

As Introduced

136th General Assembly

Regular Session

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H. B. No. 366

Representatives Mathews, A., Swearingen

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