupant pays the amount necessary to satisfy 166

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 not limited to, the opening of any trunk, valise, box, or other container that is locked, fastened, sealed, tied, or otherwise closed in a manner that deters immediate access to its contents.

(K) (1) If the property upon which division (A) of section 5322.02 of the Revised Code creates a lien or which is stored pursuant to a terminated or expired rental agreement is a motor vehicle, trailer, or a watercraft, the owner may, at the owner's

sole discretion, have the motor vehicle, trailer, or watercraft 197  
towed from the premises if any of the following circumstances 198  
applies: 199

(a) The notice was delivered or sent pursuant to division 200  
(B) of this section to all persons holding a lien on the motor 201  
vehicle, trailer, or watercraft, and thirty days have elapsed 202  
since the notice was delivered or sent. 203

(b) Rent and other charges related to the property remain 204  
unpaid or unsatisfied by the occupant for sixty days, and no 205  
lien holders have been identified. 206

(c) The owner is planning to hold or has held a sale for 207  
the personal property that was stored in the self-service 208  
storage space with that motor vehicle, trailer, or watercraft, 209  
in which case the motor vehicle, trailer, or watercraft may, at 210  
the owner's sole discretion, be towed prior to or following the 211  
sale. 212

(2) The owner shall not be liable for the motor vehicle, 213  
trailer, or watercraft or any damages to the motor vehicle, 214  
trailer, or watercraft once the towing service or storage 215  
facility takes possession of the property. The notice delivered 216  
or sent pursuant to division (B) of this section to all persons 217  
holding a lien on the motor vehicle, trailer, or watercraft 218  
shall include the name of the towing service or storage 219  
facility. The name and the street address of the towing service 220  
or storage facility shall also be made available to the occupant 221  
or any lien holder upon the presentation of a document of title 222  
or another document that confirms an interest in the motor 223  
vehicle, trailer, or watercraft. 224

As used in this division, "towing service or storage 225



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

(L) The owner may satisfy the owner's lien from the 231  
proceeds of any sale held pursuant to this section, but shall 232  
mail the balance, if any, by certified mail, or by first class 233  
mail or private delivery service with a certificate or 234  
verification of mailing, to the occupant at the occupant's last 235  
known mailing address. If the balance is returned to the owner 236  
after the owner mailed the balance by certified mail, first 237  
class mail, or private delivery service to the occupant or if 238  
the mailing address of the occupant is not known, the owner 239  
shall hold the balance for two years after the date of the sale 240  
for delivery on demand to the occupant or to any other person 241  
who would have been entitled to possession of the personal 242  
property. After the expiration of the two-year period, the 243  
balance shall become unclaimed funds, as defined in division (B) 244  
of section 169.01 of the Revised Code, and shall be disposed of 245  
pursuant to Chapter 169. of the Revised Code. 246

(M) An owner may buy at any public sale held pursuant to 247  
this section. 248

(N) The rights provided by this section shall be in 249  
addition to all other rights allowed by law to a creditor 250  
against a debtor. 251

(O) (1) If the owner complies with the requirements for 252  
sale under this section, the owner's liability to persons who 253  
have an interest in the personal property sold is limited to the 254  
balance of the proceeds of the sale after the owner has 255

satisfied the owner's lien. 256

(2) The owner is liable for damages caused by the failure 257  
to comply with the requirements for sale under this section and 258  
is liable for conversion for willful violation of the 259  
requirements for sale under this section. 260

(P) If no person purchases the personal property at the 261  
auction and if the owner has complied with this section, the 262  
owner may do any of the following: 263

(1) Advertise and sell the personal property pursuant to 264  
divisions (F) to (O) of this section; 265

(2) Sell the personal property at a private sale; 266

(3) Dispose of the personal property in any manner 267  
considered appropriate by the owner including, but not limited 268  
to, destroying the personal property. 269

**Sec. 5322.06.** (A) Except as otherwise provided in this 270  
section, if the rental agreement entered into between the owner 271  
and the occupant contains a provision placing a limit on the 272  
value of personal property that may be stored in the occupant's 273  
storage space, that limit is the maximum value of the stored 274  
property, provided that the provision is printed in bold type or 275  
underlined in the rental agreement. 276

(B) A limit on the value of personal property under 277  
division (A) of this section shall not be less than one thousand 278  
dollars. 279

(C) The rental agreement may provide that the occupant may 280  
increase the limit on the value of property with the written 281  
permission of the owner. 282

(D) Nothing in a rental agreement shall limit an 283

occupant's claim for damages based on the loss or destruction of 284  
personal property stored in the occupant's storage space, when 285  
those damages are the result of ~~negligence~~ willful or wanton 286  
misconduct by, or on behalf of the owner. 287

**Section 2.** That existing sections 5322.03 and 5322.06 of 288  
the Revised Code are hereby repealed. 289